

Rhodes Tells Kent Jury of Near-War

Special to The New York Times

CLEVELAND, July 29—Gov. James A. Rhodes of Ohio told a Federal jury today that the situation on the Kent State campus five years ago was "almost a state of war."

The remark came after the Governor and the jury had listened to a tape-recorded account of a news conference held by Mr. Rhodes 26 hours before National Guard troops opened fire on demonstrators, killing four Kent State students and wounding nine.

Mr. Rhodes, who was Governor in May, 1970, and who was elected again last November, was called as the 63d witness in the \$46-million civil damage suit brought by the victims of the shooting incident.

In his three and a half hours of testimony, he also told the jury that he had had no knowledge as commander in chief of the National Guard that troops were carrying loaded weapons when they moved against students who were protesting the invasion of Cambodia.

Guard Ordered In

Mr. Rhodes testified that he ordered National Guard troops to the city of Kent on May 2, 1970, because of a request from city officials who said they were unable to handle an antiwar disturbance that occurred in the city the night before.

As jurors listened to the tape recording, they heard Mr. Rhodes pounding the table and describing the burning of a campus R.O.T.C. building and other disturbances as the "most vicious form of campus violence." He also described the demonstrators as "worse than brown shirts and the Communist element."

"They are the worst type of people we harbor in America," he said at the news conference.

After the tape was played, Mr. Rhodes was asked by Joseph Kelner, chief counsel for the plaintiffs, if he was angry at the time.

"I was not angry," he replied, adding, "This was almost a state of war."

Under questioning by Mr. Kelner, Mr. Rhodes denied making a series of statements to local officials at a private meeting that pre-empted the May 3 news conference.

Denials Are Listed

He denied telling the officials that the meeting was off the record, and that they were not to take notes. He also denied telling them that he was taking full control of the situation in the city and on the campus, and that it was a martial law situation.

He denied telling the officials that he did not want to see any two students walking together, and that if necessary he would put armed guards

in each classroom to keep the school open.

He also denied telling university officials that they should step aside to let the Guard handle the situation.

After Mr. Rhodes's testimony, the plaintiffs called a tall and bearded former Guard sergeant who had attended the private meeting.

Mr. Rhodes listened with bowed head as the former sergeant, Michael Delaney, told the jury that the Governor had made all the statements he had just denied.

Mr. Delaney, a noncommissioned public information officer

for the Guard at the time of the shooting, testified that he was standing in the back of the room when Mr. Rhodes told officials that he would use whatever force was necessary to disperse student gatherings, and that the Governor did not want to see any two students walking together on the campus.

The 70 seats allotted to spectators and reporters were all taken as Mr. Rhodes took the stand at 9:30 A.M. As he approached the front of the room to take his oath, he was greeted by Federal Judge Don Young as "Your Excellency,"