with Rand, said his client "didn't ant the judge to cut short the liberations. He wanted the jury o make the decision at the proper

me" — the two charges together. The forewoman disclosed to Felig that a partial verdict had been agreed upon after she sent a e and requesting a recess for

ther the kidnap verdict was closed Giovinazzo sought dis-nissal of the murder count. He reminded the judge that the that connected Rand to the girl's death, including the medical the cause of death was unknown. He said the prosecution had produced "only an "obscure and merely probable connection" with respect to any acts by Rand that might be considered "a direct

ranse of death.

He pointed out that even if rand were convicted of murder of death. could not receive consecutive

Longing, in requesting the dge to permit the jury to continue its deliberations, pointed out the jury had been deliberation of the jury had been deliberation only about 15 hours over a continue may only be temporary.

The may only be temporary:

the jury to go on and it could not agree on a murder verdict the protection would ordinarily ive to retry Rand on the charge, but he considered this an unlikely

The judge also said that if Rand were convicted of the murder charge and it was appealed with the kidnapping conviction he could not see how an appeals court would permit the murder charge to stand if the kidnapping conviction were reversed.

You can't be guilty of kidnapping and not guilty of the murder charge, the judge reasoned.

Then, posing his own question, he asked the lawyers: "What is the pacticality of continuing?

based on circumstantial evidence. Nine of 10 witnesses identified Read as he walked with the smil-ing art, cometimes hand in hand, between 2 and 3 p.m. or July 9. Thewatne rsaidsth two proceed from a block from the girl shows in Westerleigh and continue along a route that ended of the developmenshort distance from

Trail the grill series

The dog, with two exceptions, corroborated the path charted by the witness

From the notes sent to the judge, it was obvious that the jury had, early in its deliberations, resolved the question of the kidnapping, one of the counts in the indictment on which Rand was charged. It was equally clear that the jury was having difficulty with the murder charge.

This was illustrated by one note which the judge received at 5:10 p.m.: "Do we have to believe that the defendant actually committed the act of murder to find the defendant guilty of murder in the second degree?

This apparently referred to the judge's instructions that the jury need only conclude that the girl died while being kidnapped to find him guilty of the murder charge. Consideration of whether the murder was intentional or unintentional or even accidental was not important, the judge said.

At one point, the jury fore-soman in her frustration called on the judge for a further defini-tion of "guilty beyond a reason-able doubt," adding, in parenthees, 'in layman's language."
The judge responded: "I'll try to

make it as clear as I can." The jury, by its notes to the judge, showed its attentiveness to

the testimony.

On one occasion, it asked for Mrs. Schweiger's testimony relative to the clothing Jennifer wore when she left to play outdoors while her mother fulfilled a promise to clean the family swimming pool so that Jennifer could use it later that afternoon.

The jury at the same time asked for the testimony of a police hair and fiber expert who testified he found pink and red cotton fibers along with other assorted fibers on Rand's clothing. However, the expert was unable to make any comparison since Jennifer was unclothed when buried.

Mrs. Schweiger, however, testified Jennifer was wearing a pink T-shirt with various pastel colors and a Sesame Street logo, along with white shorts.

At another time, the jury asked for the testimony of a mechanic at the center, believed to have been the last person to see the girl alive. The mechanic said he saw Rand and the girl walk in the direction of the campsite, with the defendant "trying to push or di-rect her." The mechanic said he was test driving a marked center patrol car on which the word Police" was clearly visible.
The defense maintained that

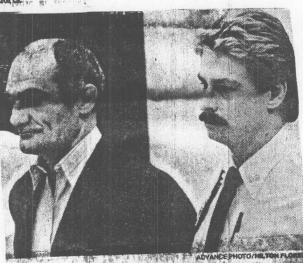
Rand had encountered the girl and decided to escort her back to the developmental center from which the defendant believed she may have wandered.

Loughrey, in his summation, observed that Rand, in his journey from Westerleigh to Willowbrook, had numerous opportunities to relieve himself of the responsibility of returning the girl to Willew-brook by calling her plight to the attention of others. But he made no such attempt.

Rand has a history of offenses against children. Authorities also regarded him, at one time, as a suspect in three unsolved missing

child cases.

tage 2 of 2



An impassive Andre Rand, right, is escorted by a court officer.