



Associated Press

Lieut. Col. Anthony B. Herbert, left, with Kenneth E. Belieu, Under Secretary of Army

Special to The New York Times

WASHINGTON, Oct. 8— The Army has thrown out a damaging efficiency report that was added to the file of Lieut. Col. Anthony B. Herbert after he charged two fellow officers with covering up alleged atrocities by American troops in South Vietnam.

The action, announced today by Secretary of the Army Robert F. Froehlke at the Pentagon, clears the way for Colonel Herbert to stay in the military.

Had the Army not elected to clear the colonel's record of charges of having "no ambition, integrity, loyalty or

will for self-improvement" and of having "a terrible appearance," he would have been forced to retire from military service effective March 1, 1972, Mr. Froehlke said.

The efficiency report, a periodic evaluation of officers'

Continued on Page 13, Column 3

performance, was filed by Col. J. Ross Franklin, who had been accused by Colonel Herbert of dereliction of duty by covering up the alleged atrocities.

Based on the efficiency report, which also charged that Colonel Herbert "had a tendency to exaggerate and had on occasions deliberately lied as well as pitted himself against the brigade commander," Maj. Gen. John Barnes, the other officer implicated by Colonel Herbert, officially relieved him of his battalion command and recommended that he not be allowed to command again.

Colonel Herbert's record previously contained a history of excellence and superior ratings. He was the most decorated enlisted man of the Korean conflict and added a fourth Silver Star and numerous other high awards in 58 days as battalion commander in Vietnam.

In Colonel Herbert's formal charges against the two officers, the 41-year-old veteran of almost two decades of service said that each had ignored eight criminal charges of murder, torture and other mistreatment of prisoners of war by United States troops. The colonel said he had witnessed four of the incidents.

The incidents were said to have taken place in 1969 in villages of Culoi and Bongson, South Vietnam.

At the time of the report to the two officers, in 1969, Colonel Herbert was commander of an airborne infantry battalion and General Barnes was commander of the 173d Airborne Brigade. Colonel Franklin served as General Barnes's deputy commander.

Since the charges were made by Colonel Herbert, the investigation of Colonel Franklin has been dropped. The Army is continuing its investigation of General Barnes.

Colonel Franklin, still stationed in Vietnam, has declined comment on the charges. General Barnes has maintained that they are unfounded and that no reports of atrocities were made to him by Colonel Herbert.

Colonel Franklin was a member of the army commission that investigated the killings at the hamlet of Mylai 4 in South Vietnam three years ago.

The atrocities alleged by Colonel Herbert were unrelated to the Mylai killings.

In dismissing the unsatisfactory efficiency report on Colonel Herbert, Secretary Froehlke said that his review of the colonel's file had shown "no indication in any of the records that his relief from command was in any way connected with reporting or non-reporting of war crimes, atrocities or similar misconduct."