

NYTimes JAN 14 1972

The Air War and the Law

To the Editor:

Your moving editorial cataloguing the catastrophic liabilities of "limited" air war [Dec. 29] demonstrates vividly that it can only prolong the agony of the Indochinese people and condemn American prisoners to interminable internment. If President Nixon were genuinely concerned with "protecting our remaining forces," he need only set a date for total withdrawal, for the other side has assured safe exit for our forces (and the release of American prisoners) if such a date were set.

In addition to the telling points made by The Times, one must add that the current operations plainly violate the law of the land. The Mansfield Amendment to the Military Procurement Act, signed by President Nixon, declares it to be "the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina." The large-scale air attacks against North Vietnam are manifestly a revival and intensification—not a termination — of military operations. Mr. Nixon is now blatantly violating the Mansfield Amendment, which he said, at the time of signing, he would ignore. We have instituted suit against the President in the Federal District Court in Boston to compel compliance with the Mansfield Amendment.

The revival of the air war, undertaken while Congress was not in session, defies not only the Military Procurement Act; it defies the repeal of the Tonkin Gulf Resolution, a repealer signed by President Nixon himself in January 1971. The President was thereby divested of any war-making authority he may have possessed under Tonkin Gulf. The President under the Commander-in-Chief clause, as the Supreme Court has ruled, does not have the power to do "anything, anywhere, that can be done with an army or navy," Mr. Rehnquist's opinion vis-à-vis the Cambodian invasion notwithstanding.

One would hope that at least one member of the House of Representatives—it would require only one under the Constitution—would be moved to introduce a bill of impeachment. President Andrew Johnson was impeached for acts far less iniquitous—the dismissal of Secretary of War Stanton in defiance of the Tenure of Office Act.

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New York, Dec. 30, 1971

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Attitude Toward Nixon JAN 14 1972

To the Editor:

You suggest that perhaps President Nixon has decided to abandon this futile pursuit of military victory. I suggest he has not, and if you and other critics just leave him alone and stop carping you will see that he winds up the war with South Vietnam again free. It has always struck me as odd that whenever we bolster a democratic nation against a Communist attack, that democratic nation is per se corrupt. Fortunately we now have a strong, intelligent President who never plays politics in international affairs, regardless of what you might think.

A. B. MARTIN

Katonah, N. Y., Jan. 4, 1972