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JURORS DEFENDED BY CALLEY JUDGE

He Replies to Accusations
That Panel Is Dilatory

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FORT BENNING, Ga., March 24 — Cries of "whitewash" would inevitably follow an acquittal of First Lieut. William L. Calley Jr. and angry criticism of another kind would just as surely greet a conviction, the military judge said today while defending the Calley jurors against defense charges of "wining and dining" and dilatory conduct.

"They'll be damned if they do, damned if they don't," Col. Reid W. Kennedy, the judge, told defense lawyers who were becoming increasingly fretful in the eighth day of deliberation by the jury. There was still no sign of an impending verdict.

Lieutenant Calley is charged with the premeditated murder of 102 South Vietnamese civilians at Mylai three years ago. After the longest military trial, extending over four and one-half months, the case went to the jury March 16.

Military justice has come under sharp attack, Colonel Kennedy said, mainly because some military juries have spent so little time deliberating. The Calley jurors he added, "should spend as much time as necessary to fully evaluate the evidence."

Delay Ruled Out

"If it should come to pass that it appears they've been delaying a decision, then I'm going to call them in here and tell them it's time to start voting," the judge said. "But I don't believe we have anywhere reached that point yet."

Colonel Kennedy called the Calley case "the most complex I've ever read about." He praised the six career combat officers for working longer hours than the Los Angeles civilian jury that found Charles Manson guilty in the Sharon Tate murder case.

His comments were prompted by a criticism of the jury by Lieutenant Calley's chief defense counsel, George W. Latimer. Mr. Latimer said Monday that the jurors were spending too much time watching television and in "wining and dining."

"I've done a little research on that 'wining and dining,'" Colonel Kennedy announced. He said that he had learned that the jury in the trial of Charles M. Manson had deliberated 42 hours 40 minutes. The Manson jury's deliberations stretched over two weeks, and the jurors took both Sundays off and worked only half a day Saturdays, the colonel said.

The Calley jury had deliberated 41 hours and 17 minutes at the start of today's session, the colonel said, and worked all day Saturday and part of Sunday.

"The jurors," he said, "are doing more than can be reasonably expected of them."

"I wish you'd research the military courts," said Mr. Latimer, a retired judge of the Court of Military Appeals. "I've had 10 or 12 cases, and I never had hours like this."

Rereading Requested

"Maybe that's why the court-martial system has been criticized lately," Colonel Kennedy replied. "There have been allegations that the court-martial have not fully considered the facts before them."

Today, the jurors requested a rereading of more testimony. They also wanted information about a picture taken by a combat photographer, Ronald Haeberle, during the alleged Mylai massacre.

This picture showed an apparently wounded Vietnamese woman, weeping and terrified but defiantly trying to shield a teen-aged girl who was buttoning her blouse. According to Mr. Haeberle, Lieutenant Calley's troops had tried to molest the girl. The woman had intervened, and Mr. Haeberle's picture showed her being restrained by an older woman. Frightened children appeared in the background.

A witness, Jerry L. Heming of Jackson, Miss., had identified the picture as being that of a group of civilians he had encountered on a trail. Mr. Heming said that Lieutenant Calley was standing nearby. But Mr. Heming did not see the shooting of this group, and none of the other witnesses could swear that these people had become part of a larger group later gunned down on the trail.