

Representative Don Fuqua introduced a resolution calling for an invitation to Calley to address the full Congress; the commander-in-chief of Veterans of Foreign Wars criticized the whole system of military justice that led to the conviction; Eugene McCarthy said the investigation should not end with Calley. And President Nixon made the storm over Calley even stormier when he had his domestic advisor, John D. Ehrlichman, say that he would personally review the case.

Preceding the conviction of Calley the Army, after prodding from outside, set up an investigative committee under Lieutenant General William R. Peers to see why a previous investigation had revealed so little. It is this report, conducted with thoroughness and diligence under the admirable leadership of Peers, that has only recently been released. It documents charges that at every command level within the division to which Calley was attached information concerning the massacre was suppressed, distorted, diluted. Some of the people acquitted or never brought to trial were accomplices in the crime for which Calley was tried and convicted. Both the massacre at Mylai and the initial Army investigation—which was, in fact, a cover-up—reveal a series of abysmal, ugly acts by those involved. And there were many.

What questions remain unanswered at this time? The most important concern what one can expect of a soldier in combat, and of his commanding officers. According both to traditional theories of justifiable combat and rules of land warfare taught by the Army, there are certain things a soldier cannot morally and legally do. Such acts include the deliberate, premeditated killing of unarmed civilians. This is what Calley was accused of doing. Nevertheless, many Americans, including influential leaders, spoke as if such acts were justifiable, as if once into a war, anything goes. If this latter position is correct, the trial of Calley was, of course, a farce. And we should forget about just war theories, throw away the rules of land warfare, and stop all the high-sounding rhetoric. We should forget also about applying the law with nice discrimination to those who opted *not* to fight in Calley's war.

If, however, Mylai is legally and morally abhorrent, if it makes sense to set limitations on killing even in the context of war, if the United States and the United States Army are serious about the laws they promulgate and claim to follow, then there is an enormous task which remains unfulfilled. The soldier must be taught that there are such restraints on his actions, that he can appeal to them, that he is subject to trial if he disregards them. The commanding officer must be informed that there are such restraints

and that he is responsible for acknowledging them, for seeing that they are observed, and for reporting their violation. The public must be taught that such restraints exist and that responsibility runs through the entire Army. The public must believe that, conforming with the degree of responsibility, punishment will be applied with a degree of equity.

Were all this to be done, there would still be aberrations in the system of justice, but at least there would be a system of justice.

No one speaking for the Army has made a public case that persuades us that such a system exists or will soon exist. Or even that strong efforts are being made to bring it into being. Until that occurs the "dark chapter" that Secretary Callaway referred to is not yet closed, nor is the spirit of Mylai laid to rest.

JF

EXCURSUS III

Foundations and Freedom

Many foundations are in deep trouble. The Ford Foundation's much publicized announcement of drastic cuts in its grants highlights only one of the more spectacular examples. The problem is general and is, of course, related to the state of the economy. In a time when millions of Americans face the bleak prospect of unemployment it is not our purpose to arouse sympathy for the poor foundations. It is not sympathy but enlightened self-interest that should move Americans to take a close look at some current developments involving the country's private foundations.

Foundations, especially the very large ones, have never lacked for enemies. There is a species of politician that is profoundly suspicious of any power not exercised by politicians. Safely ensconced in their Washington offices, such politicians fulminate democratic rhetoric about making power "accountable to the people." By this they usually mean that power should be accountable to themselves. In such circles there has long been a desire to cut private foundations down a notch or two, if not to eliminate them altogether. In times of economic trouble, such as the present, the desire takes on the proportions of irresistible passion.

The political air is filled with talk about tax reform, and tax reform is indeed past due. But heady talk about "closing tax loopholes" and the such can create a climate that invites an all-out

assault on the institutions of voluntarism, including many private foundations. Raising taxes on foundation investments and limiting tax-exempt donations will not do much to balance the government's budget deficit, but it could force a number of foundations out of business and cripple the activities of those that survive. A related and more ominous movement is the government's effort to define in increasingly restrictive ways what constitutes "charitable," "educational," or "religious" activity (see Frank Patton's "Religion by Government Permission," *Worldview*, December, 1974). The result is to further limit the number of nongovernmental forces in the field of social change.

Concern for the vitality of foundations is neither a liberal nor a conservative cause. A survey of foundations involved in public policy shows a fairly even spread across the political spectrum. No doubt foundations exercise their fair share of patronage, corruption, and plain stupidity. Especially on the last score, however, most of them look good in comparison with the unimaginative record of governmental bureaucracies engaged in research and grant giving. In any case, this is not the time for society to be cutting back on any sources for new ideas.

Certain factions of the labor movement are in the forefront of the present attack upon foundations. Albert Shanker, President of the American Federation of Teachers, has for years waged a vendetta against the Ford Foundation because of its sponsorship of certain experiments in the community control of New York City's schools. Writing in his regular paid-for column in the *New York Times*, Mr. Shanker says: "Clearly, if public tax moneys are to be used for worthwhile social projects, they should be controlled by government officials accountable to and removable by the people rather than by huge private foundations accountable to no one but themselves." Foundations, he says, are "vast private governments."

The curious assumption, now becoming dangerously widespread, is that tax-exempt contributions are in fact "tax moneys." That is, it is assumed that anything that escapes going into government coffers is in effect a government expenditure. The logic of this strange assumption does not bear very close examination. As for accountability to the people, Mr. Shanker's own reverence for that principle can be deduced from his union's proprietorial attitude toward the public school system and its readiness to shut the system down when the people and their elected representatives attempt to interfere in its operation. Few institutions are so arrogantly and effec-

tively the "private government" that Mr. Shanker accuses foundations of being.

The diversity essential to democratic society requires more than a legal right to free expression. That right is largely meaningless unless diverse viewpoints can be articulated through strong institutions. This is as true for labor unions as it is for churches, for the institutions of voluntarism—and as it is for foundations. Government policy should be aimed at strengthening rather than further restricting the institutions of diversity in American life. We need all the help we can get in the tasks of thinking about and shaping the future of American society.

RJN

QUOTE/UNQUOTE

Instrument of Oppression

Responding to the question, "What interests you in life?" a recent survey among adults scattered throughout Mexico City indicated ten areas and their percentage of importance as follows:

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| 1. Sexual erotic experiences | 34.24% |
| 2. Mystical-religious experiences | 17.17% |
| 3. Fantasy experiences | 11.48% |
| 4. Health and food | 8.63% |
| 5. Money and economics | 6.92% |
| 6. The family | 5.69% |
| 7. Sense of one's own importance | 4.88% |
| 8. The fine arts | 4.27% |
| 9. Power | 3.80% |
| 10. Social-political life | 2.92% |

Sales and ratings in the mass media confirm the trends reflected by the above survey. More than a million and a half copies of the sensational sex and violence photo novel magazine *Casos de Alarma* are sold on the streets every week. That's more than the total daily circulation of all nine Mexico City daily newspapers. The number one television program in approximately 3,400,000 Mexican homes is a daily fool-making contest (primarily of low-income persons lured by the prizes) called "Sube, Pelayo, Sube." A silver-masked wrestler named "Santo" stars in some of the most popular movies. Such trends justify the opinion of many Mexican religious and social leaders stated by Church and Society coordinator Raul Macín: "The violence exercised by the con-