

ROGERS DEFENDS CAMBODIA RAIDS

MAY 1 1973

Facing Fulbright Committee,
He Says Constitution
Justifies Bombing
NYTimes

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Special to The New York Times

WASHINGTON, April 30 — Secretary of State William P. Rogers said today that the continued American bombing in Cambodia was legally justified by the Constitution and was "a meaningful interim action" to force the Communist-backed insurgents there to agree to a cease-fire.

Mr. Rogers, testifying before the Senate Foreign Relations

Text of Rogers memorandum
will be found on Page 10.

Committee, presented the Administration's long-awaited legal justification for the Cambodian bombing, an issue that has aroused considerable criticism from members of the committee, including its chairman, Senator J. W. Fulbright.

They have argued that President Nixon has no legal basis for the bombing, now that all American troops have been withdrawn from South Vietnam.

Though the committee members generally accorded Mr. Rogers friendly treatment, his arguments, both in his comments to the committee and in a 13-page legal memorandum, failed to sway the most vocal critics such as Senators Fulbright, Jacob K. Javits, Stuart Symington, Edmund S. Muskie and Clifford P. Case. All of them repeated their sharp criticism of the American bombing

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in Cambodia.

"It seems incredible to me," said Mr. Symington, Democrat of Missouri, referring to the daily B-52 missions. He said the raids were giving the United States "a bad name" for "bombing the heck out of a little nation."

Mr. Rogers, in his legal presentation, repeated several of the arguments already advanced by Administration spokesmen for the raids and added some new ones. Basically, he contended that the purpose of the raids was to force Hanoi to agree to a cease-fire in Cambodia as called for by Article 20 of the Vietnam agreement.

'Authority' Is Affirmed

The Rogers legal paper denies the argument advanced by critics that the Vietnam agreement has created a new situation in Indochina and that, therefore, new authority must be found for bombing Cambodia. The paper said that the President had "constitutional authority" to continue bombing until a cease-fire was achieved in Cambodia.

The memorandum said that Article 20 called on foreign forces to end hostilities in Cambodia, but that until they did, the United States was free to continue bombing in support of the Lon Nol Government and thereby "to render more likely" a cease-fire.

"Thus," it said, "U.S. air strikes in Cambodia do not represent a commitment by the United States to the defense of Cambodia as such but instead represent a meaningful interim action to bring about compliance with this critical provision in the Vietnam agreement."

Says North Was Warned

To back this contention, the memorandum said that when the Vietnam agreement was signed in January, the United States told North Vietnam that if Communist forces continued to carry out offensive actions in Cambodia, "we would continue to carry out air strikes in Cambodia as necessary until such time as a cease-fire could be brought into effect."

"If United States air strikes were stopped in Cambodia despite the Communist offensive," the document said, "there would be little, if any, incentive for the Communists to seek a cease-fire in that country, and the temptation would doubtless be great for North Vietnam to leave its troops and supply lines indefinitely in Laos and Cambodia."

"Such a situation would be the opposite of that prescribed by Article 20 of the Vietnam agreement and would so threaten the viability of the settle-

ment in Vietnam and the right to self-determination of the South Vietnamese people as to be totally unacceptable to the Republic of Vietnam and to the United States."

The Constitutional Argument

Mr. Rogers argued that "in light of these facts," the argument that the Constitution required an immediate halt in air strikes in Cambodia because of the Paris agreement "is, in reality, an argument that the Constitution which has permitted the United States to negotiate a peace agreement is a Constitution that contains an automatic self-destruct mechanism designed to destroy what has been so painfully achieved."

On Constitutional issues, the legal paper said that Article II of the Constitution provided the President with "adequate" powers for the current situation. That article outlines the duties and powers of the Presidency, and Mr. Rogers acknowledged that its interpretations "are rarely free from dispute."

Critics of the President have said that the Constitution obliges him to get Congressional approval before undertaking acts of war such as the bombing of Cambodia. But Mr. Rogers's legal memorandum said that history had shown that the founding fathers deliberately left war powers ambiguous and unresolved "with the understanding that they were to be defined by practice."

"There may be those who wish the framers of the Constitution would have been more precise, but it is submitted that there was great wisdom in realizing the impossibility of foreseeing all contingencies and in leaving considerable flexibility for the future play of political forces," the memorandum said.

"The Constitution is a framework for democratic decision and action, not a source of ready-made answers to all questions, and that is one of its great strengths."

The legal paper also cited a recent opinion of the United States Court of Appeals for the District of Columbia circuit in *Mitchell v. Laird*, which, it said, "makes it clear that the President has the Constitutional power" to pursue his objectives in Indochina.

Mr. Rogers, in his comments on the situation in Indochina, took a somewhat more optimistic view than others have recently expressed.

He said that although "we're concerned over the repeated and serious violations" of the cease-fire accord, "I would say there is still a good possibility that the cease-fire will become effective in Vietnam and provide a basis for peace and security of the area."