

NYTimes

By Walter F. Mondale

WASHINGTON—As the last U.S. soldier left Vietnam, most Americans believed and hoped that the event signaled the end of our military involvement in the longest, costliest and most divisive war in our history.

But in only a matter of hours it was clear that despite these hopes for peace we were still at war. U.S. planes still were flying bombing missions over Cambodia in an effort to prop up the besieged and unpopular Lon Nol Government, and there were warning signs that our commitments to the Thieu regime in Saigon might result in renewed U.S. military action.

The irony is inescapable: twelve years after American forces first were committed to Vietnam in the name of protecting a friendly but vulnerable government, once again a President of the United States, entirely on his own, is using U.S. military force in a foreign country with absolutely no constitutional authority for doing so.

The sense of having been through all this before is overwhelming. Haven't we learned anything in the last decade from our initial mistake—from the human suffering, the incredible destruction, the cost to the American spirit? Have we failed entirely to learn the two fundamental lessons of those tragic years: (1) that it is beyond our national capacity to affect the ultimate outcome of a foreign struggle that is essentially indigenous in nature, and (2) that it is only at great cost to this nation that a President ignores the Constitution of the United States?

It is common practice in countries such as Cambodia, Thailand and Vietnam for chiefs of state to ignore or suspend provisions of their constitutions, as Lon Nol did in October, 1971. Now, tragically, ignoring our own Constitution is apparently becoming common practice in this country as well.

In March, 1970, one month before our forces invaded Cambodia, the Nixon Administration indicated that it no longer was depending on the Tonkin Gulf Resolution as legal authority for its Indochina activities. The sole basis claimed by the President was, instead, "the right of the President of the United States under the Constitution to protect the lives of American men."

But the last American soldier now has left Vietnam, and with him has gone whatever validity existed in the President's claim. Yet the bombing has continued every single day since then, increasing the possibility of new American prisoners of war.

The Administration has been trying desperately to justify its bombing policy. Its efforts have been imaginative but futile. The SEATO treaty commitment has been mentioned, but the Lon Nol Government has not altered Prince Sihanouk's 1955 decision to exempt Cambodia from the treaty's protection. A tenuous link has been offered between the President's mandate to make war and his re-election mandate, but surely this is not a serious point.

We have been told that the Cambodian Government has asked for our air support. State Department lawyers reportedly are working full-time to produce a rationalization, but so far they are reluctant to disclose it. Finally, the Administration has tried to rely on a tacit understanding of an ambiguous section (Article 20) of the Paris agreement—an agreement which was not even submitted to Congress for ratification—as justification for its actions.

Secretary Richardson says the bombing will continue until the Communists agree to a cease-fire. The number of competing insurgent groups fighting against Lon Nol—the Khmer Rouge, the Sihanouk government-in-exile, and other minor splinter groups—makes remote the prospect of a cease-fire, or even negotiations. Under

this policy we could be bombing for years.

Mr. Richardson also said that "Our constitutional authority rests on the circumstances that we are coming out of a ten-year period of conflict. This is the wind-up. What we are doing in effect is to try to encourage the observance of the Paris agreements by engaging in air action at the request of the Government."

This rationale could be extended easily to involve us again in Laos and Vietnam as well as Cambodia. And it seems ominous that Mr. Richardson, in fact, refuses to rule out the reintroduction of American troops into Vietnam.

This legal legerdemain by the Ad-

ministration is an open challenge to Congress to assert its constitutional responsibility and act to end our involvement in what constitutes—even according to the President's own reasoning—a new war. We no longer can permit the President's war-making powers to go unchecked and unchallenged.

The Senate now is considering a bill introduced by Senators Church and Case that would prohibit the re-engagement of U.S. forces anywhere in Indochina without Congressional approval. And, because of the urgent and immediate danger of our raids over Cambodia, I am introducing legislation to cut off funds for U.S. military activity in that country.

Finally, the proposed war powers act will permit us to come to terms with the broader aspects of executive authority.

All these measures are necessary, in my judgment, if we are to learn anything from the painful lessons of the past decade.

"If our bombing now continues in Cambodia," Senator Hatfield recently warned, "we will be on our way to making the Constitution of the United States the last casualty of this war." Avoiding such a constitutional tragedy—as well as further human tragedy—is now the urgent responsibility of Congress.

Walter F. Mondale is Democratic U.S. Senator from Minnesota.