

## Tape 1, Side A

Proposed Manuscript by Robert A. Shaines

Time and Place: South Korea, 1953 Chinhae (now: Jinhae), South Korea, Headquarters of the 75th Air Depot Wing, U.S. Air Force, officially part of the Far East Air Materiel Command, but assigned for Court martial and other war time purposes to the command of the Fifth Air Force

It was a raw, bitter cold, windy, moonless night when the 75th Air Depot Wing arrived in force at Chinhae, South Korea at a base designated with the designation K-10. The Wing had left San Antonio, Texas approximately 12 days earlier and, had traveled by ship through the Panama Canal, across the Pacific Ocean, stopped at Yokohama, Japan for two days to give the troops onboard an opportunity to rest and recreate and then headed for the coast of South Korea, landing in the port of Pusan, Korea.

There they we boarded some old craft known as LST's (landing ships tank) left over from World War II and operated by the Korean Navy. These were large cavernous vessels used to haul heavy tanks and other mobile equipment and able to run up onto beaches for unloading men and equipment.

We boarded in the early afternoon and sailed the South Coast of the Korean Peninsula for approximately 12 hours, The LSTs were barren of any comfortable spots to rest and were not heated. It was the end of December, 1952. The temperature was below zero. There were no provisions for food or water aboard. If some people had canteens they had access to water, others did not. The landing ships slowly made their way around the south coast of Korea to land us on the rocky shores of Chinhae at K-10 at about midnight. None of the troops had winter gear since the unit had originally been scheduled to go as a unit to Bordeaux, France. At the last minute the Wing had its orders shifted and we were assigned to go to South Korea to assist in the war effort.

75th Air Depot Wing had originally been the San Antonio, Texas based Air Force Reserve wing for the State of Texas. Various military professionals and specialties had been assigned to the Wing prior to its going overseas, such as a medical unit, legal unit, and any other specialties that did not already exist in the 75th.

The Lone Star flag was widely flown and in Texas, of course, it flew above Wing Headquarters along with the American flag and the United nations flag. There was a lot of “good old boy” camaraderie among the reservists from Texas and Oklahoma in the Wing. There were a lot of enlisted men and officers in the Wing who had served in World War II and who had stayed in the active reserve hoping to earn a retirement pension after 20 years of active and reserve duty. Most of these guys never expected to have to serve on active duty again.

Some of the master sergeants had attained the ranks as high as Colonel in World War II and were in the Reserves simply to fill out their time in order to achieve a pension when they were recalled to active duty as enlisted men.

Most all of the members of the Wing had been recalled from civilian jobs including some of the senior staff officers and even squadron commanders.

On the whole the Texans were very outgoing, gregarious and welcomed the new additions of non-Texans to their outfit.

Figuring prominently in this story will be the members of the legal staff of the 75th Air Depot Wing.

The Staff Judge Advocate was Major Charlie Y. Weir who was from Oklahoma. He was a; small man in stature, had a moustache, was balding and outgoing, friendly and very solicitous about the well-being of his two young JAG officers and his enlisted .staff.

Initially on the staff was Charlie Gobel from Louisville, Kentucky who was a pilot and a lawyer and when an order came through mandating that he could not be both a JAG officer and a pilot on flying status, Charlie opted to be an Air Force pilot and gave up lawyering in the Air Force. The other junior lawyer, was a rangy Louisianian, from Opelousas and a former Marine, named Warren Mengis. Warren was smart, had an engaging southern drawl, was as thin as a rail and could consume more beer at one

sitting than anyone I have ever met before or since. He was to become a wealthy man and retired young from his law practice to teach law at the University of Louisiana State university Law Center. His law partner, Luther Cole, became an esteemed judge in Louisiana in later years. Warren and I were to face another almost daily in representing either the prosecution or the defense at courts martial held at K-10 for many months. We became close friends.

The other junior lawyer was me, a very young and inexperienced lawyer from Portsmouth, New Hampshire. I graduated law school while very young; I was an Air Force ROTC graduate> I had the honor of being designated a distinguished military cadet by my ROTC colonel, which meant that I had the option of obtaining a commission in the regular air force as a second lieutenant I was also a law school graduate, who had passed the Bar exam in Massachusetts just as I had attained the age of 21 years. I also had the good fortune to have become friends with the late Eddie McCormick, a law school classmate and the nephew of then Speaker of the House, congressman John McCormick . At that time in history I was by far, the youngest member of the JAG officer Department of the Air Force, having been just 22 years of age when I joined the Wing. Ultimately the legal staff of the Wing consisted of Weir, Mengis and Shaines, along with an assortment of Sergeants and other enlisted personnel. In those days there was no such thing as “don’t ask, don’t tell”, if one was gay. We had two very excellent court reporters assigned to the JAG office at the 75<sup>th</sup> and both were gay, and none of us had any issue with it. That was probably unheard of for liberal thinking in the Air Force of 1952.

The Wing was the primary supply unit for the Fifth Air Force in Korea, handling all sorts of replacement parts and supplies which kept the various Air Force units running. Combat forced many accidents and aircraft losses. The wing served as a supply depot and also maintained various other units which included three ammunition supply squadrons, one in Pusan, Korea and the others at Bases distant from either Pusan or Chinhae. My memory is of another Ammo depot at Ulsan (Urusan) known as K-11. The Wing had an Aircraft Recovery Squadron which operated as close to the battlefield as feasible. Their mission was to go in and try to retrieve as much of any downed aircraft as was feasible and to salvage what they could. They used the largest helicopters available at that time to perform their work. Very often the helicopters would fly and land behind the enemy lines when there was a downed aircraft. In addition to rescue work they tried to salvage various electronics and other parts on a selective basis.

The Wing had a very large and active military police squadron since it had units stationed at the various ammunition supply depots as well as at K-10. The guards at the bomb depots were all Air policemen. There was an OSI detachment at K-10 as well as at most air bases in Korea. The Office of Special Investigations was the Air Force version of the Army's military intelligence units and was patterned after the Federal Bureau of Investigation when the Air Force was established as a separate branch of the military. The OSI agents did not wear regular uniforms with any insignia of rank, but in the combat zone in Korea they did wear uniforms but their rank was not distinguishable. They were

responsible for investigation of major crimes and had the responsibility to detect and prevent espionage.

The ammunition supply squadrons maintained major bomb dumps where the Air Force stored bombs and all other types of munitions to be used by the United Nations air forces in their pursuit of the war. The bomb handlers were usually basic airmen who had been given a choice to volunteer for that duty in Korea and be released from confinement in the stockades in the United States and to be transferred to Korea to work as bomb and munitions supply handlers, loading and unloaded these volatile items . The job was dangerous due to the nature of what they handled and because these depots were choice targets for the many guerilla operations in South Korea. Each unit had approximately 1,000 enlisted men whose job it was to offload munitions and then store them, break them down as needed, and send them off by truck, rail, sea or air to other air bases in the combat area. The storing of these munitions and the handling of them was a highly sensitive job where accidents could and did cause serious injury and death. In exchange for volunteering these convicted airmen were told that if they served for a term of twelve months in Korea without incident, that they would have their sentences remitted and that they could return to active duty as basic airmen and earn their way back up the ranks.

The Air Police Lieutenant in charge of the Air Police at the Ammunition Supply Squadron based in East Pusan, Korea, near K-9, was Lieutenant, George C. Schreiber. He was from just outside of Chicago, Illinois. He was a graduate of Valparaiso University

in Indiana, where he had been a star basketball player. At that time Indiana was the basketball center of the world. George was born on October 15, 1927. He was 24 years old when the events leading to his being charged with premeditated murder occurred. After he graduated from college, he became an elementary school teacher in Brookfield, Illinois, teaching in the fifth grade. He enlisted on December 21, 1951. He had two older brothers who had served in World War II and he saw the Korean War as an event that motivated him to patriotism. He had the rank of staff sergeant, when he was selected for officer candidate training. He was commissioned as a second lieutenant and assigned to the 543<sup>rd</sup> Ammo Supply Squadron, located near K-9 in East Pusan. Due to meritorious performance he was spot promoted to first lieutenant, a rank he held until he was charged with murder. He then reverted to the rank of second lieutenant.

Schreiber was a tall, six foot five inches-gangly built man.. He was not a handsome fellow, but had average looking facial features. He was a devout Catholic and regularly attended mass. He had a rather stoic and introverted personality. He was almost self effacing at times, ready to accept all consequences and rarely complained no matter how deeply his life would be affected by events surrounding him. He had a likable and calm demeanor..

He had been the product of a serious Catholic school education; he was not worldly-wise. At times he seemed to have a chip on his shoulder which by which he would seem to be arrogant. As I got to know him over several weeks of acting as a part of the defense team representing him and having him in my custody for travel purposes, I came

to realize that he was not arrogant but defensive around people whom he believed were out to hurt him. As it turned out there were many of them. .

Outlining the story to come, George Schreiber was accused of first degree or premeditated murder in the spring of 1953. He was charged with ordering the execution of an oriental male named in the charges as Bang Soon Kill on September 27, 1952 at K-9 air base. He was the commander of the Air Police detachment at the 543<sup>rd</sup> Ammo supply Squadron, charged with protecting the largest munitions depot in South Korea. At that time there was a U.S. Marine Corps supply depot and an Army supply depot nearby. Pusan had the only operating port in South Korea at the that time in 1953. Most all of the weapons and munitions came by vessel to be unloaded near Pusan at the port and had to be stored for shipment to the active fighting forces. Close by the Air Force depot there was a depot guarded by and operated by the First Marine Combat Group attached to the First Marine Division.

Within a matter of days previous to September 27<sup>th</sup> there had been significant guerrilla activity in the area of the Marine Depot and the Army Depot. Some of the Marine guards were found dead by having their throats cut and portions of the Marine and Army Depots suffered serious explosions. This caused all of the Air Police guards and their officers to become very anxious to an extreme degree. It would later to be diagnosed as the same thing as combat stress, resulting in severe anxiety for many of those who served there.



At the same time there were reports and complaints emanating from various sources within the local and the national South Korean government that various military personnel had trained their guard dogs to act in a very vicious manner and to were trained to attack orientals. Most of that was true the dogs were indeed trained that way. The complaints were that the air police guards would intentionally turn their guard dogs loose upon Korean civilians, causing fear, injury and death to their victims. In fact, there were very poor relations existing between the Korean populous and the U.S. military. Thus complaints such as turning guard dogs loose on civilians became a common and somewhat unsubstantiated complaint. In fact the Koreans had little use for the US Air Force after it was the same outfit that strafed and bombed the refugee columns traveling south in the early days of the war. There were hundreds if not thousands of innocent civilians maimed and killed in such aerial attacks so that of all of the UN forces in South Korea, the US Air Force was the least popular.

On the night of September 26, 1952 there were two air policemen on guard duty in the ammunition supply dump area at K-9. One was airman first class Robert , who was at that time on that shift of guards acting as the sergeant of the guard and other was airman second class Thomas Kinder.

Kinder had come upon an oriental male wandering in the bomb dump and had challenged him and then had taken him into custody. The man appeared to be Chinese and not Korean. Those who were present during the events of that night and the early morning of September 27<sup>th</sup> said that the man spoke no Korean, but instead uttered in a

Chinese dialect which was foreign to all who had contact with him. Kinder after apprehending the man blew his whistle to summons Toth, who responded in his jeep. Toth and Kinder lifted the man into the rear of the jeep and both got into the front seat of the Jeep, with Toth driving. and their prisoner was in the back of the Jeep.

Sergeant Toth later reported that the prisoner tried to take his gun. Upon that happening toth stopped the vehicle and removed his .45 from his holster and went behind the Jeep, and then pistol whipped the man and smashed him over the head with the gun, breaking the handle of the .45. The oriental man was then laying in the back of the Jeep bleeding profusely from a head wound in the front of his skull.

They drove to the Air Police

detachment guard shack where they unloaded the oriental male from the back of the Jeep, dragged him inside and threw him down onto the floor of the guard detachment building. The Master Sergeant on duty as the Non Commissioned Officer (NCO) in charge was M/Sgt Raymond F. Addleman. When Addleman saw the man bleeding on the floor and the appearance of toth and Kinder he immediately called for someone to go get Lt. Schreiber and have him come to the guard office. It was now early in the morning of September 27th.

Schreiber was asleep in bed. Toth later said he awoke him. Schreiber was very groggy. it was about 2 0' clock in the morning, Schreiber had been suffering from a

severe case of hives as a result of a penicillin allergy and had been taking large doses of Benadryl, an antihistamine and ephedrine to relieve the swellings from the hives. He had a hard time waking up. He was till somewhat confused when he arrived at the guard shack from his quarters. He saw the oriental man laying there in a pool of blood and various witnesses reported that Schreiber said anything from "get him out of here" to take him out and kill him" and various other statements between the two. Due to a changing of the guard at that time and the arrival of anew T/Sgt, named Borchardt, the guard shack was heavily populated at that time .Many of those who were present that night would testify as to what he said and how he said it many times over, between the questioning and written statement made to the OSI agents investigating the events of that night and the questioning by members of the fifth Air Force SJA office and the trial and defense counsel in the Kinder, Toth and Schreiber cases. Investigations were ongoing from January 1953 forward, both in the United states and in Korea or wherever potential witnesses for both the prosecution and the defense could be located. Some of the witnesses had given as many as six written versions of what transpired and had been interviewed a dozen times Some would testify that they were so confused by all of the investigations that they no longer knew the truth of what was said by whom and to whom.

Schreiber after dealing with the matter then left the guard shack and went back to bed, saying that he would deal with the matter of the reports in the morning.

Master Sergeant Addleman at one time said that he told Toth, "You heard the Lieutenant, get rid of him". Toth at another time said "I know what he meant".In any

event, Toth then told Kinder to pick the man up and with Toth's help, they loaded the oriental back into the Jeep and took him back into the bomb dump. Toth then told Kinder that he should take place the man against some sandbags and shoot him. Kinder said that Toth then told him to, then blow his whistle and Toth would then return. Kinder went on to say that Toth told him that they would make a report that Kinder found this man wandering in the bomb dump, that he refused to stop, and Kinder thought that he was attacking him and when he kept coming that the had fired his weapon at the man to stop him from his attack. He said that Toth then said that they would then bring the body back to the guard shack as if he had never been there before. This is exactly what they did and it what was reported in the log book maintained at the guard shack..

Thus the official records of the incident showed that a guerrilla was found wandering in the bomb dump, that he was challenged, that he refused to stop and that he was then shot in self defense. The matter was reviewed by the OSI and the fifth Air Force JAG office and closed and the case was closed. Nothing came of it until Kinder returned home after his tour of duty in Korea ended and told his mother of his remorse at killing the man and blamed it all on Schreiber and Toth, saying that he was only following orders and had no choice in the matter. His mother spoke to her congressman about her son's report. The congressman spoke to the Chief of Staff of the Air Force, who then

ordered the investigation to reopen and ordered a court martial to be conducted for all three of the accused. Fifth Air Force Jag was tasked with the reinvestigation in January of 1953. There after rumors started going around that there had been a murder committed at K-9.

The Korean Foreign Minister's office was located in Pusan. At that time the wartime capitol of South Korea had been moved from Seoul to Chinhae and Pusan. There had been attempts by the Korean Foreign Minister to make contact with the U.S. Secretary of State to file official complaints about the conduct of various U.S. troops and their ill treatment of Korean civilians particularly in the Pusan area. The result of all this was that an investigation was initiated from Washington on orders to General Anderson, at Far East Air Force to the commanding general of the Fifth Air Force and from there to Colonel Jerome Loewenberg, the staff Judge Advocate of the Fifth Air Force, located in Taegu, Korea, which was also the Headquarters for 5th Air Force( Rear) in South Korea. He assigned a Lt.Col. Al Nice to investigate the matter. Nice came down to Chinhae and worked out of the 75th Air Depot Wing Headquarters for a week, taking statements and performing his investigation into the matter of the killing. He found that there was no wrong doing and the case was again closed..At that time two young Captains named Levin and Kelly worked in the JAG office at Fifth Air Force. They were both lawyers and they were both ambitious, and neither of them liked Lt Col Al Nice. According to Al they wanted to make him look bad and to get him transferred. They felt that Nice was too much of a politician and that he tried to make points by being ingratiating himself to be seen as a good guy and that he tended to whitewash things. They wanted to show that

they took the matter more seriously. Nice was a very accomplished story teller and a very pleasant personal manner. They went to Col. Loewenberg and asked him if they could reopen the case and investigate it further.

Loewenberg acceded to this request and allowed them continue with an investigation, particularly since the order to reopen the investigation had come from higher authority.. The results of this investigation were that premeditated murder charges, in essence first degree murder charges, were filed against George C. Schreiber, Thomas Kinder and Robert Toth..)

Kinder was eventually defended by Major Charlie Y. Weir as his defense counsel. He made a deal to testify against Schreiber and Toth and, after being given a life sentence, his sentence was commuted to two years' hard labor and the sentence was remitted after he testified against Schreiber in August of 1953. Upon his release he was restored to active duty as if nothing had that occurred had involved him.

Toth had been honorably discharged from the air Force and lived and worked in Pittsburgh, Pennsylvania. While he was leaving work at a steel mill in Pittsburgh, one afternoon he was kidnaped by OSI agents, taken to a military doctor to be examined, put back in military uniform and flown back to Korea and there confined.

His sister applied with counsel for a writ of habeas corpus to the US district court in Pittsburgh, which was granted and he was ordered released from confinement, but

was not released in spite of Air Force reports to the contrary. The Air Force appealed his release and the appellate court reversed the district court, finding that the Air force could try him for murder in Korea. His case was then appealed to the United States Supreme Court, which over turned the Circuit Court ruling and ordered him released saying that the Air Force had no right to apprehend and try him once he became a civilian.

The case of Toth v. Quarles,( Quarles was the Secretary of The Air Force) at the time. It was a landmark case because the U.S. Supreme Court decided that once a person leaves the military he cannot be subject to prosecution under the Uniform Code of Military Justice. In other words, it: was a landmark case deciding that the Uniform Code of Military Justice only applied to military service people. Toth was then released from custody and was never tried.

George C. Schreiber was tried in a very sensational trial, with a lot of attendant publicity at 5th Air Force Rear Headquarters in Taegu, South Korea. Defending him was a civilian defense counsel, Michael A. Braun, who had an office in Tokyo, Japan, Major Jesse O. Bryan, IV, an Alabama who was a career lawyer in the Air Force, and the assistant defense counsel was 1st Lt. Robert A. Shaines.

Shaines was assigned by the two senior lawyers, Major Bryan and Mike Braun, to act as a researcher, to interview witnesses, to be somewhat of a companion to Schreiber, to accompany him to Tokyo for interviews with Braun as needed, to take him to Tokyo Army Hospital for medical and psychiatric evaluations as to his competency to

stand trial and assist in his defense. We wanted to and did obtain an opinion as to the affect of the antihistamines which he was taking on the night of the killing. Shaines regarded this as a golden opportunity to be engaged in his first capital murder case, having recently graduated law school and entered the Air Force, graduated from the Judge Advocate School and the Air Command and Staff School and being designated by the Staff Judge Advocate of the Air Force as qualified under the Uniform Code of Military Justice as competent to serve as counsel before general courts martial. In spite of the fact that I had never tried a case other than in moot court and assisted Charlie Gobel in San Antonio in an aggravated assault case as prosecutor, this was my first real trial with responsibility and my client's life at risk.

The opportunity to work with two senior, experienced trial lawyers was regarded by me as a tremendous legal experience and it gave me the opportunity to advance my legal career with confidence. At the time of Schreiber's trial there were very few JAG officers certified for general court martial duty. The assistant trial counsel had to be brought in from a duty station in the Phillipines, as there were no other officers so qualified to serve in Korea. My friendship with Eddie McCormick and hence his uncle John stood me in good stead, as many officers waited for years to be allowed to attend JAG school or to attend the Air Command and Staff Officers School. At age 22, I had completed both with honors..

I, regarding myself as an affable and compliant young man, undertook my duties in Schreiber's case with the desire to excel and with compassion and sincerity



in an effort to help Schreiber. I tried really hard to like Schreiber, but for the most part I had to hide feelings towards him in an effort to save him from the charges against him..

Schreiber obviously got along very well with me, largely because he had no choice. I was lenient with him and I difficulty Schreiber's anti-Semitic remarks about Captain Levin, Colonel Loewenberg and Mike Braun. Since I was Jewish it didn't set him in my version of a good person. Nevertheless I had a job to do and I did it very well..

Schreiber blamed the Jews for his misfortune, namely, Captain Levin and Col. Loewenberg. He felt this was a Jewish conspiracy to kill him in order to satisfy the then needs of the U.S. State Department in its efforts to have good foreign policy relations with the government of South Korea.

Parenthetically, the selected civilian defense counsel, Michael Braun, was a Jewish lawyer from New York who had considerable criminal experience practicing in New York City and then had been stationed in Japan as a war crimes prosecutor at the end of World War II. Mike had married the daughter of the then managing director of Mitsubishi and had established himself as an American lawyer practicing in Japan. He was hired by Schreiber's family to defend George Schreiber as his civilian defense counsel. Schreiber was embittered at the amount of money that he said his family had to pay to hire Mike and referred to him with ethnic disparagement.

In spite of his mouthing off about the Jews, two of his three defenders were Jews.

While \_\_\_\_\_ at \_\_\_\_\_ K-10,

there were many Jewish servicemen. We had no Jewish chaplain, so I conducted the Friday night Sabbath services, with the assistance of the Catholic Chaplain, father Henry Bielski, who became a lifelong friend .Conversely, I used to drive Father Bielski to Masan on many Sundays, where he conducted mass for the First marine combat service Group stationed there. I served as his alter boy at these sessions. In so doing I became very conversant with the ritual of the mass and communion. It all added to my education and my ability to tolerate Schreiber, who knew that I was Jewish and regarded me as his friend.