

Henderson Trial: Justice Won in Spite of the Army

To the Editor:

Your Dec. 24 editorial "Debacle of Military Justice" certainly manifests a complete misunderstanding and unawareness of the Mylai cases and the blunders of the inquiry conducted by General Peers into the Mylai incident.

I served as chief civilian counsel in the defense of Col. Oran K. Henderson. It was natural for me to have some familiarity with this matter after having studied some 35,000 pages of testimony heard by General Peers and his committee.

I also had the opportunity to examine under oath some 125 witnesses who testified at in-court and out-of-court hearings in the trial of Colonel Henderson.

Furthermore, I had available to me by order of the military judge—over the opposition of the Army and the prosecution—the confidential Peers Report, which your editorial asked be made public.

Contrary to what your editorial states, General Peers and his committee did not conduct a careful inquiry. The interrogation of witnesses was the closest approach to a star chamber proceeding, and the elementary rights to confrontation of witnesses and assistance of counsel were persistently and flagrantly violated.

A verbatim transcript of the proceedings, which was essential to such an important inquiry—although promised to each witness, including Colonel Henderson—was never kept. Twelve errors per page averaged throughout the transcript. Measuring this average against 35,000 pages of testimony, we have estimated 420,000 errors or inaccuracies in the record.

Over 100 staff members were available to General Peers, as were the entire personnel of the Army's Criminal Investigation Division. Nevertheless, General Peers came to the later-

conceded erroneous conclusion that the formal report of Lieutenant Colonel Barker on the Mylai incident was never rendered and that General Samuel Koster and Colonel Henderson lied when they testified to its existence.

Not only was Colonel Henderson's outstanding, impeccable military career ruined but also the career of General Koster, who was demoted to brigadier general after serving in the prestigious post of Superintendent of the U. S. Military Academy.

Your editorial complains that "it is difficult to believe that it was beyond the Army's investigative capacity to identify the liars and track down the conspiracy of silence." You are quite correct. General Peers' inquiry failed to do this. However, at the Henderson trial, defense counsel proved the conspiracy of silence and where the lies were told.

It is regrettable that General Peers did not take advantage of the Army's expert lie-detector examiners. Peers would have known that General Koster and Colonel Henderson were truthful officers who were unjustly maligned by the sloppy investigation.

Obviously, no enlightenment will emerge from the grossly inaccurate conclusions of the Peers Report. The true story of Mylai will come only from those who have had the opportunity objectively to study the record and interrogate all the witnesses—those called and not called in the Peers inquiry.

Contrary to your conclusions, military justice fortunately did triumph in Colonel Henderson's acquittal, in spite of the Secretary of the Army and the Chief of Staff's attempt to make a scapegoat of Colonel Henderson to divert the blame from their own blunderings.

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