

## A Lost and Ruined Soul

# Calley—Caught in a Foulup

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As the astonishingly vehement reaction to the Calley case continues to reverberate around the United States, the central character relaxes at his bachelor pad, watching it all on a huge color TV set, sipping an occasional beer or bourbon with friends, consulting lawyers, working on his autobiography.

He is really a lost and ruined soul. He had, at 23, found a home in the Army four years ago, as an enlisted man, a company clerk. It was something he could do after a long record of failures. But ambition, his and others, did



## Calley Poll Reaction

### New York

More than three-quarters of the persons interviewed in a special Gallup Poll disapproved of the conviction of Lieutenant Calley for murdering civilians at My Lai, Newsweek magazine reported Saturday.

According to Newsweek, the telephone poll of a cross section of 522 Americans showed 79 per cent disapproved of the conviction, 9 per cent approved and 12 per cent had no opinion.

The survey, commissioned from the Gallup organization, said that 81 per cent of

the persons interviewed said Calley's sentence to life imprisonment was too harsh.

The poll, which will appear in the April 12 issue of the magazine, asked: "Do you approve of the court-martial finding that Lieutenant Calley is guilty of premeditated murder?"

Although the poll was conducted before President Nixon decided to "personally review" the Calley case, 83 per cent of these interviewed endorsed the President's decision to release the 27-year-old officer from the stockade pending appeal. Other results showed:

- 69 per cent felt Calley was "made a scapegoat for the actions of others."
- 50 per cent believe incidents like My Lai are common in Vietnam.
- 32 per cent think the U.S. is guilty of war crimes in Vietnam.
- Of the 79 per cent who disagreed with the verdict convicting Calley, 71 per cent said they thought many others besides Calley should share the responsibility for the massacre; while 20 per cent said "what happened at My Lai was not a crime."
- Seven per cent gave other reasons.

United Press

him in.

William Laws ("call me Rusty") Calley saw a chance to become an officer and he took it. Three presidents saw a chance to keep Communism out of South Vietnam and they took it. These circumstances conjoined in the little village of My Lai on March 16, 1968.

Three years later, First Lieutenant Calley stands convicted of premeditated murder of at least 22 men, women and children and of assault with intent to murder a child at My Lai. As he told it at his four-month court-martial, he was confused, frightened, only following orders.

But the six jurors, all combat officers, chose not to believe him. They sentenced him to life imprisonment. They could have been harsher: They could have voted for death.

"We gave Lieutenant Calley every benefit of the doubt," one juror said afterward. "We did not enjoy doing what we had to do. But all those people, all those babies . . ."

#### CONSCIENCE

It was the conscience of the Army that sat here in judgment of Calley and of its own system, and it was an uneasy conscience at that. Everybody in the courtroom knew — or soon knew as 109 witnesses from 31 states paraded to the stand in the Army's longest, most complex and most controversial trial — that the My Lai operation was a foulup from start to finish.

The guilt undoubtedly goes higher, but the American Division is a convenient starting point. It was no division in the traditional sense, with battle streamers proudly flaring from its colors. It was a sandlot, pickup, catch-as-catch-can, a motley arrangement of available units, and a good spot for higher-ups reaching for a general's star to get in some easy command time.

The 11th Brigade was equally jerrybuilt, and Calley's Charley Company went

into My Lai ill-trained, poorly instructed and terrified. Witness after witness could not remember who was on his right and who on his left as he moved across the rice paddy toward My Lai — a cardinal sin in the struggle to survive, as any infantryman knows.

The Colonel Blimp planning, the Sad-Sack character of the soldiers, the intelligence reports that the dreaded 48th Viet Cong Battalion would be waiting and that all women and children would be gone, the fact that the area was a "free fire zone" and thus always fair game—all these considerations were weighed by the jurors. But they lost significance when Calley admitted he fired "six or eight" times at point-blank range at an ageless, sexless "enemy."

Yet, Calley might have gotten off with a much lighter charge and sentence — best betting around the courtroom was involuntary manslaughter and five years — if he had had a better defense. Time after time, it was apparent the defense did not know where it was going because it had not gotten around to planning.

Last summer, the Army sent a young legal officer, Captain Brooks Doyle, around the country interviewing prospective defense witnesses. A conscientious young man, just passing through on a two-year draftee hitch, Doyle came back after three months, sat down and typed out a report as thick as a telephone book.

George W. Latimer, the 70-year-old chief defense counsel, never read it. Nor did the other civilian counsel, Richard Kay.

Major Kenneth A. Raby, the intense 35-year-old career officer assigned to Calley's defense by the Army, spent more than 100 hours summarizing previous testimony by prospective witnesses. This included statements they had made to agents of the Army's Criminal Investi-

gation Division, an inquiry conducted by Lieutenant General William R. Peers, and a hearing held by a House armed services subcommittee headed by Representative F. Edward Hebert (Dem.-La.).

Again, Latimer and Kay never read the summaries. Instead, they had summaries made of the summaries.

In dividing up the witnesses, it was agreed that Raby, Latimer and Kay would each talk to those assigned them the day or night before putting them on the witness stand. Raby spent two hours or more with each of his witnesses. About 15 minutes was all it took Latimer and Kay.

Consequently, it was no surprise when Latimer and Kay were surprised by their witnesses' testimony.

Latimer, a Mormon from Salt Lake City, came to the court room with a respected reputation, notably that he had spent ten years as a judge of the U.S. Court of Military Appeals during his 47-year career.

A good-natured, likable man, he seemed often to be out of his depth. At 70, he found the physical strain alone a heavy burden, as he often remarked. After about an hour on his feet in court, his practice was to start looking at the clock on the wall. The military judge, Colonel Reid W. Kennedy, more often than not took the hint and mercifully called a recess.

Watching Latimer at work, losing his place among papers or repeating himself, many in the court recalled the picture of William Jennings Bryan at the Scopes Trial. To the well once too often.

Still, it is a measure of Calley's judgment that he sought out Latimer and persuaded him to be his lawyer. Latimer said he took the case because he saw in Calley a "friendless boy" faced with the full might of the United States government.

But, as the jurors stayed out day after day for 13 days, Latimer was grumbling that

each day cost him \$250 he could earn back home.

Kay, a Cleveland lawyer and perennial candidate for some office there, made no bones about why he was here. He buttonholed reporters right and left to talk, not about the trial or his client, but about his political ambitions.

"If you fellows had given Lieutenant Calley a break and written good things about him, Robert Taft wouldn't be in the Senate today," Kay told several newsmen. "A good press here would've elected me, and I'd be there."

Raby became so frustrated, working with Latimer and Kay, that he tried to quit several times. But Judge Kennedy would not let him, and he stayed on until the end—the only one to meet Calley when he was freed on parole Thursday pending review and appeals, Latimer and Kay having gone home the day before.

## Duke Departed

Darwin, Australia

The Duke of Edinburgh left by air for Singapore yesterday after an 11-day visit to Australia to take part in the 50th anniversary celebrations of the Royal Australian Air Force.

Reuters

Arrayed against the divided, lackluster defense team were a couple of bright young captains, Aubrey M. Daniel III and John Partin. Daniel was in charge, and, at 29, just two years older than Calley, he was more than a match for the slow-footed Latimer and company.

Daniel, blond and handsome, alert and tough, had done his homework. A Virginia blueblood, he adopted a moralistic, puritanical tone at the outset and clung to it throughout. There is no doubt that his constant repetition of the list of victims — a litany of "women, children, old men . . . and babies" — burned into the jurors' consciences.

Still, Daniel's righteousness fell flat in the courtroom on occasion. There was something ironic in the contrast between him and Calley that came through. Roughly they were the same age and yet they were poles apart.