

Calley Prosecutor Asserts Nixon Undermines Justice

Letter to President Says Intervention Weakens Respect for the Law

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WASHINGTON, April 6—Capt. Aubrey M. Daniel 3d, the prosecutor in the Army court-martial of First Lieut. William L. Calley Jr., has protested to President Nixon in a letter that the President's intervention in the case has weakened respect for the legal process.

"The greatest tragedy of all," the captain wrote to Mr. Nixon, "will be if political expediency dictates the compromise of such

Excerpts from Daniel letter
will be found on Page 12.

a fundamental moral principle as the inherent unlawfulness of the murder of innocent persons."

"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," the captain wrote.

Instead of releasing Lieutenant Calley from the stockade at Fort Benning, Ga., after his conviction and sentencing for the premeditated murder of 22 South Vietnamese civilians at the hamlet of Mylai 4, the captain said, the President should have defended the six officers who found Lieutenant guilty.

The White House late today



Associated Press

Capt. Aubrey M. Daniel 3d

acknowledged receipt of the letter, which was dated April 3, but would not confirm its contents. There was no response by the White House to accounts of the letter, accounts that came from aides to Senators who received copies.

President Nixon has ordered Lieutenant Calley released from the stockade to remain under house arrest at his quarters on the post while the automatic review and, if neces-

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sary, later appeal processes take place.

After receiving more than 50,000 letters from the public, almost all of them protesting the lieutenant's conviction and sentencing, the White House announced on Saturday that Mr. Nixon intended to make the final determination on both issues.

Captain Daniel reminded Mr. Nixon that the President had stated in the past that it appeared the events at Mylai were "certainly a massacre" and the prosecutor added:

"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 has resulted in Lieutenant Calley's conviction."

Impact on Jurors

At another point in the four-page, single-spaced letter, Captain Daniel asked Mr. Nixon if he knew what impact his intervention in the proceedings might have on the six court-martial judges.

"It would seem to me to be more appropriate for you as

the President to have said something in their behalf," the letter said, "and to remind the nation of the purpose of our legal system and the respect it should command."

The captain said that he would have expected the President to provide the moral leadership for the nation to support "the law of this land on a moral issue which is so clear and about which there can be no compromise."

"For this nation to condone the acts of Lieutenant Calley," he said, "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."

The Associated Press quoted Captain Daniel as saying he was not seeking publicity in writing to the President. The captain would not confirm the contents of the letter but they were made known by aides to one of the six Senators who received copies.

Ronald L. Ziegler, the White House press secretary, declined to state whether the President had seen the letter. He did say, however, that it had been received in the White House mail today.

White House spokesman re-

ferred newsmen inquiring about the letter to statements made last Saturday by John D. Ehrlichman, assistant to the President for domestic matters, when he announced the President's decision to make the final review in the Calley case.

Mr. Ehrlichman said then that the President believed the Uniform Code of Military Justice provided a "very good system of review" and that Mr. Nixon did not mean "to in any way denigrate the quality" of the military system of justice. Mr. Ehrlichman also said that the President merely wanted to add the "additional ingredient" of review by the Commander in Chief to a case of obvious national importance.

'Shocked and Dismayed'

Captain Daniel wrote that he was "shocked and dismayed" by the public criticism of the court-martial verdict and could attribute it only to emotional reaction by those who were unaware of the evidence in the case.

"Certainly no one wanted to believe what occurred at Mylai, including the officers who sat in judgment of Lieutenant Calley," the captain wrote. "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 would believe that we are still a civilized nation.

"If such be the case," he continued, "then the war in Vietnam has brutalized us more than I care to believe. And it must cease."

Captain Daniel, a 29-year-old draftee from Monks Corner, S. C., said that he was sorry he felt compelled to write to Mr. Nixon, "but innocent people were killed under circumstances that will always remain abhorrent to my conscience."

He rote that while the events in Mylai on March 16, 1968, were themselves tragic, "how much more tragic would it have been for this country to have taken no action against those who are responsible."

Captain Daniel sent copies of the letter to Senators Harry F. Byrd Jr. and William B. Spong Jr. of Virginia, Harold E. Hughes of Iowa, George McGovern of South Dakota, Edmund S. Muskie of Maine and Robert Taft Jr. of Ohio.