

# Text of Calley Prosecutor's Letter to the President

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WASHINGTON, April 6—  
Following is the text of the letter sent to the President by Capt. Aubrey M. Daniels 3d, the prosecutor in the Calley case:

Sir: 3 APR 71

It is very difficult for me to know where to begin this letter as I am not accustomed to writing letters of protest. My only hope is that I can find the words to convey to you my feelings as a United States citizen, and as an attorney, who believes that respect for law is one of the fundamental bases upon which this nation is founded.

On Nov. 26, 1969, you issued the following statement through your press secretary, Mr. Ronald Ziegler, in referring to the Mylai incident:

"An incident such as that alleged in this case is in direct violation not only of United States military policy, but is also abhorrent to the conscience of all the American people.

"The Secretary of the Army is continuing his investigation. Appropriate action is and will be taken to assure that illegal and immoral conduct as alleged be dealt with in accordance with the strict rules of military justice.

"This incident should not be allowed to reflect on the some million and a quarter young Americans who have now returned to the United States after having served in Vietnam with great courage and distinction."

At the time you issued this statement, a general court-martial had been directed for a resolution of the charges which have been brought against Lieut. (written William L. Calley Jr. for his involvement at Mylai.

## 'My Own Belief'

On Dec. 8, 1970, you were personally asked to comment on the Mylai incident at a press conference. At that time you made the following statement:

"What appears was certainly a massacre, and under no circumstances was it justified.

"One of the goals we are fighting for in Vietnam is to keep the people from South Vietnam from having imposed upon them a government which has atrocity against civilians as one of its policies.

"We cannot ever condone or use atrocities against civilians in order to accomplish that goal."

These expressions of what I believed to be your sentiment were truly reflective of my own feelings when I was given the assignment of prosecuting the charges which had been preferred against Lieutenant Calley. My feelings were generated not by emotionalism or self-indignation but by my knowledge of the evidence in the case, the laws of this nation in which I strongly believe, and my own conscience. I knew that I had been given a great responsibility and I only hoped that I would be able to discharge my duties and represent the United States in a manner which would be a credit to the legal profession and our system of justice.

## 'In the Finest Tradition'

I undertook the prosecution of the case without any ulterior motives for personal gain, either financial or political. My only desire was to fulfill my duty as a prosecutor and see that justice was done in accordance with the laws of this nation. I dedicated myself totally to this end from November of 1969 until the trial was concluded. Throughout the proceedings there was criticism of the prosecution but I lived with the abiding conviction that once the facts and the law had been presented there would be no doubt in the mind of any reasonable person about the necessity for the prosecution of this case and the ultimate verdict. I was mistaken.

The trial of Lieutenant Calley was conducted in the finest

tradition of our legal system. It was in every respect a fair trial in which every legal right of Lieutenant Calley was fully protected. It clearly demonstrated that the military justice system which has previously been the subject of much criticism was a fair system. Throughout the trial, the entire system was under the constant scrutiny of the mass media and the public, and the trial of Lieutenant Calley was also in a very real sense the trial of the military judicial system. However there was never an attack lodged by any member of the media concerning the fairness of the trial. There could be no such allegation justifiably made.

I do not believe that there has ever been a trial in which the accused's rights were more fully protected, the conduct of the defense given greater latitude, and the prosecution held to stricter standards. The burden of proof which the Government had to meet in this case was not beyond a reasonable doubt, but beyond possibility. The very fact that Lieutenant Calley was an American officer being tried for the deaths of Vietnamese during a combat operation by fellow officers compels this conclusion.

## Jury Carefully Chosen

The jury selection, in which customary procedure was altered by providing both the defense and the prosecution with three peremptory challenges instead of the usual one, was carefully conducted to insure the impartiality of those men who were selected. Six officers, all combat veterans, five having served in Vietnam, were selected. These six men who had served their country well, were called upon again to serve their nation as jurors and to sit in judgment of Lieutenant Calley as prescribed by law.

From the time they took their oaths until they rendered their decision, they performed their duties in the very finest tradition of the American legal system. If ever a jury followed the letter of the law in applying it to the evidence presented, they did. They are indeed a credit to our system of justice and to the officer corps of the United States Army.

## 'Shocked and Dismayed'

When the verdict was rendered, I was totally shocked and dismayed at the reaction of many people across the nation. Much of the adverse public reaction I can attribute to people who have acted emotionally and without being aware of the evidence that was presented and perhaps even the laws of this nation regulating the conduct of war.

These people have undoubtedly viewed Lieutenant Calley's conviction of an American officer for killing the enemy. Others, no doubt out of a sense of frustration, have seized upon the conviction as a means of protesting the war in Vietnam.

I would prefer to believe that most of the public criticism has come from people who are not aware of the evidence, either because they have not followed the evidence as it was presented, or having followed it they have chosen not to believe it.

Certainly, no one wanted to believe what occurred at Mylai, including the officers who sat in judgment of Lieutenant Calley. To believe, however, that any large percentage of the population could believe the evidence which was presented and approve of the conduct of Lieutenant Calley would be as shocking to my conscience as the conduct itself, since I believe that we are still a civilized nation.

If such be the case, then the war in Vietnam has brutalized us more than I care to believe, and it must cease. How shocking it is if so many people across this nation have failed to see the moral issue which was involved in the trial of Lieutenant Calley—that it is unlawful for an

American soldier to summarily execute unarmed and unresisting men, women, children and babies.

#### **Appalled by Leaders**

But how much more appalling it is to see so many of the political leaders of the nation who have failed to see the moral issue or, having seen it, to compromise it for political motive in the face of apparent public displeasure with the verdict.

I would have hoped that all leaders of this nation, which is supposed to be the leader within the international community for the protection of the weak and the oppressed regardless of nationality, would have either accepted and supported the enforcement of the laws of this country as reflected by the verdict of the court or not make any statement concerning the verdict until they had had the same opportunity to evaluate the evidence that the members of the jury had.

In view of your previous statements concerning this matter, I have been particularly shocked and dismayed at your decision to intervene in these proceedings in the midst of the public clamor. Your decision can only have been prompted by the response of a vocal segment of our population, who while no doubt acting in good faith, cannot be aware of the evidence which resulted in Lieutenant Calley's conviction.

Your intervention has, in my opinion, damaged the military judicial system and lessened any respect it may have gained as a result of the proceedings.

You have subjected a judicial system of this country to the criticism that it is subject to political influence, when it is a fundamental precept of our judicial system that the legal processes of this country must be kept free from any outside influences. What will be the impact of your decision upon the future trials, particularly those within the military?

#### **'Respect Weakened'**

Not only has respect for the legal process been weakened and the critics of the military judicial system been given support for their claims of command influence, the image of Lieutenant Calley, a man convicted of the premeditated murder of at least

21 unarmed and unresisting people, as a national hero has been enhanced, while at the same time support has been given to those persons who have so unjustly criticized the six loyal and honorable officers who have done this country a great service by fulfilling their duties as jurors so admirably.

Have you considered those men in making your decisions? The men who since rendering their verdict have found themselves and their families the subject of vicious attacks upon their honor, integrity and loyalty to this nation.

It would seem to me to be more appropriate for you as the President to have said something in their behalf and to remind the nation of the purpose of our legal system and the respect it should command.

I would expect that the President of the United States, a man whom I believed should and would provide the moral leadership for this nation, would stand fully behind the law of this land on a moral issue which is so clear and about which there can be no compromise.

#### **Abhorrent to Conscience**

For this nation to condone the acts of Lieutenant Calley is to make us no better than our enemies and make any pleas by this nation for the humane treatment of our own prisoners meaningless.

I truly regret having to have written this letter and wish that no innocent person had died at Mylai on March 16, 1968. But innocent people were killed under circumstances that will always remain abhorrent to my conscience.

While in some respects what took place at Mylai has to be considered to be a tragic day in the history of our nation, how much more tragic would it have been for this country to have taken no action against those who were responsible.

That action was taken, but the greatest tragedy of all will be if political expediency dictates the compromise of such a fundamental moral principle as the inherent unlawfulness of the murder of innocent persons, making the action and the courage of six honorable men who served their country so well meaningless.