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POWERS MAY FACE 3 JUDGES IN TRIAL

Soviet Legal System Offers
No Jury—Spy Penalty Is
Jail Term or Death

According to United States jurists versed in Soviet law, Francis Gary Powers, the American held in the Soviet Union as an spy, will face three judges but no jury if brought to trial; the judges will press the case quite as much as the prosecutor, and Mr. Powers if convicted will face seven to fifteen years in prison or execution.

Prof. Harold J. Berman of the Harvard Law School and Prof. John Hazard of the Columbia Law School said yesterday that trial in the Soviet Union were patterned after those in other continental European countries.

Prof. Berman, who has tried a case in a Soviet court, said Mr. Powers would probably be tried by the military division of the Supreme Court, with the right of appeal to the full court.

Special Court Possible

"However," Mr. Berman said, "it is conceivable that a special court could be convened in this case. The Russians have done so in the past in important cases. For instance, Lavrenti Beria was tried by a special court." Beria, former head of the Soviet secret police, was executed in 1953 after conviction on treason charges.

In the military court, Mr. Powers would face three members of the armed services—a professional judge and two lay judges with no formal legal training, called "people's assessors."

Mr. Powers would first undergo a pre-trial examination in which he and the prosecution would give testimony. The flier would not be entitled to counsel during this investigation unless the pre-trial investigator permitted it. This discretionary power stems from a recent legal reform.



Associated Press

TO GO ON TRIAL: Francis G. Powers, U. S. pilot captured in Soviet Union.

The principle of "presumption of innocence" is not explicit in Soviet law, Mr. Berman said. He added, "the law makes clear that the burden of proof is on the prosecutor, which is kind of presumption of innocence."

If a foreigner is convicted of espionage in a Soviet court, Mr. Berman said, he is subject to one of two penalties: seven to fifteen years in prison, or execution.

Mr. Berman said he thought the State Department ought to urge the Russians to permit Mr. Powers the right of counsel during the preliminary investigation, and the right to an American lawyer as well as a Soviet lawyer during his trial.

Professor Hazard, Columbia's expert on Soviet law, noted that Soviet judges, like judges in other European courts, are not merely umpires, as in United States courts.

"The burden of the conduct of the case is on the judge," he said. "The judge introduces questions and the defense and prosecution follow his lead."

As for the pre-trial investigation procedure, he recalled a remark by a French jurist that trials in the Soviet Union and in other countries using the system "are appeals from the preliminary investigations."

Professor Hazard said he could not recall any previous execution of a trial of a United States citizen by the Soviet Union on espionage charges.

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