

# Because It Is There

By Anthony Lewis

WASHINGTON, Aug. 5 — Why is the United States bombing Cambodia? That is the question we ought to be asking in these last days before the Aug. 15 bombing cutoff fixed by Congress. Unfortunately, attention has been distracted from the real question by an unseemly flurry in the Supreme Court.

Justice William O. Douglas, in his attempt to bring the bombing to an immediate halt, has provided a sharp reminder that there is more to the judicial process than desired results. For even those who have yearned for judicial restraint on illegal Presidential war-making ought to be able to see that this way of going about it was counter-productive.

On July 25 Judge Orrin Judd of the Federal District Court in Brooklyn held the bombing unconstitutional. He found that Congress had never authorized any form of war on Cambodia and that President Nixon was therefore acting without authority.

In fact and in law, the judge's conclusions seem to be correct. But trial judges do not have the last word, least of all on such large matters. A court of appeals panel thereupon stayed Judge Judd's decision until it could review the case.

Justice Douglas removed that stay, thus putting into immediate effect an injunction against the bombing—until his colleagues in turn overruled him. He said he was not deciding the merits of the matter. Just as any judge would hold up a prisoner's execution to hear an appeal, he said, he would act to prevent the deaths of Cambodian peasants or American flyers.

But the analogy fails. Justice Douglas was not just preserving the status quo, as in the ordinary capital case. He was effectively deciding the merits of great constitutional issues—the President's war-making power and the authority of the courts to regulate

it. However much one credits him for courage and sincerity of feeling, his opinion was utterly unpersuasive.

There are several unhappy consequences. The spectacle of Justices overruling each other in quick succession can hardly enhance the public's respect for the Supreme Court. Bringing the whole court in on the question of a stay may cloud the authority of Judge Judd's thoughtful opinion on the constitutional issue, which is still to be reviewed in the court of appeals.

But worst of all is the likelihood that the attention to questions of judicial procedure will reduce concern for the meaningful questions—moral and political—about the bombing of Cambodia.

Why does the United States Government want to bomb right up to the Congressional deadline?

President Nixon and Henry Kissinger said originally that the bombing was essential because delicate contacts looking to a Cambodian settlement were under way, and bombing kept the pressure on for agreement. So far as we can tell, that was simply deception or wishful thinking. Neither side in Cambodia has shown any interest in talking to the other. Prince Sihanouk made his feelings insultingly clear by arranging to be away in North Korea during a planned Kissinger visit to Peking.

The other day the President, in an attempt to blame Congress for whatever may happen in Indochina, attacked the Aug. 15 bombing cutoff as "abandonment of a friend." He assured "the brave and beleaguered Cambodian people" that he would "continue to work for a durable peace."

Well, the poor people of Cambodia have had a fair taste of Richard Nixon's friendship, enough for a lifetime. He bombed their country for 14 months in secret. He gave quick support to the coup that deposed Sihanouk and shattered Cambodia's relatively peaceful neutrality—if indeed American agents did not assist in the coup. He invaded Cambodia in 1970. He has bombed it again now for months, in gross violation of law.

Why? Because bombing is all Richard Nixon and Henry Kissinger can think to do in their frustration. It may not have any significant political effect in Cambodia. It evidently cannot preserve the Lon Nol government. At this point it cannot produce any effects except useless death and destruction. But it feeds the emotions of power in Nixon and Kissinger.

The truths they have not yet recognized is that "durable peace" in Cambodia and elsewhere in Indochina can come only when the United States gives up its fateful pretensions to power there. The cruelty and the absurdity of American policy will only be dramatized by 10 last days of bombing for the sake of bombing.

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