

Taylor Says by Nuremberg Rules

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By NEIL SHEEHAN

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WASHINGTON, Jan. 8—Telford Taylor, former chief United States prosecutor at the Nuremberg trials, has declared that Gen. William C. Westmoreland, the Army Chief of Staff, might be convicted as a war criminal if war crimes standards established during World War II were applied to his conduct of the war in Vietnam.

Mr. Taylor, a retired brigadier general in the Army Reserve, who is now a professor of law at Columbia University, made the statement in New York last night during the videotaping of the American Broadcasting Company's "Dick Cavett Show," for showing this evening.

In a telephone interview with The New York Times today, Professor Taylor said he stood by his statement.

Others Also Linked

The war crimes standard of which he spoke was set by a United States Army commission that convicted and hanged Gen. Tomoyuki Yamashita, the Japanese commander in the Philippines, for atrocities committed by his troops. The commission held that as the senior commander, General Yamashita was responsible for not having stopped atrocities.

Professor Taylor implied, although he later declined to state so specifically, that similar verdict might ensue if some leading civilian officials of the Johnson Administration were tried, under other war crimes criteria established at Nurem-



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Gen. W. C. Westmoreland

berg, for war policies they had approved in Vietnam.

In a book published last fall by Quadrangle Books, Professor Taylor had said the actions of the United States in Vietnam should be examined under the criteria established at Nuremberg and by the Yamashita precedent.

Mr. Cavett asked him if he had meant to suggest in the book that such men as the former Secretary of State, Dean Rusk; the former Defense Secretary, Robert S. McNamara, and the former Special Assistants to the President, McGeorge Bundy and Walt W. Rostow, should be brought to trial for war crimes.

"Well, I certainly suggest very strongly in the book and would be quite prepared to say it a little more explicitly that if you apply to the people you've mentioned, or to the high commanders at Nuremberg, like

General Westmoreland, if you were to apply to them the same standards that were applied in the trial of General Yamashita, there would be very strong possibility that they would come to the same end as he did," Professor Taylor replied.

"Then you imply they would be found guilty?" Mr. Cavett asked.

"Could be found guilty," Professor Taylor replied.

Blaming Not Intended

"It was not the purpose of the book to say that 'X' is guilty, or 'Y' is guilty or 'Z' is guilty," he said. "That's for some court to decide if you have the evidence there and look at it. But it is the function of the book to say that these principles were applied before and if you applied them now, such and such results might follow. And the American people cannot face their own past and cannot face the principles that they laid down and applied to Germans and Japanese unless they're willing to have the principles work the other way too."

An Army spokesman said General Westmoreland was on an inspection tour of helicopter facilities in Texas and could not be reached for comment this afternoon.

Stanley Resor, the Secretary of the Army, had considered the Yamashita precedent "very closely" during the investigation of the Mylai case, in which more than 100 Vietnamese civilians were allegedly murdered, and had absolved General Westmoreland of responsibility under it. Mr. Resor had also later rejected a formal charge of war crimes under the Yamashita standard made against



Associated Press

Telford Taylor

General Westmoreland by one of the Mylai defendants, Sgt. Esequiel Torres, the spokesman said.

Professor Taylor said in the telephone interview, however, that in his opinion what responsibility General Westmoreland could have for war crimes under the Yamashita precedent was not confined to the Mylai situation.

He said he considered "far more serious" than Mylai the civilian deaths caused by widespread bombing and shelling of Vietnamese hamlets in so-called free-fire zones, the forced evacuation of peasants from their hamlets and what he termed a failure to care adequately for the civilian casualties that resulted from this deliberate conduct of the war.

"You are not supposed to do that under the laws of war," Professor Taylor said. "You are supposed to take some precautions to make sure that the people you are killing are really guilty. That's not what you're doing when you call an airstrike in on a village because of some sniper fire."

Professor Taylor said that while he stood by his inclusion of civilian leaders of the Johnson Administration in his answer to Mr. Cavett's question, he had meant basically to confine his answer to General Westmoreland and other senior military commanders in Vietnam under the Yamashita precedent.

Westmoreland May Be Guilty

Asked whether the same verdicts could also result from application of the separate Nuremburg criteria to Vietnam war policies devised by the civilian leadership, he declined to specify any names. But he added, "I meant the accusatory implication of it to come out in the book."

The only civilian leader to whom the Yamashita precedent might conceivably be applied, he said, would be Lyndon B. Johnson as Commander in Chief. Asked if he thought it ought to be applied to the former President, he said: "I don't think I want to answer that directly at this time."

National Inquiry Sought

Professor Taylor appeared on the program with Robert B. Johnson, a West Point graduate and former Army captain in Vietnam, who is one of the leaders of the Citizens Commission of Inquiry on United States War Crimes in Vietnam. The commission, whose members are outspoken opponents of the war in Vietnam, is seeking a national inquiry into alleged war crimes.

Mr. Johnson said his group had "substantial evidence" from veterans of the Vietnam war that torture of prisoners of war in South Vietnam is part and parcel of our policy in Vietnam.

Professor Taylor, a 62-year-old enrolled Democrat, who says he voted for Hubert Humphrey in the last election and is not known for any political radicalism, did not comment on this allegation. He did say, however, that he shares

with Mr. Johnson the belief that circumscribed officials inquiries into war crimes like the courts-martial of the Mylai defendants fell far short of what was needed.

The Level's Questioned

"I don't think any more than Mr. Johnson does that you can probe these things in a court martial proceeding at Fort Benning of a lieutenant or a captain or a sergeant," he said. "That's not the level at which the real responsibility for these things originated."

In citing the Yamashita precedent as a standard that ought now to be applied, professor Taylor said he was not specifically asserting that General Yamashita had been fairly tried and convicted. The Japanese general had presented considerable evidence that he lacked the communications to adequate control of his troops, but the American army commission said this failed to absolve him of responsibility. Yamashita's conviction was upheld by the United States Supreme Court.

"I do agree with the basic proposition that a general is responsible for controlling the conduct of his troops," Professor Taylor said. "And I agree with the basic principle that a commander is liable for the conduct of his troops."

But he added: "All of these things that Yamashita did not have, like helicopters and radios and all that, Westmoreland and his commanders in Vietnam did have. They didn't have the problem of control that Yamashita had."