The 1973 Termination of the Use of U.S. Military Forces in Indochina

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THE 1973 TERMINATION OF THE USE OF U.S. MILITARY FORCES IN INDOCHINA

A thesis submitted in partial fulfillment of the requirements for a degree of Master of Arts

By

BARRY M. BLOCK

A.B., Princeton University, 1971

2022

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I HEREBY RECOMMEND THAT THE THESIS PREPARED UNDER MY SUPERVISION BY Barry M. Block ENTITLED The 1973 Termination Of The Use Of U.S. Military Forces In Indochina BE ACCEPTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF Master of Arts.

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ABSTRACT


On June 26, 1973, Congress passed a supplemental appropriations bill that included a rider that immediately cutoff the use of U.S. funds for U.S. combat activities in Cambodia or Laos. President Nixon vetoed this bill and the House failed to override the veto. Nixon and Congress negotiated a “compromise” under which the cutoff did not take effect until August 15, 1973 and applied also to Vietnam. This thesis concerns the reasons that Congress passed this revised rider, that Congress expanded the rider to Vietnam, and that Nixon signed the revised rider. Changed circumstances (such as the Vietnam Peace Accords) helped Congress pass the rider. Nixon counselor Mel Laird and House Republican leader Gerald Ford took actions that facilitated Congress adding Vietnam to the rider and that compelled Nixon to sign the rider. Sources reviewed for this thesis include Congressional sources, executive branch sources, memoirs, oral histories, and secondary sources.
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I would also like to thank Ran Raider, the Government and History Librarian at Wright State University, for his invaluable assistance in identifying research sources and paths to obtain materials from those sources. Ran not only provided his great expertise but also was very generous with his time. He also was very proactive. If I asked Ran about one source, he would answer my question and go beyond that to provide other related, valuable resources that I did not have the knowledge to identify.

Archivists at the Gerald R. Ford Presidential Library in Ann Arbor, Michigan and the National Archives in Washington, D.C., generously provided assistance to me in finding and obtaining copies of documents for my thesis during difficult times when their research facilities were often closed or under severe restrictions due to the pandemic. In particular, Stacy Davis and John O’Connell at the Ford Library and Kate Mollan at the National Archive in Washington, D.C. made special efforts to find resources and make them available to me in spite of the difficult circumstances.
As part of my research, I interviewed two people who served in important roles in the Nixon administration: John Lehman, who was an NSC staff aide in charge of Congressional relations, and Tom Korologos, who was a Deputy Assistant to the President for Congressional Relations. Each of them generously took the time to speak to me and to candidly answer my questions. They helped provide me with information and a fuller understanding of the Nixon administration during the time and in regard to the issues that are the subject of this thesis.

Most of all, I want to thank my wife Janet for her essential efforts to enable me to research and write my thesis. She was very tolerant and supportive of all the time I spent on my thesis, even though she often wondered why, for instance, I needed to spend so much time checking my footnotes when I should be on the telephone with our grandchildren. She read and commented on my drafts and spoke her mind quite clearly, yet still allowed me to make my own mistakes. She was very supportive and complimentary of my work. She voluntarily conducted a great volume of research and found many items that I missed or overlooked. But most of all she just continued to be her and that made it all worthwhile.
DEDICATION

To my wife Janet, our children and spouses Pamela and Andrew Fine and Samuel and Mushky Block, and our grandchildren Maximus Brody Fine, Arielle Yael Fine, Devorah Yetta Block, and Hillel Mordechai Block.
I. INTRODUCTION

Part 1: Statement of the Problem

On June 26, 1973, Congress passed a second fiscal year 1973 supplemental appropriations bill (H.R. 7447) that included a rider (or amendment) that immediately prohibited use of U.S. funds appropriated in H.R. 7447 for combat activities by U.S. forces in or over, or off the shores of, Cambodia or Laos. This second supplemental appropriations bill itself was critical to the continuity of the operations of the federal government and to prevent bringing vital programs to a halt after the end of the current fiscal year (which ended on June 30, 1973), and so the rider was added to this bill since it would be difficult for President Nixon to veto it. Nevertheless, Nixon did veto this bill and the House failed to override the veto by a 35-vote margin. On June 28, 1973, the House proposed a similar but revised rider providing for an immediate cutoff of funds included in the new appropriations and for an August 15 (rather than immediate) cutoff of previously appropriated funds. While some members of Congress tried to have the cutoff of all funds become effective immediately, on June 29, 1973 the Nixon administration communicated to Congress that the revised rider would be acceptable to the

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Nixon administration if the cutoff date for military support were August 15, 1973 (rather than immediate) even if the cutoff applied to all of Southeast Asia (that is, including Vietnam as well as Cambodia and Laos). On June 29, 1973, Congress passed a revised version of the second supplemental appropriations bill (H.R. 9055) that included a revised rider on the basis that the Nixon administration had said would be acceptable. The final rider adopted by Congress is referred to below as the “June 1973 Military Rider,” the “Military Rider,” or the “Rider.” On July 1, 1973, President Nixon signed H.R. 9055.3

Congress passed this H.R. 9055 after the Peace Accords signed in January 1973 ended more than twelve years of U.S. combat activities in Vietnam. Many writers refer to the Rider as banning further bombing in Cambodia, which was the main focus of the discussions about this antiwar measure as it proceeded through the legislative process, but this measure, when finally adopted, also applied to Vietnam, a more important prohibition. For this reason, the Rider provided for a major foreign decision by limiting what the U.S. could do to enforce the Peace Accords.

This thesis will address how and why Congress passed the June 1973 Military Rider and how and why Vietnam was added to the areas where U.S. military activity was banned. This thesis will also address why, on July 1, 1973, President Nixon approved H.R. 9055 less than five days after he had vetoed a substantially similar bill and Congress had failed to override that veto. The vetoed bill placed fewer restrictions than the final Rider on Nixon’s actions. The vetoed bill banned U.S. military actions in Cambodia and Laos, but the final Rider banned U.S. military action in Vietnam in addition to Cambodia and

Laos. By addressing these matters, this thesis will help us better understand the path of the Vietnam War to its final outcome, as well as the circumstances and manner in which Congress asserted its primacy in regard to certain major and controversial questions concerning U.S. foreign policy and the use of military force.

**Part 2: Review of the Literature**

**A. Congress and the War in Vietnam**

This section discusses the leading literature about how and why Congress passed the June 1973 Military Rider and how the ban on U.S. military activity was extended to Vietnam, in addition to Cambodia and Laos.

Daniel Rapoport describes how H.R. 9055 became law in his 1975 book *Inside the House.* Some members of Congress justified the antiwar provisions of this bill on the basis that the Peace Accords had been signed and so there was no legal, moral, or political justification for further U.S. military involvement. Rapoport gives particular attention to how Representative Gerald Ford, Republican of Michigan and House minority leader, obtained White House approval for the Rider with the ban on U.S. military activity in Vietnam. According to Rapoport, Nixon and his staff did not understand the implications of what Nixon approved until it was too late to change it. Rapoport reached this conclusion based, at least in part, on his interview with Ford shortly after H.R 9055 was passed. Ford stated that he had told two members of the White House staff that the ban on U.S. military activities would apply to all Southeast Asia, but they did not understand the

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5 Ibid., 237-238.
significance of that. It appears that Ford initiated broadening the ban to include North and South Vietnam because he was not sure that the Senate would accept a Military Rider that did not include a ban on U.S. military actions in Vietnam.\textsuperscript{6}

P. Edward Haley, in his 1982 book, \textit{Congress and the Fall of South Vietnam and Cambodia} contends that Presidents Nixon and Ford and national security adviser (and later Secretary of State) Henry Kissinger practiced the politics of acquiescence under which the executive branch took actions regardless of Congressional opposition and often in secret.\textsuperscript{7} An example of this was the secret bombing of Cambodia from 1969 to 1970. This politics of acquiescence allowed the administration to have its way in the short term, but Congress reacted against the refusal of the administration to deal openly and began slowly but surely to close the loopholes that allowed military action in Indochina.\textsuperscript{8} In addition, the Vietnam War became so abhorrent to some Americans that opposition to it justified extreme actions including committing a variety of crimes.\textsuperscript{9} According to Haley, the June 1973 Military Rider struck a devastating blow to the January 1973 Paris Peace Accords and to the governments of South Vietnam, Cambodia and Laos. However, according to Haley, few members of Congress wanted the Peace Accords or these friendly governments to be destroyed. Nevertheless, Nixon was compelled to approve the Rider because the Second Supplemental Appropriations Bill was necessary to keep the federal government in operation after June 30, 1973, and Congress refused to pass any

\begin{footnotes}
\textsuperscript{6} Ibid., 238-243.
\textsuperscript{7} P. Edward Haley, \textit{Congress and the Fall of South Vietnam and Cambodia}. (East Brunswick, New Jersey: Associated University Presses, Inc., 1982).
\textsuperscript{8} Ibid., 26-32.
\textsuperscript{9} Ibid., 34.
\end{footnotes}
supplemental appropriations bill that did not contain the prohibition on combat in Indochina.¹⁰

Various sources have discussed the impact on Congress of public opinion, demonstrations, and lobbying.¹¹ Andrew Katz contends that public opinion was a significant basis for the antiwar actions of Congress in his 1984 paper “‘An Invitation to Struggle:’ Congress, The President, and the Termination of the Vietnam War.”¹² Katz categorized antiwar votes by representatives as based on “replacement” (a newly elected dovish representative replacing a more hawkish representative) or “conversion” (a former hawkish representative becoming more dovish). He considered votes on nine antiwar bills in the House. Support for an earlier version of the Rider, for instance, came from 69 replacements and 144 converts. The converts cited a number of reasons for their conversion, including public opinion, distrust of the Nixon administration due to the Watergate scandal (which this paper describes below) and other matters, and dislike of the usurpation by the Nixon administration of authority over foreign policy.¹³

¹³Ibid., 12, 17-19. The earlier version of the Rider passed the House on May 10, 1973. This was the first time that House had voted in opposition to continued military activity by the U.S. in Vietnam. CQ Almanac 1973, “Indochina Bombing Ban.”
William Bundy, in his 1998 book *A Tangled Web*, described the voting in Congress in May and June 1973 that eventually resulted in the adoption of the June 1973 Military Rider.\(^{14}\) He attributes the passage of the Rider in the House to many members of Congress who had voted against a comparable antiwar amendment in August 1972 switching their vote to the antiwar 1973 Rider. He attributes the switch in votes to the merits of the matter and to the “conviction and conscience” of the voting members of Congress and not to any vindictiveness toward Nixon nor to the Watergate scandal.\(^{15}\)

Robert David Johnson focused on the assertion by Congress of its power to influence U.S. foreign policy during the Cold War in his 2006 book *Congress and the Cold War*.\(^ {16}\) According to Johnson, in June 1973 the Senate passed by a vote of 63-19 the Eagleton Amendment “to prohibit using any U.S. funds in Cambodia.” Johnson somewhat misdescribes the Eagleton Amendment, which prohibited the use of U.S. funds for U.S. military action in Cambodia. It did not prohibit all uses of U.S. funds in Cambodia. The House also passed the bill with the Eagleton Amendment. Nixon vetoed the bill, but Congress continued to push for the measure. Nixon did not have the political strength to fight it because of the Watergate scandal and also because of recent public hearings concerning the Nixon administration’s deceptions about the bombings in Cambodia.\(^ {17}\) Johnson’s *Congress and the Cold War* identifies many reasons that Congress had changed sufficiently to pass the June 1973 Military Rider. First, some members of Congress, such as Senator Symington from Missouri, switched from supporting the War to being skeptics


\(^ {15}\) Ibid.,388.


\(^ {17}\) Ibid., 188-189.
of the War.\textsuperscript{18} Second, the make-up of Congress changed. In 1971, some junior Democrats assumed subcommittee chairmanships and hired staff consultants who had been active in the antiwar movement.\textsuperscript{19} Third, while Nixon was re-elected in 1972 by a landslide, the Senate became more Democratic and elected six new dovish Senators.\textsuperscript{20} Fourth, as mentioned above, Nixon’s political strength was weakened by the Watergate scandal and also by recent hearings concerning the Nixon administration’s deception about the bombings in Cambodia.\textsuperscript{21}

Ken Hughes in his 2015 book \textit{Fatal Politics: The Nixon Tapes, the Vietnam War, and the Casualties of Reelection} contends that Nixon and Kissinger prolonged the War until after November 1972 in order to win the 1972 Presidential election.\textsuperscript{22} Hughes says that, since the War was not winnable, Nixon needed a “decent interval” between American withdrawal and the defeat of South Vietnam in order to maintain his power after the election and to secure his place in history, and the Paris Peace Accords and negotiations with the Chinese and the Russians helped accomplish this.\textsuperscript{23} According to Hughes, after the Paris Peace Accords were signed, by accepting the fiscal year 1973 Second Supplemental Appropriations Bill (H.R. 9055) that included the Rider, Nixon “invited” Congress to deny him authority to intervene militarily in Vietnam, which enabled Nixon to deny responsibility for losing Vietnam and to blame Congress.\textsuperscript{24} To support this interpretation, Hughes states that House Minority Leader Gerald Ford and Nixon

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{18} Ibid., 144-147.
\item \textsuperscript{19} Ibid., 180.
\item \textsuperscript{20} Ibid., 186-187.
\item \textsuperscript{21} Ibid., 188-189.
\item \textsuperscript{22} Ken Hughes, \textit{Fatal Politics: The Nixon Tapes, the Vietnam War, and the Casualties of Reelection} (Charlottesville, Virginia: University of Virginia Press, 2015), ix, x.
\item \textsuperscript{23} Hughes, \textit{Fatal Politics}, ix, x, 30, 78, 79, 102, 160, 161, 162.
\item \textsuperscript{24} Ibid., 165, 167-168 170.
\end{itemize}
\end{footnotesize}
counselor Melvin Laird thought that the House would insist on the bombing ban in Cambodia but that Nixon had the votes to sustain his veto of a military ban in all of Indochina.²⁵ Laird was particularly important as a counselor to Nixon. Laird was Nixon’s first Secretary of Defense and was a former Congressman. As Secretary of Defense, Laird, in large part, had developed Nixon’s Vietnamization program.²⁶

Henry Kissinger’s 1982 book, *Years of Upheaval* is the second of three volumes of Kissinger’s memoirs covering his time as National Security Advisor and later Secretary of State for President Nixon (1969 to 1974) and his time as Secretary of State for President Ford (1974 to 1977).²⁷ *Years of Upheaval* lists many events that contributed to “the abandonment of Cambodia.” These included war weariness, a sincere belief of many legislators that the end of U.S. military actions would benefit the Cambodian people, the opportunity to score points against President Nixon who was a hated political adversary, and a desire to vindicate years of antiwar actions.²⁸ *Years of Upheaval* also provides an explanation for the expansion of the cutoff to Vietnam that is different from that given by Hughes’ *Fatal Politics*. According to Kissinger, after Nixon vetoed the first version of the Second Supplemental Appropriations Bill (H.R. 7447), which immediately prohibited U.S. combat activities in Cambodia and Laos, Nixon counselor Laird urged a compromise that changed the cutoff date to August 15 (about 6 weeks in the future). According to Kissinger, the Senate Foreign Relations Committee accepted the compromise, but

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²⁵ Ibid., 164, 166, 170.
²⁸ Kissinger, *Years of Upheaval*, 355.
opponents of the Cambodian bombing exacted the price of banning all U.S. military activity in Indochina (including Vietnam) after that date. ²⁹

These books and articles provide many reasons why Congress passed the Military Rider. Three of the books seek to provide an explanation as to why the Military Rider was expanded to ban U.S. military action in Vietnam. Rapoport’s Inside the House states the broader ban was initiated by Gerald Ford because he was not sure that the Senate would approve the Military Rider if the cutoff did not include Vietnam. Hughes’ Fatal Politics asserts that Nixon initiated the broader ban in order to allow him to blame Congress for losing Vietnam. Kissinger’s Years of Upheaval says that the ban was broadened as the price demanded by opponents of the Cambodian bombing for the compromise with the Senate Foreign Relations Committee extending the cutoff date to August 15. Hughes’ assertions are discussed and criticized below. Kissinger points to the Senate as the source of the expansion. Also, one Fulbright biography says that Fulbright led the fight to reach that compromise. ³⁰ It seems odd that Ford would propose a major change to the Military Rider because he was not sure what the Senate would do or that he would slip the change by the White House without making clear the significance of the change. An alternative explanation for Ford’s actions is that he and others wanted to end the legislative battles

²⁹ Kissinger, Years of Upheaval, 359.
over the use of U.S. troops in Southeast Asia, including Vietnam, and expanding the
Military Rider to cover Vietnam was a convenient vehicle to do so.

B. **Nixon and the June 1973 Military Rider**

This part of this thesis discusses the leading literature about why Nixon signed the
Second Supplemental Appropriations Bill (H.R. 9055) that included the June 1973
Military Rider, which banned U.S. military activity in or over North and South Vietnam
(as well as Cambodia and Laos) effective as of August 15, 1973, after Nixon had earlier
vetoed a substantially similar version of the same bill.

P. Edward Haley, in his 1982 book, *Congress and the Fall of South Vietnam and
Cambodia* contends that Nixon was compelled to approve the Rider because the Second
Supplemental Appropriations Bill was necessary to keep the federal government in
operation after June 30, 1973, and Congress refused to pass any supplemental
appropriations bill that did not contain the prohibition on combat in Indochina.31

William Bundy, in his 1998 book *A Tangled Web*, says that Nixon accepted the
Rider “largely on the advice of Melvin Laird, his main contact with Congress, who told
him that resistance was hopeless.”32 Bundy does not provide any source for this statement.

Robert David Johnson, in his 2006 book *Congress and the Cold War*, says that,
while Nixon vetoed the bill with an earlier version of the Rider, Congress continued to
push for the measure. Senate Majority Leader Mike Mansfield stated that he would attach

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a version of the Rider to every bill that came before the Senate until it was adopted. As mentioned above, Nixon did not have the political strength to fight it.\textsuperscript{33}

Ken Hughes in his 2015 book \textit{Fatal Politics} (as described above) says that Nixon “invited” Congress to deny him authority to intervene militarily in Vietnam, which enabled Nixon to deny responsibility for losing Vietnam and to blame Congress. Nixon was not compelled to approve the supplemental appropriations bill with the Rider because Nixon had the votes to sustain his veto of a military ban in all of Indochina. Hughes states that Laird told Kissinger that Ford had told Laird that the House would stand firm behind limiting the ban to Cambodia and would not impose it until August 15, and Nixon had the votes he needed to sustain his veto of a military ban in all of Indochina.\textsuperscript{34}

Max Hastings’ 2018 book \textit{Vietnam: An Epic Tragedy: 1945-1975} describes Nixon’s motives for signing the bill with the 1973 Military Rider. According to Hastings, Nixon “voluntarily surrendered” his discretion to respond to the expected future invasion by North Vietnam.\textsuperscript{35} When that invasion came, Nixon did not want to make a decision on whether to respond militarily.\textsuperscript{36}

Other sources that do not address why Nixon signed the bill that included the June 1973 Military Rider, provide information about Nixon and the Vietnam War that is useful for understanding and analyzing Nixon’s actions.

\textsuperscript{33} Johnson, \textit{Congress and the Cold War}, 188-189.
\textsuperscript{34} Hughes, \textit{Fatal Politics}, 165-166, 168, 170.
\textsuperscript{36} Hastings, \textit{Vietnam}, 672.
The “decent interval” explanation touted by Hughes had previously been suggested by many commenters, including Jeffrey Kimball in his 1999 *Nixon’s Vietnam War*. Kimball’s book covers Vietnam policy from 1953 to 1973 but says that the defeat of South Vietnam in 1975 was “virtually preordained” by the terms of the Peace Accords and the “circumstances of power” Nixon left behind in Southeast Asia. He also implies that Nixon had a clinical personality disorder that included both aggressive and passive behavior, and he states that Nixon’s Vietnam policies were as much a product of reaction and improvisation as of design.

Larry Berman, in his 2001 *No Peace, No Honor: Nixon, Kissinger, and Betrayal in Vietnam*, also criticizes Nixon and Kissinger but, contrary to Hughes and Kimball, says that Nixon and Kissinger were not seeking a “decent interval” but a continuation of the War until at least the end of Nixon’s presidency. Nixon and Kissinger expected the Peace Accords to fail, and the North Vietnamese violations of the Accords would provide Nixon with the public support to continue the War using B-52s to support South Vietnam until the end of his presidency. Berman says the plan failed because of the Watergate scandal but makes no specific reference to the June 1973 Military Rider or why Nixon approved it.

Pierre Asselin, in his 2002 *A Bitter Peace*, says that Berman and Kimball, “are, at

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38 Kimball, *Nixon’s Vietnam War*, ix. (defeat preordained), 11-13 (personality disorder), 370 (product of improvisation)


40 Ibid., 8-9.
times, too vehement in their criticisms of Nixon." Asselin agrees that the Paris Accords were doomed to unravel. However, even after fighting resumed in Vietnam, Nixon thought that there was a chance that the Paris Accords would work and blamed Congress for preventing efforts to enforce the Accords. If true, this reinforces the difficulty in understanding Nixon’s signing of the legislation with the Rider.

David F. Schmitz, in his 2014 *Richard Nixon and the Vietnam War*, says that Nixon sought a military victory in Vietnam during the 1969-1970 beginning of his presidency. Nixon implemented the Vietnamization strategy to buy political time to allow him to do that. Vietnamization meant giving the South Vietnamese more responsibility for the fighting while withdrawing U.S. troops. When that did not succeed, Nixon sought an “illusory peace” that would allow for the withdrawal of American troops and the support of South Vietnam until after Nixon’s re-election. For this purpose, Nixon continued Vietnamization and pursued détente with Russia and talks with China. Schmitz says that this meant that Nixon expected the Vietnam War to continue until the end of his presidency because Nixon’s policy had shifted away from seeking victory. That conclusion, if true, tends to support Berman’s position that Nixon wanted the War to continue until the end of Nixon’s second term.

The memoirs and biography described below also suggest explanations and provide information about why Nixon signed the legislation with the Rider.

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42 Ibid., xii, 183, 188.
44 Ibid., Introduction, Loc. 93, 101, 116; Ch. 3. Loc. 1366.
Henry Kissinger’s 1982 book, *Years of Upheaval* (discussed above) discusses aspects of the struggle within the Nixon administration over the June 1973 Military Rider.\(^{45}\) According to Kissinger, Nixon counselor Laird “apparently” (in Kissinger’s words) gave the House Republican Minority Leader, Gerald Ford, the go-ahead to accept the compromise that became the June 1973 Military Rider, and Ford confirmed that decision with Nixon. Kissinger protested to Nixon, but Nixon told Kissinger that it was too late, that Nixon had yielded to *force majeure*.\(^{46}\) According to Kissinger, this surrender by Nixon would have been inconceivable had not the Watergate scandal drained all of Nixon’s inner resources.\(^{47}\) In a telephone conference with Henry Kissinger on August 3, 1973, Kissinger told Nixon that Nixon could not have won the battle over the Rider -- that Nixon “would have been smashed.” However, in this same conversation, Nixon also said that he had been “schnookered” in this veto fight, “where Laird and Ford, of all people, you know, Laird misled me… He [presumably Laird] got his telephone call, you know, to Ford, goddarn it, he didn’t say that was what it was about.”\(^{48}\)

Alexander Haig’s 1992 memoirs entitled *Inner Circles* also discussed the June 1973 Military Rider.\(^{49}\) Haig became Nixon’s chief of staff in May 1973. Haig had previously served on the staff of Kissinger’s National Security Council.\(^{50}\) Haig stated that he talked to Ford before the vote on the military ban. Ford told Haig that he (Ford) had

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\(^{46}\) Kissinger, *Years of Upheaval*, 359.

\(^{47}\) Ibid.


been led to believe by Mel Laird that the bill with the June 1973 Military Rider was acceptable to Nixon. Haig told Ford that Laird’s support was news to Nixon. Ford was stunned and, said, if he reversed himself now, he might have to resign as Republican leader. Nixon would not ask Ford to do that.\textsuperscript{51} Hughes interprets this to mean that the instructions to Ford were based on a misunderstanding.\textsuperscript{52}

Some of the more recent books state that Nixon approved the Rider to help him achieve certain political ends. In particular, passage of the Rider over his objections would facilitate efforts by Nixon to blame the anticipated South Vietnamese defeat on Congress and would allow him to avoid making a decision, and being held responsible for a decision, on providing further military support to the South Vietnamese in the event of an anticipated invasion by North Vietnam.

However, a reading of some of the materials listed above, suggests another interpretation: that Nixon’s approval of the 1973 Military Rider occurred partly as a result of confusion and partly as a result of Ford and Laird working together to achieve it. Ford and Laird had a close working relationship. They were both long-term members of the House and Laird was appointed as a White House counselor due, at least in part, to Ford’s efforts. Laird was more dovish than Nixon and, according to Ford as reported in Rapoport’s \textit{Inside the House}, Ford was responsible for obtaining Nixon’s approval for expanding the military ban to Vietnam. Later, they both blamed Congress for defeat in

\textsuperscript{51} Haig, \textit{Inner Circles}, 316-317; Hughes, \textit{Fatal Politics}, 246.
\textsuperscript{52} Hughes, \textit{Fatal Politics}, 246.
Vietnam.\textsuperscript{53} Also, due to Watergate, Nixon may have been more vulnerable to manipulation than previously.

II. THE 1973 TERMINATION OF THE USE OF U.S. MILITARY FORCES IN INDOCHINA

Part 1: Background

A. The Communist Movement and American Opposition

After World War II, Communists affiliated with the Soviet Union gained control of countries in Eastern Europe, including East Germany, Bulgaria, Romania, Hungary, Poland, and Czechoslovakia.\textsuperscript{54} In 1946 and 1947, the Soviet Union also threatened Iran, Greece, and Turkey.\textsuperscript{55} Communists also challenged for power in France and Italy. In 1949, the Soviet Union detonated an atomic device for the first time.\textsuperscript{56} In late 1949, the Chinese Communists under Mao Zedong achieved victory in the civil war in China and consolidated their victory in that country.\textsuperscript{57} China under the Communists promptly began to provide material and training assistance and safe havens to the Viet Minh who were fighting against the French for independence from France.\textsuperscript{58} Also, in 1949, there were


Communist led rebellions in Indonesia, Burma, Malaya and the Philippines.\(^59\) In June, 1950, Communist led North Korea attacked South Korea.\(^60\) The Soviet Union sought to infiltrate the United States also, even though, the Soviets later claimed, no one in the Soviet leadership ever took seriously the chances for communism in the United States. In 1946, Army cryptographers working for the Venona Project found dozens of Soviet agents that had penetrated many different U.S. government offices, including, for instance, atomic labs and the U.S. State Department, but these findings were not made public.\(^61\)

From the late 1940s to the mid-1960s, strong anti-Communism was widespread in American public life, including among both Republicans and Democrats. The anti-Communists also included business groups and labor, the media, professional groups, and others. Sometimes officials lost their jobs or security clearances due to disagreements with anti-Communist policies.\(^62\)

In this atmosphere, Richard Nixon began his political career, and he did so as a staunch anti-Communist. In his first run for office in 1946, he defeated the incumbent Democratic congressman, Jerry Voorhis. Among other things, Nixon accused Voorhis of siding with the Communists and having Communist support.\(^63\) Once in Congress, Republican House leadership assigned Nixon to the House Committee on Un-American Activities (“HUAC”), which was a special body set up in 1938 to investigate individuals and organizations with fascist or Communist sympathies. While this assignment

\(^{59}\) Logevall, *Embers of War*, 221-222.  
\(^{60}\) Logevall, *Embers of War*, 256.  
\(^{62}\) Levering, *Cold War*, 63, 67.  
potentially provided opportunities for Nixon, it also posed some risks, since HUAC had a reputation for irresponsibility with the establishment press and with more educated Americans in campuses and cities. However, Nixon used his service on the Committee as a springboard to a Senate seat in 1950 and then the Vice-Presidency in 1952. In particular, in 1948, Nixon led the investigation into the accusation that Alger Hiss, a former top State Department official, had been a member of the Communist Party. Hiss denied this in testimony to the Committee. In 1950, Hiss was convicted of perjury for lying about stealing State Department documents and his activities with another member of the Communist party. Many years later, documents released in the 1990s from the Soviet archives showed that Hiss had been a Soviet spy in the 1930s. By 1950, Nixon’s reputation as an anti-Communist did not need any strengthening, but, if it did, his 1950 Senate campaign served nicely. In that campaign Nixon ran against Helen Gahagan Douglas, a member of Congress who, among other things, opposed HUAC. One source has described her as “tall and lovely, with a seraphic voice and a million-bucks grin.” She had starred on Broadway and had married Melvyn Douglas, a successful actor. She obtained the Democratic nomination by winning a primary against a more conservative opponent who labeled her “the Pink Lady” based on her supposed weakness against the Communist threat. The Nixon campaign also made claims that she was weak on Communism, claiming, for instance, that she had given aid and comfort to the

64 Ambrose, Nixon, 142-143; Farrell, Richard Nixon, 95, 97.
65 Ambrose, Nixon, 166.
67 Ambrose, Nixon, 195, 205; Farrell, Richard Nixon, 142,
68 Levering, Cold War, 47.
69 Farrell, Richard Nixon, 130 - 132
70 Farrell, Richard Nixon, 130.
71 Farrell, Richard Nixon, 146.
Communists by, among other things, voting against aid to Greece and Turkey and opposing Communists-control legislation.\textsuperscript{72} Nixon said Douglas was "pink right down to her underwear."\textsuperscript{73} The Nixon campaign also received a tremendous boost when North Korea attacked South Korea in June 1950 shortly after the June 7th primaries.\textsuperscript{74} Nixon won the election by more than 500,000 votes.\textsuperscript{75}

B. Indochina: 1946-1960

U.S. Presidents from 1950 to 1975 (under Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, and Ford) acted to keep Vietnam (or at least part of it) from coming under control of a communist regime. In 1950, more than twenty years before the Military Rider became law, the US government under President Truman announced that the U.S. would extend economic and military aid to France and her allied governments in Vietnam, Cambodia and Laos in their battle against the Communist-led Viet Minh.\textsuperscript{76} France was seeking to maintain its colonial rule over Indochina, and American policy under President Franklin Roosevelt had been anti-colonial and then, under Truman, initially, ambivalent.\textsuperscript{77} This ambivalence ended in 1949 when the Chinese Communists achieved victory in the civil war in China.\textsuperscript{78}

\textsuperscript{72} Farrell, Richard Nixon, 152, 154.
\textsuperscript{74} Ambrose, Nixon, 214.
\textsuperscript{77} Logevall, Embers of War, 88-90; Butterfield, “The Truman and Eisenhower Years,” 8-10.
\textsuperscript{78} Butterfield, “The Truman and Eisenhower Years,”10.
The US continued to support the French in Indochina after Dwight Eisenhower became President in 1953.\textsuperscript{79} Both the Truman administration and the Eisenhower administration relied, in part, on the so-called “Domino Theory,” which claimed that the loss of Vietnam or Indochina to the Communists could lead to the loss of other countries in Southeast Asia to the Communists, as well as impact other countries outside Southeast Asia.\textsuperscript{80} At a press conference in April 1954, President Eisenhower identified the potential dominoes as Burma (now Myanmar), Thailand, Indonesia, and Singapore and identified countries that could be threatened as Taiwan, the Philippines, Australia, New Zealand, and Japan.\textsuperscript{81}

The French war in Indochina was settled by the Geneva Accords in 1954, which provided that the French would leave Indochina, Vietnam would be temporarily partitioned, and elections would be held in two years.\textsuperscript{82} After the Geneva Accords were signed, the U.S. under Eisenhower supported South Vietnam under the leadership of Ngo Dinh Diem, who had been appointed prime minister of Vietnam in 1954.\textsuperscript{83} The support to South Vietnam included providing nearly 700 US personnel to help organize and train the new South Vietnamese army (now referred to as the Army of the Republic of Vietnam or ARVN), supplying equipment and material, payment of ARVN salaries, financing the construction of military facilities and underwriting of the cost of training.\textsuperscript{84}

\textsuperscript{80} See, for example, Henry Kissinger, \textit{Ending the Vietnam War} (New York: Simon & Schuster, 2003), 15, 16, 18, 19, 22.
\textsuperscript{82} Hastings, \textit{Vietnam}, 88-90.
\textsuperscript{83} Logevall, \textit{Embers of War}, 588, 629-630,
organized a referendum to decide whether to maintain a monarchy in Vietnam or to establish a republic with him as president. Diem’s government used non-democratic methods to be sure he won, and, after he did, he proclaimed the birth of the Republic of Vietnam with himself as president. However, Diem refused to have South Vietnam participate in nationwide elections prescribed by the Geneva Accords.\textsuperscript{85} From 1956 until 1959, the policy of North Vietnam was to discourage southern Communists from engaging in armed attacks against the Diem regime since the time was not ripe for insurrection.\textsuperscript{86} Nevertheless, in 1957, on instructions from North Vietnam, the Communists in the south organized thirty-seven armed companies.\textsuperscript{87} Also, a small contingent of intelligence officers and elite sappers were sent to South Vietnam and, in 1957, Southern communists claimed that 452 South Vietnamese government appointees were killed, kidnapped or suborned.\textsuperscript{88} In 1959, North Vietnam made the decision to assert its control over the insurgency in South Vietnam, increase its infiltration of trained cadres from the North, and to open a secret path to the battlefield that ran through Laos and evolved into the Ho Chi Minh Trail.\textsuperscript{89} From 1959 to 1961, the number of South Vietnamese officials assassinated increased from twelve hundred to four thousand per year.\textsuperscript{90}

C. The Vietnam War under Kennedy and Johnson

\textsuperscript{85} Fredrik Logevall, \textit{Embers of War}, 651, 652, 656.
\textsuperscript{87} Ibid.
\textsuperscript{88} Hastings, \textit{Vietnam}, 117.
\textsuperscript{90} Karnow, \textit{Vietnam}, 238.
John F. Kennedy became President in 1961 and was faced with a deteriorating situation in South Vietnam. President Kennedy’s response during his 34 months in office included increasing the number of American advisers in Vietnam to around 16,000. Also, in November 1963, with the acquiescence of the Kennedy administration, Diem was overthrown by a group of Vietnamese generals. To the surprise of the Kennedy administration, Diem was assassinated in the coup. At the end of November 1963, Lyndon Johnson became President after the assassination of President Kennedy. In 1964 and 1965, there were a series of coups, countercoups, and political crises in South Vietnam for control of that country. These resulted in Air Marshall Nguyen Cao Ky becoming the South Vietnamese leader.

In August 1964, the Johnson administration reported two attacks by the North Vietnamese on US destroyer Maddox in the Gulf of Tonkin off the coast of Vietnam (It was later determined that the second attack had not occurred). In response, the Johnson administration requested, and Congress passed, the Gulf of Tonkin Resolution that authorized the administration “to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.” The Resolution passed 414 to 0 in the House and 88 to 2 in the Senate. At the time this Resolution provided the authority for the administration’s war-making in Vietnam.

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93 Hastings, Vietnam, at 170-178.
95 Langguth, Our Vietnam, 673-674.
In November 1964, Johnson was elected as President by over 60% of the popular vote with large Democratic majorities in the House (295 to 140) and in the Senate (68 to 32).\footnote{"The 1964 Election Results" in CQ Almanac 1964, 20th ed., 1021-68. Washington, DC: Congressional Quarterly, 1965. http://library.cqpress.com/cqalmanac/cqal64-1302939} In 1965, the Viet Cong attacked U.S. bases in Pleiku and Qhy Nhon, killing 31 Americans. In response, the U.S. began bombing of North Vietnam and the U.S. began sending US combat troops to Vietnam.\footnote{Beschloss, Presidents of War, 524-525; Langguth, Our Vietnam, 673-674.} The number of U.S. combat troops in Vietnam reached a maximum of around 536,000 by 1968.\footnote{The American War Library, “Vietnam War Allied Troop Levels 1960-73,” https://www.americanwarlibrary.com/vietnam/vwatl.htm} In September 1967, Nguyen Van Thieu was elected President of South Vietnam and Nguyen Cao Ky was elected as Vice President.\footnote{Langguth, Our Vietnam, 674}

In January 1968, the Viet Cong and the North Vietnamese launched a massive military offensive (the “Tet offensive”) in cities across South Vietnam. After weeks of fighting, the offensive was defeated by U.S. and South Vietnamese troops. However, the Tet Offensive was a political defeat for the U.S. In late 1967, the Johnson administration had sought to convince the public that the Vietnam War was nearing a conclusion and that the U.S. was winning. The Tet Offensive was interpreted as showing that the Vietnam War was not ending any time soon.\footnote{Julian E. Zelizer, “How the Tet Offensive Undermined American Faith in Government,” The Atlantic, January 15, 2018, https://www.theatlantic.com/politics/archive/2018/01/how-the-tet-offensive-undermined-american-faith-in-government/550010/; Hastings, Vietnam, 435-480.}
On March 31, 1968, President Johnson announced he would not seek re-election. In May 1968, the United States and North Vietnam began formal peace talks.

D. The Nixon Presidency: Election, Staffing, Re-election, and Watergate

Richard Nixon, a Republican, became President in January 1969 after winning a close election in 1968 over Hubert Humphrey and George Wallace. The Democrats retained control of the House and Senate as a result of the 1968 election and continued to do so after both the 1970 and 1972 elections. The Democratic majorities in the House in these years were never below 243 Democrats to 192 Republicans and the Democratic majorities in the Senate in these years were never below 55 Democrats to 45 Republicans.

After becoming President, Nixon appointed H.R. (“Bob”) Haldeman as his chief of staff and John Ehrlichman as White House counsel and later head of domestic policy. Nixon also appointed Henry Kissinger as his national security adviser, William Rogers as his Secretary of State, and Melvin Laird (a long-term Republican Congressman from Wisconsin) as his Secretary of Defense.

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In November 1972 Nixon was re-elected as President in a landslide over Senator George McGovern, a Democrat of South Dakota, and an explicitly anti-War candidate. The Democrats retained control of the House (241 to 192, with two vacancies) and the Senate (57 to 43). ¹⁰⁷

In 1972 and 1973, Nixon devoted increasing amounts of time to dealing with the scandal initially arising from five men linked to the White House and Nixon’s re-election campaign breaking into the offices of the Democratic National Committee located at the Watergate complex in Washington, D.C. in June 1972. Nixon and his aides (including Haldeman, Ehrlichman and White House counsel John Dean) tried to cover–up White House ties to the five men and other campaign dirty tricks. As the story came out, in March 1973, the Senate created a committee to investigate. In April 1973, Haldeman and Ehrlichman resigned and Dean was fired. In May 1973, a Watergate special prosecutor was appointed. On June 25, 1973, Dean began his testimony to the Senate committee about Nixon’s involvement in the cover-up. ¹⁰⁸

In May 1973, Alexander Haig became Nixon’s chief of staff, replacing Bob Haldeman. On June 6, 1973, Melvin Laird (who had resigned as Secretary of Defense in


¹⁰⁸ Langguth, Our Vietnam, 676; Kissinger, Years of Upheaval, 358; Farrell, Richard Nixon, 471 - 484.
January 1973) became Nixon’s counselor for domestic affairs, a position similar to that previously held by John Ehrlichman.109

**Part 2: Termination of Use of U.S. Forces in Indochina**

A. Congressional Support and Opposition to the Vietnam War (1964-1972)

From the time Congress passed the Gulf of Tonkin resolution in 1964 until the 1973 Peace Accords, Congress did not approve any of the numerous attempts to end U.S. involvement in the Vietnam War by terminating appropriations to fund the War or by setting a deadline for the withdrawal of U.S. troops. This was particularly true in the House, which refused to pass antiwar measures even after they were adopted by the Senate.110 However, Congress was sometimes willing to pass narrower antiwar measures.111 For example, in 1969, Congress passed a military appropriations bill that included an amendment that prohibited the use of funds to support U.S. military forces in Laos.112 In 1971, Congress passed the Cooper-Church Amendment to the Supplementary

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C. Cambodia (1969-1970)

Also, in 1969, the U.S. began efforts to diminish the use by North Vietnamese and the Viet Cong of sanctuaries in Cambodia. U.S. actions in Cambodia became an emotional bone of contention between the Nixon administration and antiwar protestors and dovish members of Congress since at least 1970 when U.S. and ARVN units had entered Cambodia to attack North Vietnamese and Viet Cong troops, materials, and bases there. Understanding the source of that contention requires a review of some past history of U.S. relations with Cambodia.
The French colonial rulers of Cambodia had appointed Norodom Sihanouk as monarch of Cambodia in 1941, and Sihanouk served as leader of Cambodia in various capacities off and on for the next 60 years. During the 1960s, Sihanouk sought to keep Cambodia neutral during the Vietnam War. He allowed the North Vietnamese and Viet Cong troops (“NVA/VC”) to maintain sanctuaries in Cambodia along the border with South Vietnam, to use resupply routes and staging areas to support operations into South Vietnam, and to use the Cambodian port of Sihanoukville to land supplies to be sent to their Cambodian land bases. At the same time, Sihanouk did not publicly object to U.S. bombing campaigns, discussed below, in Cambodia that started in 1969 against such sanctuaries.

The Cambodian sanctuaries and supply routes provided many benefits to the NVA/VC. Historically, sanctuaries have provided guerillas with routes of passage and safe havens, have allowed guerillas to continue revolutionary wars indefinitely, and have been an important factor in the success of revolutionary guerrilla warfare. Mao Zedong, among others, recognized the critical importance of sanctuaries to the success of insurgent campaigns. The geography of Indochina enhanced the importance of sanctuaries since

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Cambodia had a 706-mile border with South Vietnam, and one NVA/VC sanctuary was only 33 miles from Saigon.\textsuperscript{120}

The NVA/VC began to establish sanctuaries in Cambodia as early as 1964, with more extensive documentation of this coming in 1967.\textsuperscript{121} By 1969, the NVA/VC had at least 15 sanctuaries in Cambodia and about 40,000 troops in the sanctuaries and Cambodian border areas.\textsuperscript{122} American intelligence also thought that the Cambodian sanctuaries included a North Vietnamese headquarters called “COSVN” (central office South Vietnam), from which the North Vietnamese directed operations against southern South Vietnam.\textsuperscript{123} The NVA/VC used the sanctuaries as troop concentration areas, training centers, medical centers, and logistics bases. The sanctuaries served as safe havens for the Communists from which they launched attacks into South Vietnam against American forces and then returned to the relative safety of the sanctuaries, beyond the reach of U.S. attacks.\textsuperscript{124} The supply routes provided passage for supplies, arms and other war equipment, and troops.\textsuperscript{125} The U.S. military, on the one hand, and the State Department and CIA, on the other, did not agree on the logistical importance of the supply routes through Cambodia, with the military emphasizing the importance of

\begin{thebibliography}{99}
\bibitem{121} Pike, “Cambodia’s War,” 1971), 4; Clymer, \textit{Troubled Relations}, 82.
\bibitem{122} Correll, “Shadow War;” Bundy, \textit{Tangled Web}, 71. Kissinger says the number of troops in Cambodia in 1969-1970 may have been as high as 300,000. Kissinger, \textit{White House Years}, 240. Bundy says this 300,000 is inaccurate, does not conform to forces actually observed, and probably came from boasting by the Khmer Rouge. Bundy, \textit{Tangled Web}, 554 n. 17.
\bibitem{123} Bundy, \textit{Tangled Web}, 71; Karnow, \textit{Vietnam}, 590-591.
\bibitem{125} Kissinger, \textit{White House Years}, 241-242; Willbanks, \textit{Abandoning Vietnam}, 70.
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supplies arriving at the Cambodian port of Sihanoukville and then being transported through Cambodia and the State Department and CIA emphasizing the importance of the Ho Chi Minh Trail through Laos.\textsuperscript{126} According to one estimate, during this time around 85 percent of the total supplies provided to the NVA/VC in South Vietnam traveled through Cambodia.\textsuperscript{127} Also, the U.S. military estimated that in 1969 about 60 percent of the troops that traveled from North Vietnam to South Vietnam did so through Cambodia.\textsuperscript{128}

In 1967 during the Johnson administration, U.S. military commanders had requested authorization to bomb the NVA/VC in Cambodia. Johnson’s Secretaries of Defense and State opposed the granting of such authorization and Johnson declined to provide it.\textsuperscript{129} In 1968, Sihanouk told a U.S. emissary that he was “not opposed to hot pursuit in uninhabited areas” of Cambodia, but the U.S. under Johnson did not act on this offer.\textsuperscript{130}

The Nixon administration took a different approach. Even before attacks by the Communists that occurred in February 1969, the U.S. military sought approval from the new Nixon administration to bomb sanctuaries, including COSVN, in Cambodia.\textsuperscript{131} Nixon led several discussions on this matter with Secretary of State Bill Rogers, Secretary of Defense Melvin Laird, Chairman of the Joint Chief of State Earle Wheeler, and National

\textsuperscript{126} Karnow, Vietnam, 591; Kissinger, White House Years, 241-242.
\textsuperscript{127} Willbanks, Abandoning Vietnam, 69.
\textsuperscript{128} Pike, “Cambodia’s War,” 5.
\textsuperscript{129} Clymer, Troubled Relations, 83
\textsuperscript{130} Karnow, Vietnam, 590.
Security Adviser Henry Kissinger. Rogers opposed bombing attacks by the U.S. because of the fear of Congressional opposition, the risk of damaging the Paris peace talks, and the risk of offending Sihanouk. Laird managed to take positions that were more nuanced, or perhaps just more ambiguous. Nixon, in his memoirs, says that Laird opposed the bombing. In February, Laird said he supported the bombings but recommended that they be delayed until the actions of the NVA/VC became greater in scope, intensity, and duration, and the Cambodian bombings did not start until mid-March. Kissinger, in his memoirs, says Laird became a “strong supporter” of the bombings but opposed keeping them secret from Congress and the public. Kissinger also says that Laird was a “finely-tuned politician” who “navigated with great care between his convictions, which counseled some military reactions, and his political instinct, which called for restraint.”

On March 15, 1969, Nixon approved the attacks, but required that they be kept secret. The bombings began on March 18, 1969 and continued until May 26, 1970 (that is, after the beginning of the April, 1970 Cambodian incursion of U.S. and ARVN troops into Cambodia). Kissinger identified the major political and psychological reasons for the bombings in a March 16, 1969 memorandum to Nixon. Among other things, according to

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132 Kissinger, White House Years, 245-247.
136 Kissinger, White House Years, 245; Correll, “Shadow War;” and Van Atta, With Honor, Ch. 10, Loc. 571 make the same point.
137 Kissinger, White House Years, 245.
Kissinger, failure to take action in response to recent shellings of Saigon and Hue by the NVA/VC would appear to Hanoi as a demonstration of weakness and would encourage Hanoi to use shellings and other military pressures in an effort to force major concessions at the Paris peace negotiations. In contrast, Jeffrey Kimball, in his 1998 *Nixon’s Vietnam War*, has asserted that shortly after the Nixon administration took office it began planning to make these attacks and used the Communist attacks as a pretext for doing so.

The Nixon administration acted to keep these bombings secret. Diplomatic needs provided one reason for this. Prince Sihanouk had privately agreed to the bombing, but public disclosure might have hurt the Cambodian government and forced it to demand that U.S. cease the bombing. Also, disclosure might have precipitated retaliation by the North Vietnamese. On the domestic front, disclosure could have re-ignited antiwar feelings or provoked Congress to action. The Nixon administration kept Congress as a whole uninformed about the bombings, but did disclose them to a few sympathetic members of Congress, including Senators Russell, Stennis, and Dirksen and Representatives Ford, Arends, and Rivers, but excluded the Democratic leadership and foreign relations committees of both chambers. Nixon and other members of the executive branch made public statements and provided statements to Congress that Nixon’s critics characterized

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as false and misleading because they failed to disclose the U.S. bombing in Cambodia.\textsuperscript{144}

Even within the military and the executive branch, the Nixon administration limited the personnel that would receive information about the Cambodia bombings to a limited group including the Secretary of Defense and the Joint Chiefs of Staff but did not inform, for instance, the Secretary of Air Force or the Vice Chief of Staff.\textsuperscript{145}

The Nixon administration conducted the bombing operations and kept records of the bombing operations in a manner designed to keep them secret. For instance, Air Force commanders would brief pilots and navigators about the missions, but other crew members did not receive the same information. Missions would be conducted at night. After the missions, Air Force personnel destroyed paperwork with the actual target locations and prepared post-mission reports with targets falsely listed as being in South Vietnam. The Pentagon used a dual reporting system to keep information on the missions away from the usual reporting channels.\textsuperscript{146} In a letter dated July 16, 1973, from then Secretary of Defense James Schlesinger to the Senate Armed Services Committee, Schlesinger defended the concealment of the bombings stating that “Because of the sensitive operational and diplomatic situation, special security precautions were taken to ensure that the operations would not be compromised.”\textsuperscript{147} Whatever justification there may have been for the concealment and the misleading record keeping, they infuriated

\textsuperscript{144} House Judiciary Committee, HR Report 93-1305, 217-218; \textit{Hearing before the Committee on the Judiciary, House of Representatives}, Pursuant to H. Res. 803, [Nixon Impeachment Investigation], 93\textsuperscript{rd} Cong., 2\textsuperscript{nd} sess., May-June 1974, 56, 58, and 60; Clymer, \textit{Troubled Relations}, 96.

\textsuperscript{145} Karnow, \textit{Vietnam}, 592; Correll, “Shadow War.”

\textsuperscript{146} Karnow, \textit{Vietnam}, 592; Correll, “Shadow War;” \textit{Hearing before Senate Armed Services Committee, Bombing in Cambodia}, 93\textsuperscript{rd} Cong, 1\textsuperscript{st} sess., 8, 14, and 15 (Testimony of Hal Knight, July 16,1973) and 486 (Department of Defense Report on Selected Air and Ground Operations in Cambodia, September 10, 1973).

many in Congress after they became known. In 1974, some members of Congress sought to include an article of impeachment against Nixon for authorizing “the concealment from the Congress of the facts and the submission to the Congress of false and misleading statements concerning the existence, scope and duration of American bombing operations in Cambodia.”

However, the House Judiciary Committee decided by a vote of 26-12 not to include that as an article of impeachment on the grounds, among others, that Nixon was performing his constitutional duties in ordering the bombings, that Congress had been given sufficient notice of the bombings, and that Congress shared the blame through acquiescence in the bombings.

In spite of these efforts at concealment, some news outlets obtained information about the Cambodia bombings and published stories about them. These stories appeared in a variety of places, including the *New York Times*, the *Washington Post*, the *Wall Street Journal*, and *Newsweek* between March and June 1969. Surprisingly, these stories did not lead to any serious contemporaneous public response.

The revelations of the secret bombings in Cambodia and the related “pattern of deception by U.S. combat air elements” (as described by Senator Harold Hughes, a Democrat of Iowa) helped boost support for the passage of the riders to H.R. 9055 and H.J. Res. 696 terminating U.S. combat activities after August 15, 1973 in Cambodia, as well as Vietnam. The Senate Committee on Armed Services held extensive hearings

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148 House Judiciary Committee, HR Report 93-1305, 217.
starting on July 16, 1973 and continuing until August 9, 1973 on the Cambodian bombing and the efforts to keep it secret, but these occurred only after these antiwar riders had already become law.\textsuperscript{152} The Nixon administration acknowledged the 1969-1970 secret Cambodia bombings by a letter sent by Secretary of Defense James Schlesinger to the Senate Armed Forces Committee in July 1973, but these secret bombings had become known to Congress before then.\textsuperscript{153}

D. Cambodia (1970)

In April 1970, U.S. and ARVN troops launched an offensive into Cambodia to attack headquarters for Communist military operations. U.S. personnel left Cambodia after two months. While U.S. and South Vietnamese troops captured substantial material and munitions and disrupted Communist operations, no headquarters were captured.\textsuperscript{154}

These operations in Cambodia generated intense opposition in the United States. A large antiwar movement opposed U.S. war efforts in Southeast Asia, particularly starting in 1965. Activities included campus teach-ins; large, frequent, and wide-spread marches and demonstrations; public relations; supporting antiwar candidates; and lobbying. Other activities included civil disobedience, draft resistance, and visits to North Vietnam. The

\textsuperscript{152} Hearing before Senate Armed Services Committee, Bombing in Cambodia, 93\textsuperscript{rd} Cong, 1\textsuperscript{st} sess., (July 16, 1973 to August 9, 1973).
\textsuperscript{153} Seymour M. Hersh, “U.S. Confirms Pre-1979 Raids on Cambodia,” New York Times, July 17, 1973; Johnson, Congress and the Cold War, 187
The 1970 invasion of Cambodia triggered widespread demonstrations and strikes, which were further inflamed following the deaths of four Kent State students.\textsuperscript{155}

The reactions of Congress to the Cambodian invasion and the vocal opposition to it included a proposal (known as the “Cooper-Church Amendment”) by Senator John Cooper, Republican of Kentucky, and Senator Frank Church, Democrat of Idaho, to amend the pending Foreign Military Sales Act to prohibit expenditure of funds after July 1, 1970 to maintain U.S. forces in Cambodia or to support U.S. personnel or contract for military instruction or conduct combat activities in Cambodia unless specifically authorized by law.\textsuperscript{156} In June 1970, the Senate passed the Cooper-Church amendment by a vote of 75-20. However, in July, the House defeated this amendment by a vote of 237-153.\textsuperscript{157} Congress continued its efforts to pass the Cooper-Church Amendment and, on January 5, 1971, finally passed the Cooper-Church Amendment as part of the Special Foreign Assistance Act of 1971.\textsuperscript{158} This amendment, as finally passed, prohibited the use of American troops in Cambodia but did not prohibit the use of air power.\textsuperscript{159}


The North Vietnamese launched a large offensive against South Vietnam at the end of March 1972. Around 70,000 US troops were still in Vietnam, but only 6,000 were combat troops. South Vietnam was defended by ARVN troops, U.S. advisers and


\textsuperscript{159} Lehman, \textit{Executive}, 209.
U.S. air power (fixed wing and helicopter). South Vietnam lost some territory but recaptured some of the territory that it had lost initially. ARVN had performed poorly in many instances, but at other times it performed well, and ultimately held South Vietnam against the NVA’s full-scale military assault. South Vietnam’s military victory depended on ARVN’s willingness (for the most part) to fight and US air support. According to one CIA analyst, “without massive US air support, the country would have fallen.” The North’s casualties probably exceeded 100,000.\textsuperscript{160} The North Vietnamese chief of staff estimated that, as a result of all the losses the NVA had incurred, the NVA would not be able to launch another offensive for at least three years.\textsuperscript{161}

F. Growing Congressional Opposition (1971-1972)

In spite of the passage by Congress of certain antiwar measures, such as the Cooper-Church Amendment, from 1964 when it passed the Gulf of Tonkin Resolution to 1973 when the Peace Accords were signed, the legislative enactments and appropriations by Congress generally supported the U.S. war efforts led by the President and executive branch in Southeast Asia.\textsuperscript{162} Congress often did not look or sound supportive because of the harsh antiwar rhetoric of some of its members, the many hearings with hostile questions, and the many proposals for antiwar legislation or antiwar actions such as cutting off of funds for military action. Some of these legislative proposals were approved by Congress and became law but most did not. Also, many of these proposals had

\textsuperscript{160} Hastings, Vietnam, 608, 636-637 (the quote from the CIA analyst is from page 637); Ward and Burns, The Vietnam War. 493-498, 503; Willbanks, Abandoning Vietnam, 155.

\textsuperscript{161} Ward and Burns, The Vietnam War, 503.

substantial support but not enough to be adopted by Congress. Congress would be considered functionally supportive of the executive branch in its opposition to an antiwar proposal that was approved by the Senate and defeated by a close vote in the House, but politically such circumstances threatened the support for the military efforts by the Nixon administration.

The passage of the Bolling Amendment provides an example of the defeat in the House of an antiwar proposal even though it had substantial support. The Bolling Amendment proposed to the House on August 10, 1972 provided for deletion of an antiwar proposal from a larger bill. The Foreign Assistance Act of 1972 considered by the House included a Section 13, which terminated the involvement of U.S. armed forces in Indochina no later than October 1, 1972, subject to a ceasefire to the extent necessary to protect a safe withdrawal, the release of all American prisoners of war, and an accounting of all Americans missing in action. Representative Richard Bolling, a Democrat from Missouri, proposed an amendment to the Foreign Assistance Act of 1972 to delete this antiwar provision, Section 13. In support of this deletion, Bolling said that the President would not accept the narrow limitations of Section 13 on his bargaining power to negotiate a peace settlement. Also, it would mislead the American people to contend that this provision will become law since Nixon would veto it and the doves do not have the votes to override such a veto. Clement Zablocki, a Democrat from Wisconsin, supported the Bolling Amendment because he did not want to put the American

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representatives who were trying to negotiate a peace settlement in a “negotiating straitjacket.”

Lee Hamilton, a Democrat of Indiana, opposed the Bolling Amendment on the grounds that it was time for Congress to play a role in trying to extricate American troops from Indochina. He stated that the U.S. and North Vietnam were at an impasse in their negotiations since, among things, the U.S. sought an internationally supervised general ceasefire and the North Vietnamese opposed it. If the U.S. continued to demand a general ceasefire, then the war could go indefinitely. At the end of the debate on August 10, the House passed the Bolling Amendment by a vote of 229-177, and thereby deleted antiwar Section 13 from the Foreign Assistance Act of 1972.

G. Melvin Laird, Secretary of Defense, Dissenting (1969 to January 1973)

Melvin Laird served as Secretary of Defense in the Nixon administration from January 1969 to January 1973. As Secretary of Defense, Laird, in large part, had developed and strongly supported Nixon’s Vietnamization program. While publicly supporting Nixon’s policies on Vietnam, Laird privately opposed some of them and his relationship with the Nixon White House became increasingly adversarial. Laird initially opposed the 1969 secret bombing missions in Cambodia, but eventually relented after the Communists fired five rockets into Saigon. Laird also privately opposed the 1970 invasion of Cambodia and the 1972 spring bombing and mining operations.

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165 Ibid., 27638.
166 Ibid., 27637.
167 Ibid., 27662.
From time-to-time Laird initiated actions without White House authorization or even contrary to White House policy. For instance, in April 1969, North Korea shot down an unarmed American EC-121 spy plane over the Sea of Japan off the coast of North Korea. Without consulting the President, Laird ordered the suspension of further reconnaissance flights near Korea, the Soviet Union, and China, in the Mediterranean, and over Cuba in order to allow the Defense Department to analyze whether such flights were necessary. Nixon wanted to make a more retaliatory military response, but eventually decided not to do so in this crisis. However, Nixon expressed anger at the advice and actions of Laird, and also Bill Rogers at the State Department, in this crisis and vowed to get rid of them as soon as possible and not to consult with them in future crises.  

In 1970, Laird publicly supported a position on proposed antiwar legislation known as the Cooper-Church amendment (which is described above) that was at odds with the position of the Nixon administration. The Nixon administration took a strong stand against the proposed Cooper-Church amendment, which had been proposed as an amendment to the Foreign Military Sales bill. On his own initiative, Laird on two occasions in August and October 1970 implied in a letter to committee chairmen in Congress and in a public speech that the Nixon administration was ready to compromise. However, Laird had not cleared these communications with the White House, which promptly told Congress that the administration was not seeking a compromise.  

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Laird also dissented from other Nixon actions in regard to Vietnam. Laird dissented from Nixon’s plans in December 1972 to finalize negotiations for a peace agreement with the North Vietnamese. Nixon wanted to force the North Vietnamese to sign an agreement in accordance with the text of the settlement as of November 23 by engaging in a sustained and severe air campaign against North Vietnam. Laird preferred a different approach: to sign the peace agreement in its current form, get the U.S. prisoners of war back, and then react if the North Vietnamese violated the peace agreement. Laird did not win this argument and the bombing of North Vietnam began on December 18, 1972.

On January 8, 1973 Laird testified before the House Armed Services Committee and presented his final report to Congress as Secretary of Defense. Laird said that:

As a consequence of the success of the military aspects of Vietnamization, the South Vietnamese people today, in my view, are fully capable of providing for their own in-country security against the North Vietnamese. Vietnamization has significantly enhanced the prospects for successful negotiation, but should negotiations fail, Vietnamization makes possible the complete termination of American involvement in the war, contingent always on the safe return of American prisoners-of-war and an accounting for those missing-in-action throughout Indochina.

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Even if Laird were not advocating for the “complete termination of the American involvement in the war,” stating that it was “possible” enhanced the case for those who, over Nixon’s opposition, were advocating for such termination.

H. Initial Congressional Actions in 1973

On January 2, 1973, the day before the formal opening of the 93rd Congress, the House Democratic caucus adopted, by a vote of 154 to 74, a resolution sponsored by Representative Lucien Nedzi, a Democrat of Michigan, to declare its policy “that no further funds be authorized, appropriated or expended for U.S. military operations in or over Indochina and that such operations be terminated immediately subject only to arrangements necessary to insure the safe withdrawal of American troops and the return of American prisoners of war.” Representative Samuel Stratton, a Democrat from upstate New York, opposed the resolution and sought approval from the House Democratic caucus for the establishment of a special committee to consult with President Nixon on the peace talks but the caucus rejected this proposal.177 On January 4th, the Senate Democratic caucus adopted, by a vote of 36 to 12, a similar resolution sponsored by Senator Edward Kennedy, to declare its policy to cut off funds immediately for the Indochina war, “subject only to the release of U.S. prisoners and the accounting of those missing in action.”178 The Nixon Administration lobbied against these resolutions. Richard Cook of Nixon’s Congressional liaison staff met with House leaders and argued, to no avail, that the

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resolutions could interfere with the ongoing peace negotiations.\textsuperscript{179} While these resolutions provided policy statements, they did not constitute binding legislation. Even though these resolutions/policy statements received approval by the Democratic caucuses by wide margins, in both houses the number of Democrats supporting the resolutions fell below the absolute majority needed in either house (51 votes in the Senate and 218 votes in the House) to guarantee passage as legislation. In each house, some Republican votes would be needed for passage. In the first few days of January 1973, Senator J. William Fulbright, a Democrat of Arkansas and chairman of the Senate Foreign Relations Committee, wrote that Congressional action might be necessary because the “President is afflicted with some serious psychological problems…. I think that he has an obsession with [Vietnamese] communism and cannot bring himself to accept any compromise which could possibly result in South Vietnam becoming a communist country….\textsuperscript{180} Also, Fulbright said that the members of this Committee intended to take legislative action if a peace agreement had not been negotiated by January 20, 1974, the date of Nixon’s inauguration for his second term.\textsuperscript{181} Other senators introduced bills on January 4, 1973, that sought, in one manner or another, to stop U.S. participation in the Vietnam War. These bills were all submitted to Fulbright’s Foreign Relations Committee.\textsuperscript{182} 

\textsuperscript{179} Naughton, “Congress Critics.”
\textsuperscript{180} Berman, \textit{Fulbright/Vietnam}, 166.
\textsuperscript{181} Berman, \textit{Fulbright/Vietnam}, 166; Naughton, “Congress Critics.”
\textsuperscript{182} Bills introduced on January 4, 1973 included S.212, the Vietnam Withdrawal Act sponsored by Senator George McGovern; S.48, the Vietnam Disengagement Act sponsored by Senator Edward Brooke (a Republican of Massachusetts); S.8, A bill to end funding for bombing of North and South Vietnam sponsored by Senator Gaylord Nelson (a Democrat of Wisconsin); and a Bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos sponsored by Senator Mike Gravel (a Democrat of Alaska). Senate Foreign Relations Committee, Congress.gov, Library of Congress. 
https://www.congress.gov/committee/senate-foreign-relations/ssfr00?q=%7B%22congress%22%3A%7B%22%7D
The House Democratic caucus also took other significant action on January 2nd by electing Representative Carl Albert of Oklahoma to a second term as Speaker of the House and by electing Representative Thomas P. (“Tip”) O’Neill, Jr. of Massachusetts as majority leader.\textsuperscript{183}

I. The Peace Accords

On January 23, 1973, President Nixon announced that an agreement had been reached to end the war in Vietnam, and on the following day, President Nixon conferred with an expanded bipartisan leadership of Congress about the agreements.\textsuperscript{184} The US, North Vietnam, South Vietnam, and the Viet Cong formally signed the agreements and related protocols on January 27, 1973 (the “Peace Accords” or “Accords”).

The Accords provided for a ceasefire beginning on January 27, 1973, the withdrawal of US forces from South Vietnam within 60 days, and the release of all American prisoners of war held in Indochina within 60 days. North Vietnamese troops were allowed to remain in South Vietnam but with no introduction of further troops or material. In order to get President Thieu to sign the Peace Accords, Nixon promised Thieu that the U.S. would react vigorously to any violations of the Peace Accords.\textsuperscript{185}

The Accords brought widespread praise and support from the American public. This included praise from media outlets such as the \textit{New York Times} and the \textit{Washington

\textsuperscript{183} Naughton, “Congress Critics.”


Post, which had often been harshly critical of Nixon. Not surprisingly, several Republican members of Congress praised Nixon for the Peace Accords and his steadfastness and courage in achieving them. Some political opponents like Senate Majority Leader Mike Mansfield also praised Nixon and his advisor/negotiator Henry Kissinger for the Peace Accords. The timing of the Accords did not quite meet Senator Fulbright’s January 20 deadline but Fulbright congratulated Nixon on the Accords and stated that Nixon and Kissinger had made as good a deal as was available. In January 1973 Nixon had a 68% Gallup Poll approval rating.

This did not signal the beginning of bipartisanship or a new era of good feeling. At a January 31, 1973 press conference, Nixon criticized the “most outspoken advocates of peace at any price.” The next day one of Nixon’s counselors, Charles Colson, told a television interviewer that Nixon’s critics in Congress had prolonged the War and had supported a “dishonorable peace” since they would have left Vietnam “without regard to consequences.” Colson identified these critics as a “sellout brigade” and included former Secretary of Defense (under Johnson) Clark Clifford and Senators William Fulbright, George McGovern, Frank Church, and Edward Kennedy.

From the Congressional perspective, the Accords did not end all American
concerns about the Vietnam war. Many of those who had opposed the U.S. efforts in Southeast Asia or had sought immediate U.S. withdrawal from Southeast Asia particularly expressed concerns about the U.S. re-engaging in Southeast Asia. For instance, Senator Mansfield expressed concern that peace agreements had not been signed for Laos or Cambodia. Senator Fulbright issued a statement that “it is inevitable that many difficulties will arise out of the liquidation of this long and costly and bitter struggle.” Fulbright told an interviewer that peace could not be achieved without “a degree of violence” and that a lasting peace required “the people affected to work it out for themselves.” He advocated complete American disengagement from Indochina. Fulbright thought, according to a conversation he had with a journalist in early February 1973, that his Senate Foreign Relations Committee would be involved in the implementation of the Peace Accords, regardless of what the Nixon administration would have preferred, and would likely need to use congressional control of appropriations to secure that Committee’s role.

Also, the Accords did not end discussion of further antiwar legislative actions by Congress. On February 2, 1973, Senator Hubert Humphrey, Democrat of Minnesota, stated that he was ready to co-sponsor a bill to prevent the US from going back into Vietnam. On January 24, 1973, certain members of the House called for legislative action to prevent re-engagement. For instance, Representative Jonathan Bingham, a

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Democrat of New York, stated that the biggest question for the Accords was what happens if the agreements break down and the fighting resumes in South Vietnam. He said that President Nixon’s January 23 address had ominous overtones that the U.S. intended to police the agreements and that the only way to do that would be to send U.S. forces back to Vietnam and to send its planes back to bombing runs. Bingham said that Congress must take steps to see that this does not happen. Echoing Senator Fulbright, Bingham said that, if the agreements break down, it “will then be up to the Vietnamese, all of them, to work out their own problems.”

Representative Bella Abzug, also a Democrat of New York, cited sources that the Nixon Administration “would not hesitate” to use air and sea power in Indochina in response to blatant violations of the Peace Accords by North Vietnam. Abzug urged that, instead, Congress should use its fund cutoff powers to prevent Nixon from re-entering the war in Southeast Asia. Abzug, who identified herself as part of the “peace movement,” went further than Bingham and urged Congress to cut off funds for any military or paramilitary assistance to the government of South Vietnam.

Reflecting these concerns, on January 26, 1973, Senator Frank Church, a Democrat of Idaho, and Senator Clifford Case, a Republican of New Jersey, proposed a bill that required Congressional authorization for the reinvolvment of American forces in further hostilities in Indochina effective the later of sixty days after the Accords were signed or the meeting of certain other criteria. Representative Bingham and other representatives introduced this same bill in the House fifteen times between January 31, 1973 and May 3, 1973. The Senate bill was referred to the Senate Foreign Relations Committee and the House bills were referred to the House Committee on Foreign Affairs, but neither chamber took any

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198 Ibid.
further actions on these bills.\textsuperscript{199}

J. Incomplete Implementation of the Peace Accords

The parties successfully implemented some provisions of the Peace Accords and violated others. The Peace Accords resulted in the withdrawal of the remaining American troops in Vietnam by March 29, 1973 and the release of all American prisoners of war by April 1, 1973. There had been 591 American prisoners of war and they had been released in groups of forty.\textsuperscript{200}

While the Peace Accords brought an end to the direct American combat role in Vietnam, the fighting between the NVA/VC and South Vietnam continued.\textsuperscript{201} “Within less than a month after the cease-fire, areas of South Vietnam were engulfed in ‘extremely heavy fighting’.”\textsuperscript{202} A Senate Foreign Relations Committee staff study found that “Lack of respect for the Agreement is so widespread that it is impossible to apportion responsibility for the continued fighting.”\textsuperscript{203} More problematic, after the Peace Accords were signed, the North Vietnamese continued a massive infiltration of personnel and war goods into South


\textsuperscript{202} Asselin, \textit{Bitter Peace}, 182.

\textsuperscript{203} Hunt, \textit{Losing Vietnam}, 14.
Vietnam. To facilitate this, the Soviet Union and China increased their aid to North Vietnam and the North Vietnamese also worked on improving the Ho Chi Minh Trail.\footnote{204} Nixon and his administration publicly stated that there would be consequences if the North Vietnamese continued to violate the Peace Accords provisions regarding the ceasefire and infiltration of war equipment but did not publicly specify what those consequences would be. In Nixon’s words at an Address to the Nation on March 29, 1973, the “leaders of North Vietnam should have no doubt as to the consequences if they fail to comply with the agreement.” The New York Times and The Washington Post ran editorials against such actions.\footnote{205} As noted above, many members of Congress opposed a variety of enforcement options.\footnote{206}

Kissinger urged Nixon to respond to these violations, but Nixon hesitated to do so. Nixon, in his conversations on March 20, 1973 with aides Alexander Haig and Brent Scowcroft, exhibited a very strong reluctance to take significant enforcement actions against the North Vietnamese, such as bombing North Vietnam.\footnote{207} For instance, on March 20 1973, Nixon told Brent Snowcroft, Nixon’s Deputy Assistant for National Security Affairs: “But, as far as the use of American air power against North Vietnamese forces coming into the South, unless there is a raw, naked invasion [unclear] it’d be terribly—it

\footnote{204} Kissinger, Years of Upheaval, 317; Asselin, Bitter Peace, 183; Willbanks, Abandoning Vietnam, 189.
\footnote{206} See Section II, Part 2, Paragraph I above.
would be impossible, really, to get it without a Congressional uproar.” Nixon also raised the issue about how to explain renewed bombing. He told Snowcroft: “To guarantee the settlement? Of course, we’ve told Thieu we’d do it and all that. But, we’ve also told the American people that we’ve gotten them ready to defend themselves, and they’ve got an air force and all the rest, and they [the American people] say, ‘Why the hell don’t they [the South Vietnamese] do it?’”

Kissinger attributes Nixon’s failure to act to the psychological impact of Watergate on Nixon. Nixon later attributed his unwillingness to act to the lack of support from Congress. By mid-April, 1973, the possibility of U.S. bombing of North Vietnam in retaliation for violations of the Peace Accords seemed very low to Washington observers.

K. The Impact of Watergate - Staff Changes

During the January through June 1973 time period when Congress considered and debated numerous antiwar actions, bills and amendments, the Watergate scandal grew in substance and notoriety. During this same time period, the impact of the Watergate scandal on the conduct of the Nixon administration and the relationship of Congress with the Nixon administration also grew.

The Watergate scandal resulted in many significant staff changes in the Nixon administration. Due to the scandal, on April 30, 1973, Nixon accepted the resignation of his two closest aides, Bob Haldeman and John Ehrlichman, and also of Richard

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209 Kissinger, Years of Upheaval, 324.
211 Bundy, A Tangled Web, 384.
Kleindienst, the Attorney General.\textsuperscript{212} In May 1973, Alexander Haig became Nixon’s chief of staff, replacing Bob Haldeman. On June 6, 1973, Melvin Laird (who had resigned as Secretary of Defense in January 1973) became Nixon’s counselor for domestic affairs, a position similar to that previously held by John Ehrlichman.\textsuperscript{213}

The appointment of Laird occurred, at least in part, because Gerald Ford had become concerned that Nixon, because of the Watergate scandal, was no longer making decisions on legislation and other issues critical to Congress and the administration. Ford helped recruit Laird to this White House position, with the help of both the Republican leader of the Senate (Hugh Scott) and the Democratic leaders of the House and Senate (Carl Albert and Mike Mansfield, respectively).\textsuperscript{214} Laird later stated that, during this time as Counselor, when he went to see President Nixon, Nixon “was not really with you. It was like he was in a cocoon.” So, Laird and Harlow just made the decisions on legislation: “yes on this bill, no on that one.”\textsuperscript{215}

L. Cambodia and the Congressional Response (1973)

1. The bombings in Cambodia continued

While the U.S. did not conduct ground or (with rare exceptions) air combat operations in Vietnam after the Peace Accords were signed, it did conduct air combat

\textsuperscript{214} Cannon, \textit{Ford}, 118. See also, Atta, \textit{With Honor, Kindle}, Chapter 4 (Loc. 6267 -6289).
\textsuperscript{215} Cannon, \textit{Ford}, 118.
operations in Cambodia from February 1973 to August 1973. The Peace Accords did not directly apply to Cambodia, and after the Peace Accords were signed, the fighting in Cambodia between the government of Cambodia supported by the U.S. and the Khmer Rouge supported by the North Vietnamese continued. U.S. bombing in support of the Cambodian government paused after the Peace Accords were signed and then resumed in February 1973 in response to continued offensives by the Khmer Rouge.  

In contrast to the secrecy of the Cambodian bombings in 1969 and the first part of 1970, the Cambodian bombings after January 1973 were widely known and openly discussed. For instance, in March 1973, the U.S. military disclosed that, in support of Cambodian government troops, American warplanes continued to participate in bombing missions against Communist positions and supply routes in Cambodia. News articles about the bombings appeared in the *New York Times*, among other places, in March, April, and May 1973. A subcommittee of the Senate Foreign Relations Committee arranged for an investigation in April 1973 of the American air war in Cambodia, which included visits to the Seventh Air Force Headquarters and to the U.S. Embassy in Phnom Penh, Cambodia. These investigations resulted in staff reports prepared by Committee staffers James G. Lowenstein and Richard M. Moose. One staff report was called “Report on the Air War in Cambodia” and was released to the public on April 27, 1973. 

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second staff report was called “Thailand, Laos, Cambodia, and Vietnam: April 1973” and was dated June 11, 1973.\textsuperscript{220}

2. The critics of Nixon’s Indochina policies respond

Critics of Nixon’s Indochina policies harshly criticized the 1973 air war in Cambodia and the Nixon administration strongly defended it. Congress argued these issues in floor debates, reports, and hearings in April, May, and June 1973. These debates often took place in connection with proposed legislation, or riders or amendments to proposed legislation, concerning the Cambodia air war, the Vietnam War in general, or appropriations related to them, or proposed bills on other matters that Nixon would hesitate to veto because of their importance to the ongoing functions of the U.S. government. These bills included proposed legislation to raise the debt ceiling, to fund the State Department, and others.\textsuperscript{221}

Senator Frank Church, a Democrat of Idaho, and Senator Clifford Chase, a Republican of New Jersey, introduced in January 1973, one of the more significant antiwar proposals, which became known as the Case-Church amendment. This amendment provided that no funds previously or subsequently appropriated by Congress could be used to finance the involvement of U.S. military forces in North Vietnam, South Vietnam, Laos, or Cambodia unless specifically authorized by Congress.\textsuperscript{222} Case and

\textsuperscript{220} Bundy, Tangled Web, 592, note 83.
\textsuperscript{222} CRS, Congressional Restrictions on U.S. Military Operations, CRS-21; Eagleton, War and Presidential Power, 149.
Church had offered an earlier version of the Case-Church Amendment in 1972 for inclusion in a military aid bill, but the Senate defeated this amendment in a 48-42 vote in August 1972.\(^{223}\) In June 1973, the Senate attached the Case-Church amendment to a bill authorizing funds for the State Department for the fiscal year beginning July 1, 1973 and then on June 14 passed that bill by a vote of 67 to 15.\(^{224}\) The Senate and the House held at least five conferences before they were able to finalize and pass the final version of this State Department authorization bill with the Case-Church amendment, which therefore did not become law until October 1973.\(^{225}\)

Eventually, in May and June, 1973, the legislative battles on the Cambodian bombing became focused on two bills. First, Congress focused on a second supplemental appropriations bill for fiscal year 1973 (July 1, 1972 to June 30, 1973), which in its initial version was numbered H.R. 7447. Second, Congress focused on a continuing resolution for funding for fiscal year 1974 (July 1, 1973 to June 30, 1974) for certain parts of the federal government for which regular appropriations bills had not yet been passed, which resolution was numbered H.J. Res. 636.


Representative George Mahon, a Democrat of Texas and Chairman of the House Appropriations Committee, sponsored the second supplemental appropriations act for the


fiscal year ended June 30, 1973 (H.R. 7447), which was introduced in the House on May 3, 1973. The grand total of the new budget authority proposed was about $2.9 billion. The bill included appropriations for a variety of programs and costs, such as grants to states for public assistance, flood and disaster relief programs, firefighting costs, claims and judgments against the federal government, pay and retirement costs, higher education, nutritional programs for the elderly, defense, and other matters. The bill reported by the House Appropriations Committee also included additional transfer authority totaling $430 million to provide, among other things, the Department of Defense the flexibility needed to cover additional costs in Southeast Asia that might develop.

Congressman Joseph P. Addabbo, a Democrat from New York, proposed an amendment to the bill to prohibit the Defense Department from transferring funds to pay for military activities in Southeast Asia, including bombing in Cambodia. The Committee defeated this proposed amendment by a vote of 31-14. The Committee Report dated May 3, 1973 accompanying H.R. 7447 to the House floor included two minority reports. The dissenters filing one report included Joseph Addabbo, John J. Flynt (Democrat of Georgia), Robert N. Giaimo (Democrat of Connecticut), Clarence D. Long (Democrat of Maryland), and Sidney R. Yates (Democrat of Illinois). This first report briefly explained the opposition to the transfer authority. First, the transfer authority can be and has been used to fund and support aerial warfare over Cambodia and possibly other parts

of Southeast Asia and would be a blank check giving Congressional approval to past combat activities and any future combat activities. This would be reminiscent of the history of U.S. involvement in Vietnam and the erosion of Congressional influence in decisions concerning Southeast Asia. Second, the dissenters said that they were apprehensive that the aerial warfare could result in the re-introduction of American ground troops into Indochina. Third, the continuing air warfare could result in new American prisoners of war. 229

Robert Giaimo, Sidney R. Yates, and others filed another minority report that explained additional reasons to oppose the transfer authority. This second report asserted that the Nixon administration’s ongoing bombing in Laos and Cambodia was unconstitutional because the Gulf of Tonkin Resolution, which President Johnson had relied on for authority for armed intervention in Indochina, had been repealed, because American armed forces were no longer being attacked and American air warfare was no longer necessary to protect them, and because the Nixon administration had not sought other authority from Congress to bomb in Cambodia or Laos (and, this second report contended, unspecific transfer authority was not sufficient to provide such authority). This second report also expressed the fear that the Nixon administration might also return to bombing North Vietnam. The second report concluded that a limitation should be placed on the transfer authority to prohibit the use of the funds for combat activities in Cambodia and Laos, and also to prohibit the use of the funds for combat activities in Vietnam. 230

4. The House Passes H.R. 7447 with Antiwar Amendments

H.R. 7447 as reported by the House Appropriations Committee to the House included the $430 million transfer authority requested by the Department of Defense (that is, it did not include the Addabbo amendment) and did not include any limit on U.S. military activities in Southeast Asia. Mahon introduced the bill on the floor of the House, and the House agreed to hear the bill as a committee of the whole and limit debate to two hours. The bill, and the impact on the Cambodian bombing, had already been discussed and debated extensively in committee hearings and elsewhere, but the ensuing debate on May 10th had a special edge since voting on the bill by the full House was fast approaching. Mahon summarized the highlights of the bill and noted the Vietnam War as the major item of controversy associated with the bill. Members of Congress opposed to the Department of Defense transfer authority responded with a torrent of criticism. For instance, Representative Yates repeatedly asked Mahon what constitutional or congressional authority Nixon had for bombing in Cambodia. Mahon replied that Congress had appropriated money for the U.S. military and that consideration of a supplemental appropriations bill is not the time for a discussion of these constitutional issues.

Eventually, Representative Addabbo proposed an amendment to H.R. 7447 to eliminate the Department of Defense $430 million transfer authority. This was the same amendment that Addabbo had proposed to the Appropriations Committee on May 3,

\[232\] Ibid., 15282-15283.
\[233\] Ibid., 15283-15284.
which the Appropriations Committee had rejected. According to Addabbo, the Defense Department was seeking the transfer request to put the Congressional stamp of authority on the bombing in Cambodia, even though the transfer request did not say so explicitly.\textsuperscript{234} The reasons Addabbo cited to support his amendment included: we should avoid giving the President a free hand to order military action without the express approval of Congress, Cambodia is not strategic to the defense of the United States, American troops have already been withdrawn from Southeast Asia and the American POWs have been returned, we want to avoid the loss of more American lives, and we want to avoid triggering a new war.\textsuperscript{235} Addabbo also appended to his remarks a copy of an editorial from the May 7, 1973 edition of the Long Island press entitled “Stopping the Blood Money,” which stated that [w]hat happens next in Cambodia, like what happened before in Indochina, is not our business.”\textsuperscript{236}

After the debate, on May 10, the House voted 219 to 188 to adopt the Addabbo amendment. This was the first time in six years that the full House, which had long been Nixon’s bulwark against antiwar legislation, had voted for a broad, generalized bill to stop U.S. military action in Southeast Asia.\textsuperscript{237} The House doves appreciated the significance of the vote. House members stood on the House floor as the votes were tallied, counted down the time remaining to vote, cheered when the vote for the Addabbo amendment reached 200 and began “jumping for glee” when the vote reached 218, which was a majority of the

\textsuperscript{234} Ibid., 15291.
\textsuperscript{235} Ibid., 15291-15292.
\textsuperscript{236} Ibid., 15330-15331.
435 House members.\textsuperscript{238} Doves had proposed numerous antiwar provisions in 1972 and they all failed in the House, never getting more than 177 votes.\textsuperscript{239} Passage of the Addabbo amendment demonstrated a shift of voting control in the House from hawks to doves.

Immediately after passage of the Addabbo amendment, Representative Clarence Long, Democrat of Maryland, proposed as additional amendment to H.R. 7447 to provide that none of the funds appropriated to the Department of Defense under H.R. 7447 could be expended to “support directly or indirectly combat activities in, over or from off the shores of Cambodia by United States Forces.”\textsuperscript{240} The Long amendment did not contain a broad ban on U.S. military activity in Cambodia, but applied only to funds to be appropriated under H.R. 7447. Republican minority leader Gerald Ford spoke against the Long amendment and also criticized the just-passed Addabbo amendment. Ford said that “this is a very, very sad day in the House of Representatives.” Because of the strength of the majority in the House, both Republicans and Democrats, who were strong in the face of adversity, in the last 3 ½ years, the United States has been able to withdraw 540,000 U.S. military personnel from Vietnam, to get back the American POWs, and to achieve a peace agreement. Ford stated:

This group on both sides of the aisle did not bow down and capitulate to the mobs that stormed the steps of the Capitol, and we did not listen to the prophets of doom in the Chamber of the House of Representatives… A policy of strength for America is good for us and a policy, that I interpret as one of weakness, is not good for America…At no time in the history of this country have we achieved results by standing still or backing off. My interpretation, without commenting on

\textsuperscript{239} \textit{CQ Almanac 1973}, “Indochina Bombing Ban.”
how one person or another voted on the vote that was just taken, is that an affirmative vote for the Addabbo or Long amendment is a backing off from a responsibility that could lead to dire and serious consequences not only in Southeast Asia but the world as a whole. It amazes me as well as disappoints me that the House of Representatives, which has a track record of strength and firmness, is now cringing and crumbling. I am disappointed and saddened.  

The Democrats responded to Ford’s remarks “with a chorus of groans.”

Subsequently, Representative Stratton proposed changing the Long amendment to provide that the ban on U.S. military forces in Cambodia not take effect for 2 months. Stratton argued that the Peace Accords contemplated ceasefires in Vietnam, Laos, and Cambodia, and that, while ceasefires had been negotiated in Laos and Vietnam, more time was needed to negotiate a ceasefire in Cambodia. Congress does not want to be responsible for making it impossible to get a ceasefire in Cambodia, which would virtually assure that the ceasefire in Vietnam would not be effective either. Representative Yates, a Democrat of Illinois, spoke against the Stratton amendment, as did others. Yates stated that the effect of the Stratton amendment would be to make the Long amendment “moot and inoperative.” The Long amendment applied only to the remaining two months of the fiscal year ending June 30, 1973, but the two-month delay proposed by the Stratton amendment delayed the effective date beyond June 30, 1973. The Stratton amendment was rejected by the House on a vote of 180-219.

The Long amendment triggered its own debate even though the pros and cons of

241 Ibid.
244 Ibid., 15319.
245 Ibid., 1973, 15321.
246 Ibid., 15322.
that significantly overlapped the pros and cons of the Addabbo amendment.\textsuperscript{247}

Representative Richard Hanna, a Democrat of California, supported the Long amendment based on what he called a “historical perspective.” According to Hanna, since World War I, the U.S. has been involved in military conflicts or the threat of military conflicts. However, the U.S. is at a point in history where the military will be less important, and the power of the U.S. will be based on economics “in trying to solve the problems of the world instead of destroying the people of the world.” The Addabbo amendment and the Long amendment “point us in that direction of history” and they should be supported.\textsuperscript{248}

In contrast, Representative Floyd Spence, a Republican of South Carolina, stated that:

As leaders of the free world, we have an obligation to help small nations remain free. In addition to the moral responsibilities we have, we should be able to consider our own self interests. Either we fight now or we fight later…

Those who keep introducing or voting for resolutions which seek to hamper our efforts in Southeast Asia must admit one of two things. Either they believe that left alone, communism will cease its aggressions, which is naive in the extreme, or that they just do not care whether those countries go Communist or not.\textsuperscript{249}

Representative Jake Pickle, a Democrat of Texas, stated ambivalent thinking on the Addabbo and Long amendments. Pickle wanted to stop the bombing in Cambodia. However, he would have preferred that the antiwar amendments to H.R. 7447 be limited to Cambodia and not be applicable to all of Indochina. That is, Pickle believed that the Addabbo amendment was too broad. Also, Pickle did not want to unduly tie the hands of the President, who might want to maintain troops in Thailand or other southeast Asia.

\textsuperscript{247} Ibid., 15321.
\textsuperscript{248} Ibid., 15319-15320.
\textsuperscript{249} Ibid., 15320.
locations, in ships off the coast of South Vietnam, or in any of the U.S. bases.”

Pickle voted in favor the Addabbo amendment, the Long amendment, and the May 10 House version of H.R. 7447, which included both of these amendments. However, Pickle also voted in favor the Stratton amendment, which would have delayed the effective date of the Long Amendment. After the debate, the House passed the Long amendment by a vote of 224-172.

H.R. 7447 needed to clear some final hurdles before the vote on the final House version. Representative Ford demanded a separate vote on the Addabbo amendment. In this separate vote, ten Republican representatives switched from support of the Addabbo amendment to opposition. Nevertheless, the Addabbo amendment was again approved, but by a closer vote of 194-187. With these final hurdles cleared, on May 10th, the House approved H.R. 7447 with the Addabbo and Long amendments by a vote of 284-96.

2. The Senate Approves H.R. 7447 with Antiwar Amendments

The Senate Appropriations Committee received referral of H.R. 7447 on May 14th and on May 18 reported H.R. 7447 to the Senate with the Committee’s approval. While the House-passed version of H.R. 7447 provided that none of the funds appropriated to the Department of Defense under H.R. 7447 could be used to fund military activities by U.S. forces in, over or from off the shores of Cambodia, the Committee recommended a revised amendment under which the prohibition was extended to Laos in addition to Cambodia.

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250 Ibid., 15321.
251 Ibid., 15319, 15322, 15323, 15329.
252 Ibid., 15323.
253 Ibid., 15328; CQ Almanac 1973, “Indochina Bombing Ban.”
and the prohibition was extended to apply to previously appropriated funds as well as funds appropriated under H.R. 7447. The extension to Laos resulted from an amendment proposed by Senator Edward Brooke, a Republican of Massachusetts. The extension to past appropriations resulted from an amendment proposed by Senator Thomas Eagleton, a Democrat from Missouri. On May 15th, the Committee voted 24-0 to approve this revised amendment (sometimes referred to as the “Eagleton Amendment”). This unanimous vote made the front page of the May 16, 1973 New York Times, which reported that the vote “added significant momentum to the growing Congressional drive to halt the bombing.”

Nevertheless, the Nixon administration and its allies fought back. The Republican leadership in the Senate delayed consideration of H.R. 7447 by, at the request of the Nixon administration, using Senate rules allowing time for minority reports. This delay allowed the Nixon administration to continue to bomb in Cambodia, while pursuing negotiations, for another month without limitations imposed by Congress. Senator Roman Hruska, a Republican from Nebraska, and Senator Gale McGee, a Democrat from Wyoming, filed a minority report to the Senate Appropriation Committee report that had approved H.R. 7447. This minority report stated objections to the prohibitions on the use of funds from U.S. military operations in Cambodia and Laos. Hruska had initially voted in favor of these prohibitions and McGee had been absent from the Committee when they

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were initially approved.²⁵⁹

In response to the Committee’s unanimous approval of the Eagleton Amendment, on May 16th (the day after the Amendment was approved), Nixon issued a statement that settlement negotiations to provide for compliance with the Peace Accords were about to begin and that Congress had “taken action that could severely undermine prospects for success.”²⁶⁰ Similarly, in remarks at Armed Forces Day Ceremonies, on May 19th at Norfolk Naval Base in Virginia, Nixon spoke more generally that “it would be a crime against the memory of those Americans who made the ultimate sacrifice for peace in Indochina, a serious blow to this country’s ability to lead constructively elsewhere in the world, for us to stand by and permit the peace settlement that we reached in Paris to be systematically destroyed…”²⁶¹

After H.R. 7447 reached the Senate floor, Senator Hruska, now fully committed to opposition to the Eagleton Amendment, raised a point of order under the Senate rules that limitations on the use of funds in general appropriation bills such as H.R. 7447 must be limited to the appropriations made in that bill. The Eagleton Amendment, however, would go beyond this by including a limitation on the spending of funds under any previous act.²⁶² Procedural technicalities often yield to the greater goal of achieving preferred and emotionally driven policy ends, so, not surprisingly, much of the debate on the point of order turned on the merits of the substance of the Eagleton Amendment to terminate

funding for U.S. bombing in Cambodia. For instance, Senator Mansfield, a Democrat of Montana and the majority leader, said that: “we are raining tens of thousands of tons - hundreds of thousands of tons by now, I dare say - on a hapless people who ask for nothing but peace. Their country has been pulverized, craterized, refugeeized to such an extent that the people have no place to go… [L]et these people decide their own destinies.”

Senator John Tower, a Republican of Texas, responded that: “We are not bombing civilians over there. We are bombing North Vietnamese troops who are there in direct contravention of article 20 of the peace agreement.”

Senator Eagleton spoke to the procedural issue, arguing that the Eagleton Amendment was germane to the appropriations in H.R. 7447 and thus did not violate the Senate rules. First, H.R. 7447, is replete with legislation on appropriations. Second, at the time the House passed its version of the Addabbo and Long amendments, then Secretary of Defense Elliott Richardson stated that the United States would continue to bomb in Cambodia anyway since the administration could find the money elsewhere. According to Eagleton, this made clear that the Eagleton Amendment was needed to prevent the continuation of the bombing in Cambodia since this amendment prohibits the use of previously appropriated amounts, as well as amounts appropriated in H.R. 7447.

Regardless of the strengths and weaknesses of the arguments made, on this day the doves had the votes. In the key vote showing Senate support for the Eagleton Amendment, on May 29, the Senate voted 55-21 that the Eagleton Amendment was germane to the House-passed version of H.R. 7447.

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263 Ibid.
264 Ibid., 17135
The hawks continued their opposition. On May 31, 1973, Republicans proposed two alternative amendments to H.R. 7447 to weaken the Eagleton Amendment. Senator Robert Taft, Jr., a Republican of Ohio, proposed an amendment to make an exception to the Eagleton Amendment that would allow the U.S. air combat activities in Cambodia and Laos directed solely against North Vietnamese forces. This amendment would not permit U.S. air support for the benefit of the Cambodian government but would permit the U.S. to bomb the North Vietnamese to enforce the Peace Accords.\textsuperscript{267} Senator Symington, a Democrat from Missouri, argued that the President has no Constitutional authority to bomb in Cambodia and so the Taft amendment would make an exception to allow the President to conduct bombing for which he has no underlying authority to conduct in the first place.\textsuperscript{268} Eagleton argued that such bombing, even if authorized (and it is not) would be impractical and would require highly accurate and sophisticated intelligence.\textsuperscript{269} The Senate rejected the Taft amendment by a vote of 17-63.\textsuperscript{270}

Senator Robert Dole, a Republican of Kansas, offered another amendment to provide that the Eagleton Amendment would not become effective if the President informed Congress that the North Vietnamese were not making an accounting, to the best of their ability, of all missing in action personnel of the United States in Southeast Asia, or if they are not otherwise complying with the provisions of the Peace Accords on the return of captured military personnel.\textsuperscript{271} Eagleton recognized that the Dole Amendment had considerable emotional appeal, and, in case anyone should miss that point, Dole

\textsuperscript{268} Ibid., 17159, 17660
\textsuperscript{269} Ibid., 17660
\textsuperscript{270} Ibid., 17663.
\textsuperscript{271} Ibid., 17668.
placed in the stark black and white of six, three-columned pages of the Congressional Record the names of 1,391 Americans still missing in action and unaccounted for.\textsuperscript{272} Dole also stated that the one factor that provides all the argument necessary against the full implementation of the Eagleton Amendment was that, until the Cambodian conflict ends, the war and the threat of war to all of Southeast Asia will not end.\textsuperscript{273} Eagleton argued that the Dole amendment was intended to obscure the central issue of whether Congress should give legal sanction for the war in Cambodia and that “we have come too far to be hoodwinked into authorizing a new war in Indochina through the back door.”\textsuperscript{274} Senator Mansfield argued that the Dole amendment would allow the bombing to continue indefinitely because it could take a long time for the status of missing in action personnel to be resolved, noting that the United States is still identifying missing in action personnel from World War II. Also, if the United States continued bombing it will create more missing in action personnel.\textsuperscript{275} The Senate rejected the Dole amendment by a vote of 25-56.\textsuperscript{276}

After the Senate defeated the Dole amendment, it returned to debate on the Eagleton Amendment and moved to a final vote on the Eagleton Amendment and H.R. 7447. Eagleton argued that the Nixon administration had neither Constitutional authority nor Congressional authority to continue the bombing in Cambodia. The administration previously had argued that it had authority to continue the bombing to protect the American soldiers still in Southeast Asia, but, Eagleton stated, that argument no longer

\textsuperscript{272} Ibid., 17669-17674; Eagleton, \textit{War and Presidential Power}, 165.
\textsuperscript{274} Ibid., 17680.
\textsuperscript{275} Ibid., 17686.
\textsuperscript{276} Ibid., 17687; \textit{CQ Almanac 1973}, Indochina Bombing Ban.
applied since the withdrawal of U.S. forces has been completed. Also, Eagleton and others asserted that bombing should be stopped because of the terrible effect the bombing was having on Cambodia, including the destruction of villages and homes, the killing and maiming of individuals, and the creation of refugees. Senator Glenn Beall, a Republican of Maryland, argued against the Eagleton Amendment, stating that Congress should not take unilateral action that would interfere with ongoing negotiations to extend to Cambodia the ceasefire created by the Peace Accords.  

On May 31, with the debate concluded, the Senate passed the Eagleton Amendment by a vote of 63-19. Shortly thereafter, it passed H.R. 7447, which included the Eagleton Amendment, by a vote of 73-5.  

3. Conferences and Final Passage  
The House and Senate passed different versions of H.R. 7447. Among other things, the Senate version included the Eagleton Amendment, which banned use of past appropriations to fund U.S. military action in Indochina, and the House version did not. The two versions of the bill went to a House-Senate conference to reconcile them. The conferees held five sessions for this purpose, and, on June 19, 1973, issued their report. The conferees included a large group of hawkish members of Congress, and the report did not approve the Eagleton Amendment. However, George Mahon, who was Chairman of the House Appropriations Committee, agreed to allow the Eagleton Amendment to be considered by the full House. 

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On June 25, 1973, Representative Giaimo moved that the conference report be revised to provide approval for the Eagleton Amendment. On the House floor, Mahon argued against the Eagleton Amendment, claiming that it would be “interpreted by many as an indefensible act at a time when negotiations are under way and when the chances appear to be good that the war in Southeast Asia will indeed be brought to an honorable and reasonable and satisfactory conclusion.”

Representative Thomas (“Tip”) O’Neill, a Democrat of Massachusetts who was the Democratic House majority leader, argued in favor of the Eagleton Amendment. He stated that he had heard the “light at the end of the tunnel” argument too many times and that “the only way to get to the crux of the whole problem is to stop the bombing over there.” That same day, the House approved the Giaimo motion, and thereby approved the Eagleton Amendment, by a 235-172 vote.

Following this vote, Representative Mahon submitted a motion to delay the effective date of the Eagleton Amendment until September 1, 1973. Initially, Mahon’s proposal passed by a vote of 205-204. Then, Representative K. Gunn McKay, a Democrat of Utah, who had voted in favor of the Mahon proposal, announced that he had “paired” with Representative John Moss, a Democrat of California, who was absent and who would have voted against the Mahon proposal. Therefore, McKay withdrew his yes vote and voted “present.” This tied the vote at 204-204 and caused Mahon’s proposal to fail. The Democrats in the House cheered and applauded.

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282 Ibid., 21172.
283 Ibid., 21173.
284 Ibid.
After the doves prevailed on approving the Eagleton Amendment and defeating the proposed delay on the effective date of the Eagleton Amendment, the House approved H.R. 7447 (with the Eagleton Amendment included) by a voice vote. On June 26, the Senate approved H.R. 7447 (with the Eagleton Amendment included) by a vote of 81-11. This H.R. 7447 was presented to Nixon that same day.  

M. How Congress Moved to Dove Control

Between 1964 when Congress passed the Gulf of Tonkin resolution by overwhelming majorities (unanimously in the House and with only two negative votes in the Senate) and mid-1973, Congress cast numerous votes to restrict or terminate U.S. military actions in Southeast Asia, but was not successful in ending the U.S. military role. By 1972, the Senate had moved to dove control (that is, where a majority supported antiwar resolutions). The House also moved toward dove control but did not cross to majority dove control until the May 10, 1973 vote on the Addabbo amendment.

By June 1973 the Senate had already approved bills with antiwar riders, which then usually failed because the House would not approve them or for other reasons. Nevertheless, the support for antiwar measures in the Senate continued to grow after 1972. Election results accounted for part of this. As a result of the 1972 elections, the Democrats

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had a net gain of two Senate seats, increasing their majority to 56 Democrats to 42
Republicans. This included the Democrats taking six Republican-held seats, and five of
these six senators held strong anti-Vietnam war positions. These five included the newly
elected Democratic Senator from Delaware, Joe Biden, a 29-year-old New Castle County
Councilman, who did not make personal attacks on his opponent but emphasized his
opposition to the Vietnam war. Opposition to the war also increased among
Republican senators. For instance, on June 14, 1973, Republican minority leader Senator
Hugh Scott voted in favor to the Case-Church amendment to the State Department
authorization bill, explaining his vote by saying “We have had it!” Senator Milton
Young, a Republican of North Dakota, told Tom Korologos, a Deputy Assistant to the
President for Congressional Relations, that he could no longer support Nixon on the
Vietnam War because the soldiers that are returning were now drug addicts.

In the House, prior to May 1973, Nixon had relied (usually successfully) on a
coalition of House Republicans and conservative Democrats to support his administration
on Southeast Asia. In May, the voting patterns changed. Speaker of the House Carl
Albert, a Democrat from Oklahoma, had previously always supported the Nixon
administration on Southeast Asia policy, but on May 3, 1973, when the Democratic
Steering and Policy Committee considered the Addabbo amendment, Albert voted in

https://en.wikipedia.org/wiki/1972_United_States_Senate_elections
291 Johnson, Congress and the Cold War, 186 -187; Michael Barone, Grant Ujifusa, and Douglas Mathews,
The Almanac of America Politics: The Senators, Representatives – their records, states and districts. 1974
292 Eagleton, War and Presidential Power, 170.
support of that amendment.\textsuperscript{295} The representatives who switched their votes from hawk on the Bolling amendment (which was approved in August 1972 as discussed above) to dove on the Addabbo amendment included many moderates who were close to Speaker Albert and many representatives who were moderates from Southern and border states.\textsuperscript{296} However, geography continued to correlate with the likelihood of a representative supporting or not supporting antiwar resolutions. The vote on George Mahon’s June 25 amendment to delay to September 1 the effective date of the ban on the use of U.S. military forces in Cambodia and Laos illustrates this. The majority of the House members from the Midwest and South supported the delay to September 1, but representatives from the East and West opposed the delay by a large margin.\textsuperscript{297}

In the House, in 1972, the antiwar votes on the Bolling amendment (that is, the votes against the Bolling amendment) consisted of 154 Democrats and 23 Republicans. On May 10, 1973, the votes in favor of the antiwar Addabbo amendment consisted of 184 Democrats (an increase of 30 antiwar votes) and 35 Republicans (an increase of 12).\textsuperscript{298} As for the Democrats, about half the increase came from veteran House members who had previously supported the pro-administration Bolling amendment. The other approximately half came from first-year representatives (that is, representatives first elected in 1972 and serving their first term in the House). Of the 26 first-year Democrats, 24 voted for the Addabbo amendment. Of the 42 first-year Republicans, only 4 voted for the Addabbo amendment.\textsuperscript{299}

\textsuperscript{295} CQ Almanac 1973, “Indochina Bombing Ban.”
\textsuperscript{296} Bundy, A Tangled Web, 388.
\textsuperscript{297} CQ Almanac 1973, “Indochina Bombing Ban.”
Examples of first-year, Democratic members of Congress that voted in favor of the Addabbo amendment include Elizabeth Holtzman of New York, James Jones of Oklahoma, Jerry Litton of Missouri, Dale Milford of Texas, Charles Rose of North Carolina, Pete Stark of California, Gerry Studds of Massachusetts, and Charles Wilson of Texas. These new members of Congress increased the number of votes for the Addabbo amendment. Holtzman, Jones, Litton, and Stark replaced members of Congress that had voted in favor of the Bolling amendment (that is, replaced a hawkish vote). Rose, Studds, and Wilson replaced members of Congress that did not vote on the Bolling amendment. Milford filled a new seat that did not exist at the time of the vote on the Bolling amendment.300 Holtzman, Stark, and Studds won election to their new seats while making explicit their opposition to the U.S. actions in the war in Vietnam. Elizabeth Holtzman won her seat in the Brooklyn, New York area by defeating the Democratic incumbent Emanuel Celler in the primary. Eighty-four-year-old Celler had first been elected to Congress in 1922 and had been a major supporter of civil rights legislation. Holtzman criticized Celler for being a consistent supporter of the war in Vietnam, as well as opposing the women’s equal rights amendment and not voting for important consumer, environmental, and education bills.301 Pete Stark won his seat in the East Bay, California area by defeating the Democratic incumbent George Miller (who had served 28 years in the House) in the primary and then defeating a Republican candidate in the general


election. Stark strongly opposed the war in Vietnam, which Miller had supported.\textsuperscript{302} Gerry Studds won his seat in the suburban Boston area in a close election for an open seat after the Republican incumbent retired. Much of the energy of his campaign came from his opposition to the war in Vietnam.\textsuperscript{303}

Examples of veteran representatives that switched from hawk on the Bolling amendment to dove on the Addabbo amendment included representatives of particular note, such as: Richard Bolling (a Democrat of Missouri) (He had been the sponsor of the hawkish Bolling amendment in 1972), Thomas Foley (a Democrat of Washington) (He had been an assistant to Senator Henry Jackson, a leading Democratic hawk. He later served as majority leader of the House and then Speaker of the House), Thomas E. Morgan (a Democrat of Pennsylvania) (He served as chairman of the House Committee on Foreign Affairs from 86\textsuperscript{th} through 93\textsuperscript{rd} Congresses), and Clement Zablocki (a Democrat of Wisconsin) (He served as long-time chairman of the Asia subcommittee of the House Foreign Affairs Committee).\textsuperscript{304}

This thesis describes above the explanations of several sources of why the House and the Senate moved from refusing to adopt antiwar legislation to supporting antiwar legislation.\textsuperscript{305} These explanations necessarily include explaining why the House moved from support of the U.S. actions in the Bolling amendment in 1972 to approval of the


\textsuperscript{305} See, Section I, Part 2 above.
Addabbo and Long amendments, and later the Eagleton Amendment, in 1973. The explanations below draw on these prior sources but provide further clarification.

First, the composition of the House and Senate changed, as noted above. This includes not only the election of new Senators and members of the House of Representatives, but a change in responsibilities and power of veteran lawmakers. In 1971, in the House some junior Democrats assumed subcommittee chairmanships and hired staff consultants that had been active in the anti-war movement.306

Second, the issues and circumstances concerning the war in Vietnam had changed. For instance, in 1972, the Foreign Assistance Act of 1972 considered by the House included a Section 13, which terminated the involvement of U.S. armed forces in Indochina no later than October 1, 1972, subject to a ceasefire to the extent necessary to protect a safe withdrawal, the release of all American prisoners of war, and an accounting of all Americans missing in action.307 The proponents of the Bolling amendment (which proposed to delete Section 13) had argued, among other things, that the adoption of the proposed Section 13 would interfere with the ability of the Nixon administration to negotiate a peace agreement.308 Since the Peace Accords had been signed in January 1973, that argument no longer applied in May and June 1973. The opponents of the Eagleton Amendment made the same argument in regard to negotiating a peace agreement for Cambodia, but that argument did not have the same impact.309 The Peace Accords had

306 Johnson, Congress and the Cold War, 180.
enabled the U.S. to complete the withdrawal of U.S. soldiers from Vietnam and to free American prisoners of war, but, since these had been accomplished, these purposes did not require a peace agreement for Cambodia. The signing of the Peace Accords and their implementation regarding the withdrawal of U.S. soldiers and the return of American prisoners of war had other effects on Congressional voting. For instance, Senator Norris Cotton, a Republican of New Hampshire, who had previously supported the Nixon administration on the war in Vietnam, stated at a Senate Appropriations Committee meeting on May 7, 1973 that he had become a dove since the U.S. got its prisoners home.310 Other members of Congress expressed concern that bombing in Cambodia would create more prisoners of war and that it would be difficult for the U.S. to get them back since the prisoner of war issue had already been settled by the January 1973 Peace Accords.311

Third, public opinion, or at least the perception of it, impacted how Congress voted on antiwar proposals.312 Commentators frequently stated how the war in Vietnam was no longer supported by the public.313 Polls at the time showed public opposition to the war, but also that support for Nixon’s handling of the war went up and down.314 Also, of course, in 1972, Nixon won re-election in a landslide against an explicitly antiwar candidate. Regardless of the true state of public opinion, many politicians perceived that the public was against the war in Vietnam in some sense. At a Senate Appropriations Committee hearing on May 7, 1973, the Chairman of the Committee, Senator John

310 Bundy, A Tangled Web, 387.
313 Karnow, Vietnam, 667.
McClellan (a Democrat of Arkansas), a long-time supporter of Nixon’s policies on Vietnam, stated in regard to the war in Vietnam, that “I am convinced that the American people will want no more of it.”

In May 1973, Representative Romano Mazzoli (a Democrat of Kentucky) told other representatives that during Easter recess he was repeatedly asked by members of the public: “I thought the war was over. Why are we still dropping bombs?”

Fourth, many Democrats disliked or were angry at Nixon, particularly because of the Nixon administration’s penchant to act without Congressional authority and to neglect keeping Congress informed. P. Edward Haley, in his 1982 book, Congress and the Fall of South Vietnam and Cambodia, contends that Nixon practiced the politics of acquiescence under which the executive branch took actions regardless of Congressional opposition and often in secret. This allowed the administration to have its way in the short term, but Congress reacted against the refusal of the administration to deal openly and eventually acted to close the loopholes that allowed the President to take military action in Indochina without approval by Congress.

Kenton Clymer, in his 2007 Troubled Relations: The United States and Cambodia Since 1870, also says that one reason Congress passed the Eagleton Amendment was because Congress was “seething with anger about the recent revelations of the secret bombing of Cambodia.” The Nixon administration could also anger the Democrats even when it was open with them. At a May 7, 1973 hearing, then

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315 Bundy, A Tangled Web, 387.
318 Haley, Congress, 26-32.
319 Clymer, Troubled Relations, 141.
Secretary of Defense Elliott Richardson stated that, even if Congress passed the Addabbo and Long amendments, the United States would continue to bomb in Cambodia anyway since it could find the money elsewhere. According to Representative Clement Zablocki, Richardson’s attitude helped convince many in Congress to support legislation to restrain the administration’s ability to conduct military operations.\textsuperscript{320}

Fifth, the Watergate scandal weakened the Nixon administration and decreased its ability to fight against proposed antiwar legislation.\textsuperscript{321} The effects of Watergate included the psychological impact on Nixon, such as his obsession with this scandal, the distraction from normal presidential business, and the loss of will. As described above, Watergate also led to a loss of staff, including those upon whom Nixon most relied, such as Haldeman and Ehrlichman, and the addition of new staff, such as Haig and Laird.\textsuperscript{322} Watergate led to a sharp decline in Nixon’s public approval, which made it easier for Congress to act contrary to his wishes. John Dean began his public testimony to Congress on Watergate on June 25, 1973 when Congress was finalizing its consideration of H.R. 7447 with the Eagleton Amendment, and this testimony provides a good, direct example of the impact of Watergate. On June 26, Laird told Kissinger that “we lost votes today because of that damn hearing yesterday.”\textsuperscript{323}

N. The Nixon Veto and the August 15 Compromise

\textsuperscript{320} Katz, “Invitation,” 19.
\textsuperscript{321} See, for instance, Johnson, Congress and the Cold War, 188-189; Katz, “Invitation,” 17-19; Kissinger, Years of Upheaval, 324.
\textsuperscript{322} See, Section II, Part 2, Paragraph K above.
\textsuperscript{323} Henry A. Kissinger papers, Part III, Yale University Digital Collections, Telephone Conversation Transcript Copies, Melvin Laird/Kissinger (June 26, 1973), 1. https://findit.library.yale.edu/catalog/digcoll:1191497 [“HK Telcon”].
On May 31, 1973, the Senate approved H.R. 7447 with the Eagleton Amendment. After the House and Senate reconciled their versions of H.R. 7447, both houses of Congress passed that legislation with the bans on combat in Cambodia and Laos and presented it to President Nixon on June 26, 1973. Congressman Gerald Ford, the Republican minority leader of the House, led the opposition to the Cambodia bombing ban. He became the spokesman in the House for the Nixon administration on this matter, and he spoke on the House floor against adoption of the Cambodia bombing ban.  

Melvin Laird, who had become domestic counsel to President Nixon on June 6, 1973, said in a June 27, 1973 interview with The Washington Post that President Nixon would veto every bill that came to him with an immediate Cambodia bombing ban, but that Nixon might accept a ban that became effective later. As predicted by Laird, on June 27, President Nixon vetoed H.R. 7447 because of the immediate Cambodia bombing ban, which, according to Nixon’s veto message:

…would cripple or destroy the chances for an effective negotiated settlement in Cambodia and the withdrawal of all North Vietnamese troops, as required by Article 20 of the January 27 Vietnam agreement… A total [bombing] halt would virtually remove Communist incentive to negotiate and would thus seriously undercut ongoing diplomatic efforts to achieve a ceasefire in Cambodia… [A] legislatively imposed acceptance of the United States to Communist violations of the Paris agreements and the conquest of Cambodia by Communist forces would call into question our national commitment not only to the Vietnam settlement but to many other settlements or agreements we have reached or seek to reach with other nations. A serious blow to America’s international credibility would have been struck …

Overriding the veto would have required a two-thirds or more vote in each house of Congress. The House tried but failed to override the veto, falling 35 votes short of the required two-thirds.\textsuperscript{327}

After the veto, the House Appropriations Committee submitted a new version of the second supplemental appropriations bill for fiscal year 1973 (H.R. 9055). The Committee also adopted an amendment to ban immediately the use of funds in the bill to support US combat activities in Cambodia and Laos and to ban the use of funds from any previous bills for such purposes after August 15, 1973.\textsuperscript{328}

The proponents of, and the opponents to, the Cambodia bombing ban made numerous efforts to reach a compromise. The Nixon administration assigned Mel Laird the task of dealing with Congress to preserve Nixon’s ability to carry out his policies, and Laird acted as liaison between Congress (both the House and the Senate) and the Nixon administration, which was conducting business from the western White House in San Clemente, California.\textsuperscript{329} Laird supported a “compromise” to delay the bombing ban until August 15.\textsuperscript{330} The \textit{New York Times} of June 29 reported that Representative Mahon said that he had spoken to Laird and that, as a result, he (Mahon) was “very much encouraged” that Nixon would approve the bill with the August 15\textsuperscript{th} cutoff date. Representative Elford Cederberg, a Republican from Michigan and the ranking Republican on the Appropriations Committee, gave assurances that Nixon would not veto an appropriations bill that delayed the effective date of the bombing ban until August 15. Cederberg gave

\begin{smallnotes}
328 Ibid.
330 Kissinger, \textit{Years of Upheaval}, 359
\end{smallnotes}
these assurances “based on consultations with the White House,” but he did not identify
with whom he had consulted. However, many supporters of previous antiwar legislation
said they would not accept the proposed August 15 delay. For instance, Representative
Robert Giaimo, a Democrat of Connecticut, and a member of the House Appropriations
Committee objected that the effect of the delay would be to authorize Nixon to continue
bombing.331

With the June 30 end of fiscal year 1973 fast approaching, on June 29, the House
continued to consider H.R. 9055, which included the compromise adopted by the House
Appropriations Committee after consultation with Laird, which banned immediately the
use of funds in the bill to support U.S. combat activities in Cambodia and Laos and
banned the use of funds from any previous bills for such purposes after August 15, 1973
(Section 307 of the bill).332 Soon after these considerations on June 29 began, Republican
minority leader Gerald Ford made an announcement (the “June 29th Announcement”)
from the House Floor that:

I have communicated directly with the spokesman at the White House last night
and again today, and I am authorized to say the following: No. 1, the President will
definitely accept and sign a bill that contains the language in section 307. No. 2-If
military action is required in Southeast Asia after August 15, the President will ask
congressional authority and will abide by the decision that is made by the House
and the Senate, the Congress of the United States. Let me add a third point. The
third point is just as clear as the other two. The President will definitely veto any
legislation that contains any restriction sooner than August 15. It is August 15. No
earlier date.333

Agrees to Stop Bombing by U.S. in Cambodia by Aug. 15, with New Raids Up to Congress, “New York Times,
(This proposed “compromise” is sometimes referred to below as the “August 15 Vietnam Compromise”). In response to questions and comments, Ford confirmed that “Southeast Asia” included North and South Vietnam.334

Ford did not identify the “spokesman” who authorized his “announcement, but he did make clear that he had not spoken to Nixon directly. As a result, some members of Congress (such as Republican Peter McCloskey from California and Democrat Giaimo) wanted a stronger and clearer commitment from Nixon that he would accept this August 15 Vietnam Compromise.335 After some time, at around 12:30 pm Washington time, Ford spoke to Nixon by telephone, and Ford subsequently announced on the House floor that he had talked to the President directly and the President had assured Ford that everything Ford had said on the House floor was a commitment by the President.336

In making the June 29th Announcement, Ford did not suggest an amendment to Section 307 (the antiwar rider). Rather, he said that he was authorized to say that if military action were required in “Southeast Asia” after August 15, the President would ask congressional authority and would abide by the decision made by Congress. In other words, he offered oral assurance by the president. When Representative John Heinz, a Republican of Pennsylvania, suggested that Section 307 be amended to reflect these oral assurances, Ford responded that such an amendment would not be necessary.337 Nevertheless, Representative Frank Evans, a Democrat of Colorado, proposed an amendment to the military ban to include North and South Vietnam as well as Cambodia.

334 Ibid., 22341-22342.
335 Ibid., 22340-22341.
336 Ibid., 22346; President Nixon’s Daily Diary, June 29, 1973.
and Laos, and the House approved this amendment by a voice vote.\textsuperscript{338} On June 29, 1973, the House passed by a vote of 278-124 a revised version of the Second Supplemental Appropriations Bill (H.R. 9055), which included a revised rider that banned the use after August 15, 1973 of past appropriations for U.S. military action in Cambodia, Laos, North Vietnam, and South Vietnam.\textsuperscript{339}

On June 29, 1973, the Senate passed, by a vote of 72-14, H.R. 9055 with the Eagleton Amendment with Section 307 amended to include Vietnam in the countries where U.S. could not take military action after August 15. This cleared the bill for action by the President.\textsuperscript{340}

On July 1, 1973, President Nixon signed H.R. 9055 and a companion bill, H.J. Res. 636, the continuing joint resolution, which also included a ban on U.S. military action in Cambodia, Laos, North Vietnam, and South Vietnam (H.J. Res.636 is discussed below). Nixon issued a weak and unenthusiastic signing statement, which mainly justified his earlier veto of H.R. 7447 and concluded that: “I will continue to take the responsible actions necessary to win that peace. Should further actions be required to that end later this year, I shall request the Congress to help us achieve our objectives.”\textsuperscript{341} On August 3, 1973, Nixon sent a letter to the Speaker of the House Carl Albert and the Majority Leader of the Senate Mike Mansfield stating Nixon’s “grave personal reservations concerning the

\textsuperscript{338} Ibid., 22348; \textit{CQ Almanac 1973}, Indochina Bombing Ban.


dangerous potential consequences” of H.R. 9055. In particular, “the incentive to negotiate a settlement in Cambodia has been undermined… This abandonment of a friend will have a profound impact in other countries, such as Thailand, which have relied on the constancy and determination of the United States.”

O.  H.J. Res. 636 and Senate Consideration

On June 26, 1973, the House passed H.J. Res. 636 and sent it to the Senate. H.J. Res. 636 was a continuing resolution for funding for fiscal year 1974 (July 1, 1973 to June 30, 1974) for certain parts of the federal government for which regular appropriations bills had not yet been passed. The original bill had been proposed by Representative Mahon. Representative Addabbo proposed an amendment that prohibited funds from the Joint Resolution to be expended to support directly or indirectly combat activities in or over Cambodia, Laos, Vietnam and South Vietnam or off the shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces without the express consent of Congress. Mahon offered a substitute amendment that prohibited this use of funds after September 1, 1973 in Laos or Cambodia. Representative Clarence Long moved to modify Mahon’s substitute amendment to make the funding ban effective immediately and to extend the ban to previously appropriated funds, but Long’s proposal retained the provisions of Mahon’s amendment that limited applicability to Cambodia and Laos. The House approved Long’s proposal, and H.J. Res. 636, as passed, provided for an

345 Ibid., 21310.
346 Ibid.
immediate bombing ban in Laos and Cambodia but did not cover U.S. military activity in Vietnam.\textsuperscript{347}

By June 28, the Senate was considering H.J. Res. 636 and proposing amendments to that bill to include limits on U.S. military activity in Southeast Asia. On that same day, the Senate Appropriations Committee reported out this bill with an amendment that banned U.S. military activity in Vietnam, as well as Cambodia and Laos, effective immediately.\textsuperscript{348}

Technically, the Senate Appropriations Committee had jurisdiction of H.J. Res. 636, but the Senate Foreign Relations Committee (the “SFRC”) took the lead in considering the proposed military ban amendment to that bill. According to Kissinger in his memoirs, the SFRC accepted the delay of the effective date of the Cambodian bombing ban to August 15, but opponents of the Cambodian bombing exacted the price of banning all US military activity in Indochina (including Vietnam) after that date.\textsuperscript{349} A biography of William Fulbright says that Fulbright, as chairman of the Senate Foreign Relations Committee, led the fight for the compromise on Cambodia – that is, to allow the bombing in Cambodia to continue until August 15, 1973 but broaden the funding ban to all of Indochina after that -- and that the Nixon administration had agreed to the compromise.\textsuperscript{350}

\textsuperscript{349} Kissinger, \textit{Years of Upheaval}, 359.
The negotiation of the scope and timing of the Senate’s proposed ban on U.S. military activity occurred between Mel Laird on behalf of the Nixon Administration and members of the SFRC.\textsuperscript{351} One source says that Fulbright and Secretary of State William Rogers reached a compromise to end the Cambodian bombing, but that appears to be inaccurate.\textsuperscript{352} On June 28, the SFRC met with Rogers in a non-public, confidential hearing to discuss, among other things, U.S. policy in Indochina. Senator Hugh Scott, a Republican from Pennsylvania and the Senate Minority Leader, said that some newspapers had raised the possibility of a compromise based on comments attributed to Mel Laird. Rogers responded that he thought that the White House was considering some kind of compromise but “so we don’t have too many cooks spoiling the broth,” suggested that the Committee get Laird to talk to them about it.\textsuperscript{353} After the hearings, Rogers and Fulbright both told the \textit{New York Times} that a compromise on the Cambodia bombing was a possibility, but they did not provide details.\textsuperscript{354}

On June 29, the SFRC held non-public, confidential hearings on the bombing in Cambodia, particularly with reference to H.J. Res. 636 and its proposed amendment ending U.S. military activity in Cambodia and perhaps in Vietnam. During the morning session of these hearings, the members of the SFRC did not know that Nixon had accepted or would accept the August 15 Vietnam Compromise.\textsuperscript{355} During this morning session,

\textsuperscript{351} Eagleton, \textit{War and Presidential Power}, 175.
\textsuperscript{353} \textit{Hearing before the Senate Foreign Relations Committee}, Luncheon Meeting with William P. Rogers, Secretary of State, 93rd Cong., 1st sess., June 28, 1973, 56-57.
Senator Javits and Senator Scott stated that they understood that the Nixon Administration would accept the August 15 date for a bombing ban for Cambodia but would not accept the extension, which the SFRC wanted, of the military ban to North and South Vietnam. Javits said that Nixon was prepared for a confrontation on this issue, which would be important to him for many reasons, including the troubles Nixon had on other matters, referring to the Watergate scandal. Scott, however, said he did not believe that Nixon wanted further confrontation and that Nixon was already suffering from the recent activities related to the Watergate scandal, which Scott believed were not of Nixon’s making. Also, Nixon had said that he wanted to cooperate with Congress.

The SFRC discussed the ways to negotiate with the Nixon Administration about the U.S. military bans. Javits suggested that Laird would be the best person with whom the SFRC could negotiate about the U.S. military ban. Scott agreed because, among other things, Scott believed (though Scott said that this was just a guess) that Laird did not agree with the Nixon policies on the use of the U.S. military in Southeast Asia. Scott also said that the SFRC could never get Kissinger to agree to the proposal for restrictions on the U.S. military. Such a proposal “offends his parameters as a negotiator.” Instead, Scott said that as soon as he could reach Laird, he would suggest that Laird talk to Javits, Case, and Church about the proposed U.S. military ban. At the beginning of the afternoon session (which began around 2:20 pm), Scott announced that he had just received a telephone call

357 Scott’s remark on Watergate reflects that, as of this time before the tapes came out, the scope of Nixon’s involvement and fault in the Watergate scandal, as bad as things were for Nixon, had not been established. While Dean had begun his public testimony on June 25, Nixon’s defenders questioned Dean’s honesty and the truth of his testimony.
359 SFRC Hearings, June 29, 1973, 24-25, 27.
from Laird who told him that the Nixon administration would accept the August 15 Vietnam Compromise as reflected in the language used by the House. Scott also said that he had been told by Tom Korologos, a Deputy Assistant to the President for Congressional Relations, that the Nixon Administration would accept the proposals originally prepared by Javits, which, according to Scott, may or may not be the same as the House proposals. Senator Humphrey stated that he had also talked to Korologos the previous evening (June 28) and told him that the Nixon Administration could not expect the support they hoped they would get unless the restrictions on U.S. military forces included North and South Vietnam.

P. Development of the Military Ban: The Extension to August 15

On June 25, 1973, the version of H.R. 7447 under consideration in the House provided for immediate termination of U.S. military action in Cambodia and Laos. Representative Mahon proposed as amendment to delay the effective date to September 1. The House voted 204 – 204 on this amendment, which meant it failed.

The effective date of the bombing ban became an issue again during consideration of H.R. 9055. To resolve the impasse over the bombing ban added to the Second FY 1973 Supplemental Appropriations Bill (H.R. 9055), Laird supported a “compromise” to delay the bombing ban until August 15. Kissinger told Laird that this was “senseless and self-defeating,” but Laird responded that the Nixon administration had no choice in order to

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361 SFRC Hearings, June 29, 1973, 40.
keep the government running, Cambodia was unlikely to work out anyway, and he would like to blame Congress for the bombing ban.\footnote{Kissinger, \textit{Years of Upheaval}, 358-359; HK Telcon, Laird/Kissinger (June 26, 1973), 4}

Kissinger tried to pursue a different choice of simply trying to defeat the military rider and bombing ban. John Lehman, an NSC staff aide in charge of Congressional relations, arranged a telephone call between Kissinger and Ford so that Kissinger could provide Ford with information to help Ford block the Cambodia bombing ban. Kissinger had made a deal with the Chinese Premier, Zhou Enlai, for a negotiated settlement for Cambodia that would be finalized in August or September. However, Kissinger told Ford that Ford needed to stop Congress from passing the amendment for the military ban because that would take away the Cambodian incentives for the deal and thereby would ruin the deal. According to Lehman, Ford totally misunderstood Kissinger and, as a result made his June 29\textsuperscript{th} Announcement on the House floor for a cutoff date based on the estimated settlement date he had received from Kissinger. Zhou Enlai subsequently told Kissinger that he could no longer make the Cambodian deal because Ford’s announcement had totally destroyed Zhou Enlai’s negotiating position with the Cambodians.\footnote{Kissinger, \textit{Years of Upheaval}, 356; Nixon Presidential Library, John Lehman Interview Transcription, 2007-10-04-LEH (October 4, 2007), 17. \url{https://www.nixonlibrary.gov/sites/default/files/virtuallibrary/documents(histories/lehman-2007-10-04.pdf}; John F. Lehman, Jr. 2022. Telephone interview by author. February 11, 2022.}

Many of the doves objected to the August 15\textsuperscript{th} cutoff date as well. For instance, Representative Addabbo said on the House floor that if the House adopted August 15\textsuperscript{th} as the cutoff date, they will have legislated continued bombing to August 15.\footnote{\textit{Cong. Rec.}, 93rd Cong., 1st sess., June 29, 1973, vol. 119, pt. 17: 22344.}

Representative Giaimo stated on the House floor that whether the date is August 15 or
June 30 or July 15, the House is in effect by H.R. 9055 sanctioning bombing and sanctioning a war. 366 For this reason, many vocal doves (such as Addabbo, Giaimo, Long, and Yates) voted against approval of the final version of H.R. 9055, even though it legislated the termination of U.S. military activity in North Vietnam, South Vietnam, Cambodia, and Laos (albeit not until August 15th). 367 Many dovish Senators had a similar reaction to H.J. Res. 636, the fiscal year 1974 continuing resolution that included an amendment that cutoff funding for U.S. military action in North Vietnam, South Vietnam, Cambodia, and Laos after August 15th. Dovish senators voting against H.J. Res. 636 with the antiwar rider included Eagleton, Kennedy, Mansfield, and Muskie. 368


1. Antiwar riders that included Vietnam

The inclusion in the Second FY 1973 Supplemental Appropriations bill of a rider to ban the use of funds for U.S. military action in Southeast Asia began with the adoption in the House on May 10, 1973 of the Long amendment to H.R. 7447 to ban funds for use by the U.S. military in Cambodia. 369 The Senate amended H.R. 7447 to expand the ban on the use of funds for U.S. military actions to Laos with the adoption of an amendment sponsored by Senator Brooke. 370 Congress passed H.R. 7447 with the ban on use of funding for Cambodia and Laos, Nixon vetoed it, and then Congress passed a new version

366 Ibid., 22345.
367 Ibid., 22363 – 22364.
368 Ibid., 223325; Goldstein, “Assuming Responsibility,” 165-176.
370 Eagleton, War and Presidential Power, 160
of the Second FY 1973 Supplemental Appropriations bill (H.R. 9055) in which the prohibition on the use of funds applied to Vietnam, as well as Cambodia and Laos.

The rider proposed to be attached to the bill to raise the debt ceiling also placed restrictions on the use of U.S. military in Cambodia and Laos, but not Vietnam, but other bills pending in the May and June 1973 time period had antiwar riders with limitations that applied to Vietnam, as well as Cambodia and Laos. For instance, the Case-Church amendment provided that no funds previously or subsequently appropriated by Congress could be used to finance the involvement of U.S. military forces in North Vietnam, South Vietnam, Laos, or Cambodia unless specifically authorized by Congress. In June 1973, the Senate attached the Case-Church amendment to a bill authorizing funds for the State Department for the fiscal year beginning July 1, 1973 and then on June 14 passed that bill by a vote of 67 to 15. The Senate and the House held at least five conferences before they were able to finalize and pass the final version of this State Department authorization bill with the Case-Church amendment, which therefore did not become law until October 1973.

H.J. Res. 636 (the joint resolution making continuing appropriations for fiscal year 1974) provides another example. Representative Addabbo proposed an amendment that prohibited funds from the Joint Resolution to be expended to support directly or indirectly combat activities in or over Cambodia, Laos, Vietnam and South Vietnam or off the

372 CRS, Congressional Restrictions on U.S. Military Operations, CRS-21; Eagleton, War and Presidential Power, 149.
shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces without the express consent of Congress. The House rejected that amendment but passed H.J. Res. 636 with an antiwar rider that applied only to Cambodia and Laos. However, on June 28, the Senate Appropriations Committee reported out H.J. Res. 636 with an amendment that banned U.S. military activity in Vietnam, as well as Cambodia and Laos, effective immediately.

2. The extension to Vietnam based on the actions of Gerald Ford

Daniel Rapoport’s 1975 book *Inside the House* purports to describe the development of the August 15 Vietnam Compromise in the House in more detail. Rapoport based his account, at least in part, on his interviews with Ford shortly after H.R. 9055 was passed. Ford asserted that Nixon’s concessions on the August 15 Vietnam Compromise were “spontaneous and unplanned – as well as contrary to Nixon’s position.” On June 28, Ford wrote down the points he wanted to make in the House the next day: Nixon would accept the August 15 bombing deadline but would veto any earlier deadline. Also, “the ban on U.S. military activities would apply to all of Southeast Asia.” Ford read these points the night of June 28 and the morning of June 29 to two White House staffers: White House lobbyist Max Friedersdorf and Department of Defense legislative chief Jack Marsh. Friedersdorf and March confirmed these points. Ford had the

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feeling that Friedersdorf and Marsh did not understand the significance of the words “all of Southeast Asia,” but Ford said that he “had written it down on a piece of paper,” which he kept in his scrapbook.\textsuperscript{380} A copy of Ford’s notes is shown in Figure 1 below.

Figure 1: Representative Ford’s notes, June 28, 1973.\textsuperscript{381}

\begin{figure}[h]
\centering
\includegraphics[width=0.5\textwidth]{image1.png}
\caption{Sample Ford’s notes, June 28, 1973.}
\end{figure}

After Ford told the House that Nixon would accept the August 15 Vietnam Compromise, Friedersdorf, Marsh, and an unidentified “somebody else from the White House” agreed to support the compromise.\textsuperscript{381}

\begin{thebibliography}{9}
\bibitem{Rapoport} Rapoport, \textit{Inside the House}, 240-241.
\end{thebibliography}
House” told Ford that he could not include all of “Southeast Asia” in the military ban. Ford responded that he could not take back what he had said on the House floor. Friedersdorf and others called William Timmons, Nixon’s assistant for legislative affairs, who called Nixon’s office in San Clemente, California. Then Ford spoke to Nixon from a phone booth in the Republican cloakroom off the House floor. In a conversation of about ten minutes with Nixon, Ford explained the points he had made on the House floor and Nixon said, “That’s fine.” Around five minutes later Nixon’s chief of staff Al Haig called Ford to say that Nixon would not accept the August 15 Vietnam Compromise, but Ford responded that Nixon had already accepted it. Haig said that he had been in the room when Ford talked to Nixon and that what “you said was apparently not what the president understood you to have said.” Ford told Haig “that’s the way it had to be.” About five to ten minutes later, Mel Laird called from San Clemente and told Ford that “Everything’s okay.” In a telephone conference with Henry Kissinger on August 3, 1973, Kissinger told Nixon that Nixon could not have won the battle over the August 15 Vietnam Compromise -- that Nixon “would have been smashed.” However, in this same conversation, Nixon also said that he had been “schnookered” in this veto fight, “where Laird and Ford, of all people, you know, Laird misled me… He [presumably Laird] got his telephone call, you know, to Ford, goddarn it, he didn’t say that was what it was about.”

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It appears that Ford initiated broadening the ban to include North and South Vietnam because he was not sure that the Senate would accept a Military Rider that did not include a ban on U.S. military actions in Vietnam.\textsuperscript{385} According to Ford, as quoted in Rapoport’s book, Ford developed what he wanted to say on the House floor, including expanding the military ban to Vietnam, in order “to win.” Congress may or may not have passed H.R. 9055 without expanding the military ban to Vietnam and, even if it had passed, it would have been a “hard fight.” Ford stated that H.R. 9055 might have passed the House without expanding the ban to Vietnam, but that he was not sure that the Senate would have been willing to pass H.R. 9055 without this expansion.\textsuperscript{386} Ken Hughes in his 2015 book \textit{Fatal Vision} states that Ford and Laird thought that the House would insist on the bombing ban in Cambodia but that Nixon had the votes to sustain his veto of a military ban in all of Indochina.\textsuperscript{387} Note that, by this account, Ford and Laird did not necessarily think that the House would have passed H.R. 9055 without the military ban applying in Vietnam, which would have required a majority to vote in favor of HR 9055. Rather, by this account, Ford and Laird thought only that the House would have voted to sustain Nixon’s veto, which would have required only one-third of the House votes.

The SFRC also considered H.J.Res. 636. Technically, the Senate Appropriations Committee had jurisdiction of H.J.Res. 636, but the SFRC took the lead in considering the proposed military ban amendment to that bill. The negotiation of the scope and timing of the Senate’s proposed ban on U.S. military activity occurred between Mel Laird on behalf

\textsuperscript{385} Rapoport, \textit{Inside the House}, 238-243.
\textsuperscript{386} Ibid., 242.
\textsuperscript{387} Hughes, \textit{Fatal Politics}, 165, 166, 170.
of the Nixon Administration and members of the SFRC.\textsuperscript{388} According to Kissinger in his memoirs, the SFRC accepted the delay of the effective date of the Cambodian bombing ban to August 15, but opponents of the Cambodian bombing exacted the price of banning all US military activity in Indochina (including Vietnam) after that date.\textsuperscript{389} A biography of William Fulbright says that Fulbright, as chairman of the Senate Foreign Relations Committee, led the fight for the compromise on Cambodia – that is, to allow the bombing in Cambodia to continue until August 15, 1973 but broaden the funding ban to all of Indochina after that -- and that the Nixon administration had agreed to the compromise.\textsuperscript{390}

In his 1982 memoirs, Henry Kissinger stated that, apparently, Mel Laird had authorized Ford to accept the August 15 Vietnam Compromise.\textsuperscript{391} In his 1992 memoirs, Al Haig stated that he talked to Ford before the vote on the August 15 Vietnam compromise. Ford told Haig that he (Ford) had been led to believe by Mel Laird that the August 15 Vietnam Compromise was acceptable to Nixon. Haig told Ford that Laird’s support was news to Nixon. Ford was stunned and, said, if he reversed himself now, he might have to resign as Republican leader. Nixon would not ask Ford to do that.\textsuperscript{392} In a November 1985 interview, Alexander Haig, said that he believes that Laird and Ford conspired to change the wording of the antiwar rider to the second 1973 supplemental appropriations bill because of their “total preoccupation with domestic policy...” In a December 1985 interview. Mel Laird said that he did not get Ford to say what he said in the June 29 Announcement. “Ford went a little further when he included all of Southeast

\begin{itemize}
\item \textsuperscript{388} Eagleton, \textit{War and Presidential Power}, 175.
\item \textsuperscript{389} Kissinger, \textit{Years of Upheaval}, 359.
\item \textsuperscript{390} Randall Bennett Woods, \textit{Fulbright: A Biography} (Cambridge: Cambridge University Press, 1995), 637.
\item \textsuperscript{391} Kissinger, \textit{Years of Upheaval}, 359.
\item \textsuperscript{392} Haig, \textit{Inner Circles}, 316-317; Hughes, \textit{Fatal Politics}, 246.
\end{itemize}
Asia. He asked me what to do and I told him. ‘You can’t back up from it.’” In an oral history taken in November 2006, Haig said that the bombing ban was “done by one of the president’s own people.” Haig declined to name that person specifically, but, under the circumstances and in light of other comments by Haig, this thesis concludes that Haig was referring to Laird.

Ford is considered to have the highest integrity. Even some Democrats voted for him. However, in Rapoport’s description of these events, Ford seems more manipulative than his reputation would contemplate.

3. The extension to Vietnam based on Nixon’s political strategy

Ken Hughes’ *Fatal Politics* discussed above, offers a different explanation for Gerald Ford’s June 29th Announcement, which led to the addition of Vietnam to the territory where the use of the U.S. military was prohibited. According to Hughes, Nixon “invited” Congress to deny him authority to intervene militarily in Indochina, which enabled Nixon to deny responsibility for losing Vietnam and to blame Congress. Nixon was not compelled to approve the supplemental appropriations bill with the Rider because Nixon had the votes to sustain his veto of a military ban in all of Indochina.

Hughes states that House Minority Leader Gerald Ford and Nixon counselor Melvin Laird

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396 See, Section I, Part 2 above.
thought that the House would insist on the bombing ban in Cambodia, but that Nixon had the votes to sustain his veto of a military ban in all of Indochina. Hughes states that Laird told Kissinger that Ford had told Laird that the House would stand firm behind limiting the ban to Cambodia and would not impose it until August 15, and Nixon had the votes he needed to sustain his veto of a military ban in all of Indochina. However, Laird also told Kissinger that, even if the House sustained the veto, “I don’t know what we will do from then.” Laird understood, and Hughes misses, the following point: even if the Rider did not have the support of two-thirds of the House needed to override a veto, it is not clear that the 1973 supplemental appropriations bill (H.R. 9055) could have mustered majority support without the Rider. This could have resulted in an impasse with no supplemental appropriations bill passed and no military ban passed and, as a result, a shutdown of the operations of the Federal government. Eventually, Nixon or Congress would have been forced to back down in the face of public pressure to re-open the operations of the federal government. This thesis cannot say how this impasse would have been resolved, but Laird, for one, feared that the public would blame Watergate.

According to Hughes, after Nixon had won re-election, with Ford’s June 29th Announcement, “Nixon surrendered his constitutional advantage over congressional doves. Before they needed to muster a two-thirds majority to defeat him; after August 15, they could do so with simple majority.” Hughes does not explicitly say how the

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398 Hughes, *Fatal Politics*, 164-166, 170.
399 HK Telcon, Laird/Kissinger (June 26, 1973), 1.
400 HK Telcon, Laird/Kissinger (June 26, 1973), 2.
401 Hughes, *Fatal Politics*, 164. This quotation shows Hughes’s contention that Nixon did something (surrender his constitutional advantage). Please note, however, that this thesis also disagrees with Hughes’ contention that Nixon surrendered a constitutional advantage. The antiwar rider of H.R. 9055 applied to appropriations under H.R. 9055 and past appropriations. It does not refer to future appropriations where the constitutional balance between Congress and the president would be subject to future legislation. The
invitation was issued, but in the context of Hughes’ description of the matter, the
invitation came initially in the form of the June 29th Announcement. Hughes does not, for
instance, refer to other circumstances where Nixon communicated to Congress a
willingness to have Congress ban further military intervention in Vietnam. This highlights
another flaw in Hughes’ analysis of this matter. Hughes attributes the authority for the
June 29th Announcement to Nixon, but, as Ford stated on the House floor at the time of
this announcement, Ford had not talked to Nixon about the announcement prior to making
the announcement, but he had talked to “people who have told me they have talked with
the President.”

Rapoport’s Inside the House shows how Ford, not Nixon, initiated and
developed that June 29th Announcement. According to Ford, as quoted in Inside the
House, Ford asserted that Nixon’s concessions on the August 15 Vietnam Compromise
were “spontaneous and unplanned – as well as contrary to Nixon’s position.”

According to Mel Laird in an interview on December 4, 1985, Nixon was “madder than hell” about
the concessions made in the June 29th Announcement. Hughes does not dispute
Rapoport’s account, but simply makes no reference to it. Even after Ford made the June
29th Announcement, Haig, Friedersdorf and Marsh tried to get Ford to retract it, but Ford
refused to do so. Even after Nixon approved the June 29th Announcement, Haig tried to
get Ford to retract it by arguing that Nixon had not understood what he was approving, but
again Ford refused to retract the announcement.

June 29th Announcement did implicitly refer to future appropriations because Ford said Nixon would not
use U.S. forces in Southeast Asia after August 15th without congressional authority, but these future
appropriations were not written into H.R. 9055.

403 Rapoport, Inside the House, 240.
404 Hung and Schecter, Palace File, 508 n.22.
4. The extension to Vietnam based on the combined actions of Ford and Laird

While Rapoport’s *Inside the House*, published in 1975, still provides the best available explanation for the adoption by the House of the August 15 Vietnam Compromise, including the extension of the covered territory to Vietnam, a complete explanation requires more details and analysis. Putting all the responsibility on Ford for Nixon’s surrender on the August 15 Vietnam Compromise goes beyond the realm of probable events. It seems unlikely that Ford would have been willing to rely solely on the authority of two executive branch legislative assistants to make his June 29th Announcement when, according to Ford, that announcement was contrary to Nixon’s position and Ford felt that the legislative assistants did not understand the significance of changing the territory covered by the antiwar rider to “Southeast Asia.”

Any fuller, more accurate explanation of the adoption of the August 15 Vietnam Compromise must take into account the actions of Mel Laird and the joint efforts of Laird and Ford. In a November 1985 interview, Alexander Haig, said that he believes that Laird and Ford conspired to change the wording of the antiwar rider to the second 1973 supplemental appropriations bill because of their “total preoccupation with domestic policy...” Various sources make clear that Laird and Ford communicated about the June 29th Announcement after the announcement was made. For instance, after Ford made the June 29th Announcement, White House staffers asked him to retract it. However, Laird advised Ford: “You can’t back up from it.” After Ford received Nixon’s approval of the

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407 Hung and Schecter, *Palace File*), 508 n.22.
408 Ibid.
June 29th Announcement, Haig told Ford that Nixon would not accept the August 15 Vietnam Compromise, but Ford responded that Nixon had already accepted it. Shortly thereafter Laird called from San Clemente (where Nixon was located at the time) and told Ford that “Everything’s okay.”

Various sources also indicate that Laird and Ford communicated about the June 29th Announcement before the announcement was made. In his 1982 memoirs, Henry Kissinger stated that, apparently, Mel Laird had authorized Ford to accept the August 15 Vietnam Compromise. In his 1992 memoirs, Al Haig stated that he talked to Ford before the vote on the August 15 Vietnam Compromise. Ford told Haig that he (Ford) had been led to believe by Mel Laird that the August 15 Vietnam Compromise was acceptable to Nixon. On June 28, 1973, Laird told Kissinger that Laird got two phone calls from Ford about the proposed military ban while Laird was on an airplane flying out to California to be with Nixon. Ford wanted to set up a conference call of Laird with the House Republicans for the morning of June 29th.

I have not found direct documentation of what Laird and Ford said in their communications leading up to Ford’s June 29th Announcement. Some of what I have found points in different directions about whether Laird approved of the addition of Vietnam to the list of countries where U.S. military actions were banned. In a December 1985 interview, Mel Laird said that he did not get Ford to say what he said in the June 29th Announcement. “Ford went a little further when he included all of Southeast Asia.”

410 Kissinger, *Years of Upheaval*, 359.
413 Hung and Schecter, *Palace File*, 508 n.22.
This tends to contradict the conclusion of this thesis that Laird and Ford worked together to change the military ban to include Vietnam but does not come close to eliminating the possibility that the position of this thesis is correct, as shown by the other supporting information summarized in this section. Also, Laird’s statement can be interpreted in different ways. Laird and Ford may have discussed, and perhaps agreed on, the substance of what Ford said in the June 29th Announcement, but Ford could have determined the timing and wording of what he said. Ford may have gone a little further with his reference to “Southeast Asia” because that could be interpreted to include more than Indochina, with countries not at issue such as Indonesia, Malaysia, the Philippines, Singapore, and Thailand.

Laird’s experience working with Nixon also supports the likelihood that Laird, in cooperation with Ford, led Congress to include Vietnam in the military ban. As Secretary of Defense, Laird periodically advocated policies and actions in regard to Southeast Asia more dovish than the policies chosen by Nixon (for instance, in regard to the 1969 secret bombing of Cambodia, the 1970 invasion of Cambodia, and the December 1972 bombing of North Vietnam). Also, as Secretary of Defense, Laird sometimes initiated actions that in the opinion of some members of the Nixon administration (particularly Kissinger) should have been cleared with Nixon or contradicted Nixon’s policies (for instance, the response to North Koreans shooting down an American EC-121 spy plane or the Nixon administration’s willingness to accept a compromise on the proposed Cooper-Church Amendment in 1970). Laird’s tendency to act independently of Nixon’s authorization became even more pronounced after Laird became Nixon’s domestic counselor in June

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See Section II, Part 2, Paragraph G above.
1973. This freedom of Laird to act independently arose from the impact of Watergate. Nixon was obsessed and psychologically weakened by Watergate and often distracted from other matters that needed his attention. Laird and Harlow began making decisions on legislation on behalf of the President but without actual presidential authority. Laird’s authority to act independently was particularly strong in regard to the proposed military ban. He had legislative experience as a former member of Congress and defense experience as a former Secretary of Defense. The Nixon administration gave Laird the assignment to deal with Congress in regard to proposed antiwar legislation that would limit Nixon’s ability to use U.S. military forces in Indochina. This included negotiating with both the House and the Senate and acting as a liaison between them and the White House.

The strong antiwar sentiment of the Senate also affected how Laird and Ford dealt with the antiwar riders. Laird believed that the House would stand firm on limiting the antiwar rider attached to H.R. 9055 to Cambodia and Laos, but that did not mean that the Senate would. Ford justified the June 29th Announcement, in part, by saying that, while H.R. 9055 might have passed the House without expanding the ban to Vietnam, he was not sure that the Senate would have been willing to pass H.R. 9055 without this expansion. Also, according to a conversation on June 28, 1973, between Kissinger and Laird, the SFRC might consider “a cutoff of everything” on August 15, not just Cambodia. That could come in the form of a cutoff that names Cambodia if the Nixon administration

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415 See Section II, Part 2, Paragraph K above.
416 See Section II, Part 2, Paragraphs N and O above.
417 HK Telcon, Laird/Kissinger (June 28, 1973), 2
418 Rapoport, Inside the House, 242.
would give oral assurances that it would not take other actions and Nixon “would have to make a statement that he might have to come back to the Congress for further authority.”\(^{419}\) This conversation presents interpretative difficulties, but appears to be similar to the part of Ford’s June 29\(^{th}\) Announcement that said: “If military action is required in ‘Southeast Asia’ after August 15, the President will ask congressional authority and will abide by the decision that is made by the House and the Senate, the Congress of the United States.” The proposal that assurances from Nixon would be sufficient to satisfy the concerns of the doves to limit further U.S. military actions in Vietnam came to naught when the doves proposed and Congress enacted a change to the Military Rider that extended the combat ban to Vietnam.

Finally, Laird’s own words from January 1973 when he was Secretary of Defense may have foreshadowed his thinking on the addition of Vietnam to the combat ban. As noted above, on January 8, 1973, Laird presented his final report to Congress as Secretary of Defense. Laird said that, because of the success of the military aspects of Vietnamization, the South Vietnamese can provide for their own in-country security against the North Vietnamese. This makes possible the complete termination of American involvement in the war, contingent on the safe return of American prisoners-of-war and an accounting for those missing-in-action.\(^{420}\)

R. **Why Nixon Signed the Military Ban**

\(^{419}\) HK Telcon, Laird/Kissinger (June 28, 1973), 1, 4.

\(^{420}\) *Final report to the Congress of Secretary of Defense Melvin R. Laird before the House Armed Services Committee* (January 8, 1973), 4. [https://www.loc.gov/item/73601291](https://www.loc.gov/item/73601291). See Section II, Part 2, Paragraph G above.
As described above, Ken Hughes in *Fatal Politics* asserts that Nixon was not compelled to sign H.R. 9055 with the antiwar military ban because Nixon had the votes to sustain his veto of a military ban in all of Indochina.\(^\text{421}\) Instead, Nixon “invited” Congress to deny him authority to intervene militarily in Vietnam, which enabled Nixon to deny responsibility for losing Vietnam and to blame Congress. This thesis has debunked this theory above by noting, among other things, that the assertion that Nixon had the votes to uphold his veto does not mean that Nixon had the votes to pass the supplemental appropriations bill without an antiwar rider that covered Vietnam.\(^\text{422}\) In addition, Hughes fails to take into account all the efforts by Nixon and his administration, by public speeches and statements, by lobbying, and otherwise, to defeat the antiwar riders. For Nixon to invite and encourage the passage of antiwar riders, in spite of all this, would have required an extraordinary and unlikely acting performance.

In contrast to Hughes’ assertions, in books written by Nixon after the end of his Presidency, Nixon claimed that he had been compelled to sign H.R. 9055 with the antiwar rider (prohibiting use of U.S. funds for U.S. military action in Cambodia, Laos, North Vietnam, and South Vietnam) because the antiwar majority would eventually be able to impose its will.\(^\text{423}\) Other sources concur with this analysis, stating for instance, that Nixon was compelled by strong Congressional support for the antiwar rider, Nixon’s political

\(^\text{421}\) See, Section I, Part 2 above.
\(^\text{422}\) See Section II, Part 2, Paragraph Q, Subparagraph 3 above.
weakness due to the Watergate scandal, and the necessity to keep the federal government in operation.\textsuperscript{424}

The doves, of course, wanted to override Nixon’s veto or, if they could not do that, compel him to sign bills with antiwar riders. To do this, the doves attached the antiwar riders to bills that were essential to the ongoing functioning of the federal government, such as the supplemental appropriations bill, the bill to raise the debt ceiling, and the State Department appropriation. Many observers anticipated that Nixon would not veto such bills. For instance, after the Second FY 1973 Supplemental Appropriations Bill (H.R. 7447) passed Congress, the \emph{Wall Street Journal} called it a “practically veto-proof prohibition against continued U.S. bombing in Cambodia and Laos.”\textsuperscript{425} Of course, Nixon vetoed it, anyway. In addition, even after the veto, Congress did not cease its efforts to pass antiwar riders. For instance, Senate Majority Leader Mike Mansfield stated that he would attach a version of the military ban to every bill that came before the Senate until it was adopted.\textsuperscript{426}

While the efforts of the doves provided a major contributing cause that finally compelled Nixon to sign H.R. 9055 with the military ban, the actions of Nixon’s “own people” provided another major contributing cause that finally led Nixon to sign.\textsuperscript{427}

\textsuperscript{424} See Section I, Part 2, Paragraph B above; Haley, \emph{Congress and the Fall of South Vietnam and Cambodia}, 42 (compelled by the need to keep the government open); Bundy, \emph{Tangled Web}, 389 (resistance was hopeless); Johnson, \emph{Congress and the Cold War}, 188-189 (Nixon lacked political strength due to Watergate and Senator Mansfield threatened to add antiwar riders to every bill).

\textsuperscript{425} “House Again Clears Bill to Bar Bombing, This One Veto-Proof,” \emph{Wall Street Journal}, June 27, 1973, Cited in Haley, \emph{Fatal Politics}, 166.


November 1985 interview, Alexander Haig, said that he believes that Laird and Ford conspired to change the wording of the antiwar rider to the second 1973 supplemental appropriations bill because of their “total preoccupation with domestic policy...”

Nixon’s internal problems went beyond Ford and Laird. According to Kissinger’s 1982 memoirs, by the end of June 1973, much of Nixon’s own administration had lost the will to fight for Nixon’s policies in Southeast Asia. According to Kissinger’s memoirs, “only Haig really supported our policy.” Kissinger’s statement clearly exaggerates but identifies a serious issue for Nixon.

Nevertheless, Laird and Ford remained the tip of the spear for the internal assault on Nixon’s and Kissinger’s military effort to resolve the issues in Cambodia. According to John Lehman, the Nixon legislative team trying to stop the passage of the military ban in H.R. 9055 “knew it was all over once Jerry Ford” made his June 29th Announcement. After Ford made the June 29th Announcement, Ford, with the advice of Laird, resisted all efforts by Haig and legislative assistants Friedersdorf and Marsh to reverse himself on what he had said. For instance, as noted above, Ford told Haig that, if he reversed himself, he might have to resign as Republican leader. Nixon would not ask Ford to do that. About five to ten minutes after Ford talked to Haig, Laird called from San Clemente and told Ford that “Everything’s okay.” The threat of Ford’s resignation would have provided further strong pressure compelling Nixon to sign H.R. 9055. Ford’s resignation...
would have weakened Republican strength in House, a leadership fight may have ensued, and disclosure of the reason for the resignation would probably have weakened Nixon’s standing with other Republican House members. This would have lessened the ability of the House Republicans to support Nixon in sustaining his vetoes, in other legislative matters, or even in a potential impeachment fight. Nixon also claimed that he had been misled in the veto fight.

After Ford confirmed the approval of June 29th Announcement with Nixon, Kissinger protested to Nixon, but Nixon told Kissinger that it was too late, that Nixon had yielded to force majeure. In a telephone conference with Henry Kissinger on August 3, 1973, Nixon told Kissinger that he had been “schnookered” in this veto fight, “where Laird and Ford, of all people, you know, Laird misled me…”

The chance that Nixon would lose the veto battle over bombing in Cambodia provided another contributing factor compelling Nixon to approve H.R. 9055. According to Nixon’s memoirs, “it seemed clear that another cutoff bill would be proposed and that I could not win these battles forever.” According to one source, Nixon greatly relied on the guidance of Laird in the struggle over the proposed military ban, and Laird advised him that “resistance was hopeless.” Even Kissinger, who strongly opposed the military ban, told Nixon on August 3, about a month after Nixon signed H.R. 9055, that Nixon

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433 Kissinger, Years of Upheaval, s359.
436 Bundy, Tangled Web, 389.
could not have won the battle over the military ban -- that Nixon “would have been smashed.”

After Congress approved H.R. 9055 with the Eagleton Amendment, Haig told Nixon that “We’ve lost Southeast Asia.” Nixon responded, “I’m afraid you’re right.” Senator McGovern, the 1972 Democratic candidate for President and a long-time dove, had a different reaction. He called the passage of the Eagleton Amendment “the happiest day of my life.”

III. CONCLUSION

While the Rider was a major assertion of Congressional power over foreign policy, it, and the other antiwar actions by Congress, should be regarded as an exception rather than the start of the ongoing exercise by Congress of greater control over foreign policy. The circumstances at the time of passage were unusual. As discussed in the thesis, these circumstances included the actions of presidential administration insiders and close allies – in this case, Mel Laird and Gerald Ford – to undermine the President’s policies in regard to the bombing of Cambodia and military support of Vietnam. Another circumstance allowing the assertion of power by Congress was that the Presidency and Congress were controlled by different parties. Other circumstances should be noted. At the time of the Rider, the Vietnam War was America’s longest war. Nixon practiced the “politics of acquiescence” and kept a lot of information secret from Congress. Nixon was in the

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438 Interview with Alexander Haig, November 13, 1985, reported in Hung and Schecter, *Palace File*, 204.
439 Hughes, *Fatal Politics*, 165.
middle of the Watergate scandal, which eventually resulted in Nixon’s resignation and Nixon had lost a lot of popular support. Opinion polls showed a majority of Americans opposed to continuing U.S. involvement in the Vietnam War and the emotional tenor of the opposition was often intense. For much of the duration of the Vietnam War, a large portion of the soldiers fighting for the U.S. were draftees, which made the War a personal and major issue for thousands of young men who were actual or potential draftees and their families. Most of these factors are not likely to be repeated frequently, if at all, as a group in regard to a single foreign policy issue. Yet, in spite of all these factors, Congress did not prohibit U.S. participation in the War until mid-1973.

The victory of Congress in limiting the military actions by the President did help establish a different precedent: the willingness of the U.S. - as reflected in the actions of the President or Congress - to lose a war for which the U.S. had expended so much effort and had incurred such high costs in casualties, dollars, and prestige. Many sources assert that the Vietnam War was unwinnable by the South Vietnamese and the United States. If it were Winnable by the South Vietnamese, such success depended on the assumption that U.S. airpower would be used in the event of an invasion by North Vietnam and this also affected the type of aircraft the U.S. provided to the South

441 Commentators have identified a “sunk-cost fallacy,” which deems it to be a mistake for a decision-maker to justify future investments or efforts in a matter based on what has already been spent. Barry Schwartz, “The sunk-cost fallacy,” “Los Angeles Times, September 17, 2006. https://www.latimes.com/archives/la-xpm-2006-sep-17-oe-schwartz17-story.html. However, factors other than sunk costs may justify further efforts, and sunk costs themselves can be a factor in the evaluation of whether abandoning war efforts imposes future costs on a warring party, such as loss of prestige, reliability, credibility, and national and troop morale and such as encouragement of aggression by foreign rivals.

Vietnamese as part of the Vietnamization program. The June 1973 Military Rider made that assumption of the availability of U.S. airpower untenable. One of the motivations for Johnson and then Nixon was not to be the first U.S. president to lose a war. Now, after the Vietnam War was lost, it does not seem so shocking to see President Obama, President Trump, or President Biden withdraw U.S. troops from Iraq or Afghanistan without securing victories or a peace settlement. One can only speculate whether this precedent will impact the currently ongoing test of will and steel in Ukraine.


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