

Books of The Times

Profile in Citizens' Chutzpah

By HERBERT MITGANG

THE PEOPLE VS. PRESIDENTIAL WAR. Compiled and Edited by John M. Wells with Maria Wilhelm. Foreword by J. William Fulbright. 199 pages. Dunellen Company. \$5.95.

Bad wars make good law. Sometimes the law is only a measure of good intent that, nevertheless, comes closer to the unwritten conscience of a people than the political resolutions of a Congress. For examples, Commanders in Chief Johnson and Nixon both had their resolutions of support, in one form or another, for the Vietnam war. But having been mouse-trapped, many legislators now look for succor and sense in the law of the Constitution.

We may never know how good in a purely legal sense the law was that the Commonwealth of Massachusetts enacted early this year challenging Mr. Nixon's war. For the Burger Court failed to provide the moral guidelines, let alone interpreting the war-making powers of the President and the Congress. Given the chance to define the rights of a citizen of Massachusetts (or any other state) to serve in an undeclared war overseas, the Court majority simply refused to let a complaint be filed. And so the war continues to be run by Presidential TV pronouncements.

Education and Public Opinion

Although a number of personages in the permissive press deplored the effort of Massachusetts to challenge the President—saying it wasn't nice to come in this way from left field—they missed the basic aim of the state law: To fight a rear-guard guerrilla war, using the weapons of education and aroused public opinion, against the Vietnam war itself.

This becomes clear after reading "The People Vs. Presidential War," a raw and fighting account of who and what was behind one of the most daring efforts to confront the Federal Government's death-making authority. An amateur and ingratiating air pervades the story; the book itself matches the subject, for it is unpolished—a little too much so. But what lingers is a feeling of admiration for those who had the nerve to dream up the law and push it through the legislature. A profile in courage is an understatement; it is a profile in chutzpah.

The Shea-Wells bill was the work of a score of citizens—ministers, housewives, teachers, lawyers, journalists and, yes, politicians. Their recollections of how the bill became law are assembled here by the moving spirit, John M. Wells, a Unitarian minister with a law degree and a background of service as a judge advocate and Pentagon legal consultant. It was Dr. Wells who enlisted Representative James Shea Jr.

to introduce the war challenge in the Massachusetts House of Representatives. The middleman who brought them together was Kenneth P. O'Donnell, President Kennedy's close friend and adviser.

"I live in a historic house," Dr. Wells writes. "It belonged to one of the Minute Men, Jonathan Harrington. He was engaged in the first battle of the Revolution, which took place in his front yard, now the Battle Green in Lexington. He died on April 19, 1775. It does something to one to live in such a house. Every morning, I look out the window on the Green where the flag flies day and night in commemoration of the place where the American Revolution began. What was it all about? It was for the right of people to participate in the decision-making process, in what the government does. And the process of government that most involves people, their lives, their pocket-books, is war."

That was the beginning of a remarkable rallying of forces against the war—even more than against its unilateral conduct by the Washington managers. Steve Worth, a professor at Northeastern University, was convinced that the war was unconstitutional and offered assistance; Larry Adler, a Boston lawyer and member of Dr. Wells's church, helped to draft the original bill; David Lustig, a graduate student, enlisted press support; many others used their talents to keep up the pressure on the Statehouse. And Representative Shea of Newton called for "intellect and guts" by candidates to demand the "immediate withdrawal of our troops from Southeast Asia."

Groundswell Turns the Tide

The opponents rallied their forces, too. Veterans groups delivered the usual arguments about honor and all that jazz; a "Bible Fundamentalist" at hearings said that the American Army had been denied victory in Vietnam because of lack of arms and leaders; legislative experts declared that the bill was futile and unconstitutional. According to an involved Boston Globe reporter in the book, Senators Kennedy and Brooke, although known for their disputes with the Nixon Administration over the conduct of the war, "never entered into the controversy over the Vietnam bill." But the groundswell of educated public opinion turned the bill into law, and "The People Vs. Presidential War" tells how it was done.

A sad footnote to the book. A few days after President Nixon extended the Vietnam war into Cambodia, Representative Shea made a strong speech, quoted here, against the escalation and for total withdrawal. Then he took his life.

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