

Letters to the Editor

To the Editor:

Because of the widespread popular assumption of the legality (not, of course, the propriety) of President Nixon's intervention in the Calley case, a word might be in order on the law of the matter.

Calley's acts, as determined by the military court, were a "grave breach" of Article 147 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of Aug. 12, 1949. The treaty, binding upon the United States, provides in Article 146 that "Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts." The article further provides that the parties "enact any legislation necessary to provide effective penal sanction" for such persons.

In the very first article of the Geneva Convention, the parties "undertake to respect and to ensure respect for the present Convention in all circumstances."

This language of the treaty, taken in light of its general spirit and purpose, suggests that intervention in the judicial process that might tend to bring disrespect to the convention, degrade

its purpose or render ineffective the penal sanctions provided by law, might be in violation of the convention. Of course, no definitive opinion could be reached on this point short of a lawsuit in the World Court, but at least the treaty itself, which is part of our law and binding upon the Chief Executive, suggests that the legality of the President's action is far from clear.

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