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THE PRESIDENT'S CAMBODIAN
DECISION

Mr. SCOTT Mr. President, I ask
unanimous consent to have printed in
the Record a statement made by William
H. Rehnquist, Assistant Attorney Gen-
eral, Office of Legal Counsel.

There being no objection, the state-

ment was ordered to be printed in the Record, as follows:

THE PRESIDENT'S CAMBODIAN DECISION

Mr. Chairman, distinguished guests, it is a great pleasure for me to be here with you at the Nationalities Leadership Training School of the Republican State Committee of Pennsylvania. I think it is extremely important, in a nation such as the United States with its historic tradition of being a "melting pot" for numerous different nationalities who have emigrated here, that the contributions and heritages of these various nationalities be recognized by the nation and by the Republican party. Each of us is a member of some sort of ethnic, religious, or racial minority, and while all of these minorities are not subject to discriminatory treatment, all of us are on occasion reminded, if by nothing more than jokes, of our minority status. My paternal grandfather and grandmother emigrated from Sweden, and settled in Wisconsin, where I grew up. Swedes, as you may or may not know, are felt by many of their more or less antagonistic neighbors to be somewhat dumber than other nationalities. I learned in the course of growing up that the only thing dumber than a dumb Norwegian was a smart Swede. I also learned this bit of doggerel:

"Ten thousand Swedes came out of the weeds at the battle of Copenhagen;
Ten thousand Swedes came out of the weeds chased by one Norwegian."

I also remember my father and his brothers and sisters saying that my grandfather and grandmother refused to speak Swedish in their home when their children were present, because they were so anxious to have them become fluent in English. While this was doubtless done from the noblest of motives, I think that today many would regard it as a mistaken way of expressing one's deep desire to be a good American. The day is long past when we think there is any inconsistency between wholehearted loyalty to the United States, and a deep and abiding respect for the nationality, the language, and the traditions of the foreign country from which our forefathers have emigrated. The Nationalities Leadership Training School of the Pennsylvania State Republican Committee is a splendid recognition of this fact. Its success, and the success of other programs in other states, is a fine tribute to the work of Mike Banko, the State Nationalities Director for the Republican State Committee. I want to commend both him, and Mr. Laszlo Pasztor, Director of Heritage, Republican National Committee, for their role in making these groups an important part of the Republican Party.

I would like to discuss with you tonight President Nixon's decision of some five weeks ago that American forces in South Vietnam should cross the Cambodian border in order to destroy sanctuaries which had been used by the enemy as bases from which to attack American and South Vietnamese forces.

That decision was violently assailed by the "dove" faction in this country, both as to its legality and as to its wisdom. While my official position with the Justice Department has required me to touch only upon the legal aspects, I think it a rather poor show to simply conclude that the President was constitutionally authorized to do what he did, leaving the implication that it may well have been unwise. I am satisfied from my rather lowly vantage point that the President's decision was not only entirely consistent with the Constitution, but was a wise and statesmanlike one.

Those who criticize the legality of the President's decision apparently do so on the ground that he had no authority to order American troops to cross the Cambodian bor-

der. Such a conclusion is contrary to the great weight of historical and constitutional precedent in this field. The framers of the Constitution, meeting in Philadelphia in 1787, decided to divide the "war power" of the new nation between the Executive and Congress. The Executive was made Commander in Chief of the armed forces, but Congress was given the power to declare war. It is clear from the debates in the Convention that the President, as Commander in Chief, was given exclusive authority to decide how a military campaign or war, once commenced, should be conducted.

The succeeding 180 years of our history have proven beyond any doubt that the President may, when he deems it necessary, commit American armed forces to combat in foreign lands without any congressional declaration of war. This happened under President Polk, President Theodore Roosevelt, President Taft, President Wilson, and President Truman. Indeed, President Truman committed the United States to repelling the North Korean invasion of South Korea, a military engagement which certainly amounted to "war" in the dictionary sense of the word, which lasted for nearly three years and which involved several hundred thousand American ground troops, as well as air and naval support for them. He did this without Congress ever having declared war, or having formally ratified his action in doing so.

In 1964, President Johnson asked Congress for authority to use American armed forces against the North Vietnamese enemy because of the latter's attack on American naval vessels in the Gulf of Tonkin. In response, Congress passed the Gulf of Tonkin resolution, which authorized in the broadest language the use of American combat troops to help defend South Vietnam from North Vietnamese aggression.

This was the situation that President Nixon faced in making his Cambodian decision. A relatively large-scale war, involving hundreds of thousands of American troops, was then in progress, having been commenced by his predecessors with the full authorization of Congress. President Nixon, surveying this situation when he took office, and realizing that the great majority of American people wanted peace with honor in Vietnam, devised the program for Vietnamization of the war. This program called for gradual withdrawal of American troops, as the South Vietnamese army became capable itself of holding off the invaders from the north. That plan had already led to withdrawal of substantial numbers of American troops from Vietnam when, in April, 1970, the President was confronted with a new development. A significant buildup by the enemy of its sanctuaries just inside the Cambodian border from South Vietnam, coupled with a change of government in Cambodia, suggested that the incursion by American troops into the Cambodian sanctuaries was both necessary to protect American troops fighting in the field in South Vietnam, and would have a remarkably good chance of success.

The President, as Commander in Chief, has always been charged with responsibility for making whatever decisions were necessary to protect the lives of American forces engaged in the field of combat. By deciding to cross the Cambodian border with American troops, President Nixon did not bring Cambodia into the war against us; he made it easier for Cambodia to defend its own neutrality against North Vietnamese infiltration. The protests uttered by the Cambodians against American incursion were obviously only of the most formal and perfunctory nature. Under these circumstances, the President's decision was a classical case of a determination by the Commander in Chief as to how a war, then in progress for six years, should be waged. It was not a decision to commence new hostilities against Cambodians, but a de-

cision to prosecute existing hostilities by attacking North Vietnamese inside the Cambodian border—where their activities clearly violated Cambodian neutrality. It was well within the President's power as Commander in Chief, under the Constitution, to take this action.

Let us turn now to the wisdom of the President's decision. His attackers contend that the decision dramatically catalyzed the opposition of college students to the war, thus further dividing the country. The critics said that the President's move widened the war, and took another step towards committing us to a prolonged land war on the Asiatic continent.

I don't think these criticisms can be properly evaluated without a brief look at the historical context of the Vietnamese war, and at some of the events of recent history.

When President Nixon took office in January, 1969, he inherited a war which had become increasingly unpopular with the American people. Part of this unpopularity stemmed from the attitude of the preceding Administration, which was to sanction gradually increasing involvement of American troops in Vietnam without any corresponding effort on its part to mobilize domestic opinion in support of the sort of sacrifices necessary to win any war. Part of this unpopularity stemmed from the real doubts on the part of many people that involvement of American ground troops in a land war on the Asian continent was wise. Still another part of the unpopularity of the war resulted from the relentless harping on all of the arguments against war by what I may call the "academic-journalistic" complex—the highly vocal, highly articulate, highly determined band of professors, journalists, liberal politicians, and other opinion makers who were determined to turn national policy around in this regard.

Now, unpopularity of a war is nothing new in history. I don't think there has ever been a popular war in this country—there have been wars of varying degrees of unpopularity. New England virtually seceded during the War of 1812; New England again violently opposed the Mexican War, during which Thoreau went to jail in order to protest payment of taxes which went to finance the American military expedition. During the Civil War, extensive draft riots took place in New York, and Lambdin P. Milligan, who may fairly be called a traitor to the North, was a hero in many parts of Indiana and Ohio. The first World War started on a sufficiently idealistic plane, and lasted a sufficiently short time, that war weariness did not set in until after it was over, and people became thoroughly disillusioned with the peace of Versailles. I served in the second World War, as did millions of other Americans, and I think the feeling there was simply of doing ones duty, rather than of any exalted national purposes, so far as the typical soldier was concerned. War weariness became more of a public phenomenon during the last stages of the Korean War, and of course the Vietnamese War has witnessed the highwater mark of that sort of attitude.

There is nothing easier to do than talk against war. General Sherman said, "War is hell." The terrible sacrifices required of those soldiers actually exposed to enemy fire, and the lesser though significant sacrifices required of those who serve in the armed forces in non-combat positions, need no detailing here. The awesome responsibility faced by any President, and any Congress, who decide to commit American armed forces to combat cannot be doubted. "Make love, not war" is a most appealing slogan.

Given the tremendous war weariness of the American people in January, 1969, nothing could have been more appealing from a political point of view to the incoming Republican President than to call a press conference, describe the entire war as a mistake

which had been made by the preceding Administration of the opposite political party, and begin a precipitate march to waiting transports.

But Richard Nixon is more than the head of a political party, he is the President of the United States. He is also a student of history.

Lord Acton, the eminent English historian, said that those who would not learn from the mistakes of history are doomed to repeat them. I am sure that President Nixon was well aware that his decision to send troops into Cambodia would not be popular with those who have urged an immediate end to American involvement in Vietnam. He said as much in his television speech on April 30. But he has rather distinguished company in his unpopularity in this sort of thing. Winston Churchill, thought by many to be the greatest statesman of the first half of the Twentieth Century, was viewed as a pariah only a few years before public opinion overwhelmingly made him Prime Minister of England in England's darkest hour during the second World War. He was viewed as a pariah, not merely by the "peace at any price" politicians of his day, but by a substantial segment of English opinion generally because of his opposition to the Munich settlement. Munich, which is a dirty word now, was not a dirty word at the time it happened. The hero of those days was Neville Chamberlain, who was wildly acclaimed upon his return from Munich, in September 1938, for having brought—or perhaps, more accurately, "bought"—"peace in our time". The ending of a war, the avoidance of a war, are tremendously popular events. But peace, in rare cases, history tells us, can be purchased at too high a price—a lesson of which the Munich settlement is a classical example. There have been two great, tragic patterns in the world history of the past half century—the first of these was the emergence of Nazi Germany as a world power, with the holocaust of the second World War as its result. The second was the emergence of the Soviet Union, during and after the second World War, as a world power with similar imperialist expansionist goals, with the Cold War as its result. Woven into each of these patterns is a recurring theme of defeatism and peace at any price.

All of us of middle age remember the chronology of Adolf Hitler's aggression in Europe. In 1935 he remilitarized the Rhineland. In 1937 he took over Austria. In 1938 he dismembered Czechoslovakia, and in 1939 took over most of what remained of it. Later in 1939, he sought to dismember Poland. Poland refused to voluntarily submit, and the Western Allies, seeing the handwriting on the wall, bowed their backs. The result was the beginning of the second World War.

During the summer of 1939, when war appeared imminent in Europe, there was in France particularly a great deal of peace sentiment, as William L. Shirer points out in his recent book, "The Fall of the Third Republic". This sentiment was epitomized by an editorial which appeared in a leading French newspaper only a few weeks before the outbreak of war, entitled "Why Die for Danzig?" Danzig, the seaport on the Polish corridor, the editorial pointed out, was far away in Eastern Europe, and was not worth risking French lives to save.

The second World War was made possible only by the alliance between Russia and Germany, in the course of which Russia took over the Baltic nations and a large part of Poland as the price for her acquiescence in German armed conquest. As a result of the disastrous Yalta Conference decisions, at the end of the second World War Russia was permitted to take over and virtually enslave most of Eastern Europe. It is this tragic series of actions which we commemorate, however feebly, in our recognition of Captive Nations Week each year. Since the second World War, we have seen the Berlin

blockade, the Korean War, the barbaric invasion of Hungary in 1956, and the almost equally barbaric destruction of emerging independence in Czechoslovakia more than a decade later.

More recently, we have seen the emergence of Communist China as a world power, making its aggressive presence felt in its takeover of Tibet, and in its participation in the Korean War.

If ever there was a lesson of history writ large by the events of the last four decades, it is that totalitarian dictatorships do not behave quite the way democracies do in their dealings with other nations, and that good will, peaceful intentions, and minding one's own business are not a guarantee against aggression and conquest by these powers.

It is easy to forget, when one reads some of the treatments of the Vietnamese war, that it is the North Vietnamese who are invading South Vietnam, financed and equipped by the great Communist powers. It is easy to forget that the United States troops in the field are fighting for the right of self-determination of the South Vietnamese people, with the alternative being the imposition on them of a brutal dictatorship by the rulers of North Vietnam. It is easy to forget this because the war critics have so inundated the printed page with an insistence on immediate American withdrawal that is in some cases mindless, and in other cases misguided.

The mindless opposition to the President's policies comes from those who have either made no attempt to learn the lessons of history, or have proved unable to learn them. These are the people who are saying thirty years later, "Why die for Danzig?" They are the ones who are saying that no piece of any foreign field is worth the life of one American boy.

The answer given to this position by our forefathers, in this country and in many others, was not to say that yes, the lives of our sons are measurable in terms of foreign real estate, for phrased that way, they obviously are not. When they have tried to articulate their feelings, they have done so with sentiments which sound "corny" in today's sophisticated and base world. Patrick Henry said that life was not so dear or peace so sweet as to be purchased at the price of chains and slavery; Woodrow Wilson said that the right is more precious than peace. However, it may be phrased, there is certainly an overwhelming consensus of our Nation's great men who have concluded that so long as we live in a world of nation states, and that so long as some of these nation states seek to swallow their neighbors, a nation which does not wish to be eventually swallowed will have to stand its ground at some point. The alternative is very simply expressed in the phrase "Better red than dead." Much as every thinking person despises war, the only alternative to risking war in a situation of sufficient gravity is servitude.

The other critics of the President's Cambodian invasion, who insist that our troops must forthwith march to the boats, admit the theory that there may be a place where a nation must stand its ground—but they insist that South Vietnam was not such a place. They say that we are engaged in what is at least in part a colonial war, in which we are trying to maintain the existing South Vietnamese Government against indigenous rebels which we have no business doing.

President Nixon, upon his accession to office last year, was not afforded the luxury of being able to call back the moving finger of time, and decide initially for himself whether or not American ground forces should become involved in Vietnam. He had before him the judgment of his three immediate predecessors—President Eisenhower, President Kennedy, and President Johnson—

that United States involvement, even with ground forces, was necessary in the national interest. He was also confronted by the rather obvious fact that a decision to suddenly pull out of a conflict then raging is not the same decision as to whether to enter upon the conflict in the first instance. Nations in the Far East and elsewhere who might have had no misgiving had we never committed our forces in Vietnam might have a significantly different opinion of a United States decision to "cut and run" in 1969.

No one doubts that it takes both wisdom and courage to admit a mistake. But this is a rather casual and simplified way of speaking about the decision the President had to make when he took office in 1969. Since it was not his mistake he would have been admitting, it would have been a relatively simple thing for him to do had it seemed wise. The President, however, realized that larger stakes were involved for this Nation than the gaining of political advantage, or the pleasing of a vocal minority. Together with his top advisors, he devised the strategy of "Vietnamization" of the war, by which, instead of indefinite commitment of United States ground forces to the struggle in Vietnam, these forces would remain only such time as was required to permit the South Vietnamese Army to itself take over the defense of its country. The United States now had a limited and reasonably well-defined objective in Vietnam, consistent both with America's role as a responsible world power and with its recognition that it could not act as a policeman for the world.

The Vietnamization program began succeeding from the outset. As I noted earlier, thousands of American troops have been withdrawn from that theater of war—for the first time in six years, instead of the total number of troops engaged in Vietnam constantly rising, it has steadily declined. The President's course was popular with the majority of the people, and even those who had vocally demanded faster withdrawal conceded that the President had "defused" the war issue.

Yet American men were still exposing life and limb to enemy fire, and American casualties, though decreasing, continued to occur. In April, the President's attention was called to what appeared to be an increasing threat to the safety of American troops from increased build-up in the Cambodian sanctuaries. It became clear to him that the continued success of the Vietnamization program and the maximization of security for troops in the field, required the destruction of these sanctuaries. On the other hand, he was well aware, I am sure, that by ordering such action, he would reopen Vietnam as a political issue.

The easy course, no doubt, would have been to conclude that the attack on the Cambodian sanctuaries would simply have raised too much of a domestic political problem at home, and to have declined to authorize it. Such a decision would probably not even have been news, to say nothing of headline news. Though it would have had a profound effect on the lives and safety of American soldiers who would be subject to attack from Cambodian sanctuaries, it would have created scarcely a ripple on the domestic political scene.

The President, to his everlasting credit, I believe, declined to follow this course. He chose a course which he knew could do him only political damage in the short run, because as Commander in Chief he recognized that it was his duty to take necessary measures for the protection of our troops in the field.

The results of the five weeks' attack on the Cambodian sanctuaries demonstrate convincingly that the President's decision saved American lives and significantly improved the prospects for early withdrawal of

virtually all American ground forces from Vietnam.

The success of the Cambodian move, however, has not diminished the stridency of the criticism of it by the "dove" faction of it in the country. They are not interested in the fact that the President's move was for the purpose of, and had the effect of, better securing the safety of American forces in the field. They are not interested in the fact that the President's move was for the purpose of, and had the effect of, accelerating the time at which American troops could be fully withdrawn, and the dual goal of peace with honor be achieved. Indeed, these opponents do not appear to be interested in any sort of facts in connection with the Vietnamese War.

The President's opponents in the Senate have offered a series of resolutions which would seriously and, in some cases, I believe, unconstitutionally restrict his authority as Commander in Chief to protect the safety of American forces in the field. The President's opponents in the Senate insist on congressional control of battlefield decisions historically made by the Commander in Chief. We Republicans must bend every effort, and urge like thinking people of other political persuasion to bend their efforts, in order to prevent this type of restriction on the President's power as Commander in Chief. Pennsylvania Republicans can contribute to this effort in a particular way, by working for the reelection of your distinguished Senior Senator, and Senate Minority Leader, Senator Hugh Scott in November.

A Washington columnist recently made the sage observation that the Cambodian decision had "drained some of the President's political capital." As a short-run assessment of the situation, I suspect that comes as no surprise to the President. He knows just as his outstanding predecessors have known, that a President's political capital exists for the purpose of being spent in support of the Nation's vital interests. That is just what the President has done in the case of the Cambodian decision. History will award the decision on this point to him, and not to his critics. But right now, he needs the support of every one of you. He well deserves that support, and I am confident he will get it.

SENATOR COTTON—"ADVANCE INTO REALISM"

Mr. MCINTYRE. Mr. President, my colleague, the distinguished senior Senator from New Hampshire (Mr. Cotton) has served his Nation in the Congress for more than two decades.

He believes in our system and is committed to making it work. On Memorial Day he demonstrated that commitment by frankly examining this Nation's military policy.

His anguish over the effects of the Vietnam war on our country and our people, his belief that the Tonkin Gulf resolution should be repealed, his concern for the role of Congress, and his commitment to helping the President, reveal his statesmanship.

Because of the importance of this speech to our present deliberations and to our continued examination of this Nation's future military role in the world. I want to share my distinguished colleague's thoughts with you.

Mr. President, I ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

[From the Hampton (N.H.) Union, June 3, 1970]

ADVANCE INTO REALISM—U.S. SENATOR COTTON

On this day we commemorate the honored dead of all wars, but because of its inception, Memorial Day has been particularly reminiscent of the Civil War. This is especially true this year for not since the Civil War, not even the day after Pearl Harbor, has our Republic been in such grave danger. The peoples of the world distrust us and, in a measure, are arrayed against us. Our own people are divided and disrupted. Our resources have been wasted. Our economy is threatened. The faith of Americans in their leaders, and even in their system of government, appears to be faltering.

At the moment the burning issue is the war in Southeast Asia. I shall touch on it briefly. As one of those who represent you in Washington, you would expect me to do so. I must emphasize, however, that the conflict in Vietnam, tragic though it is, is only one symptom of the hazards that threaten the strength and security of the Nation. It is to the overall danger that I want to address myself today.

But first Vietnam. On this day we are heartsick when we think of nearly 50,000 young Americans already killed in the jungles of Asia. It is useless to spend any of my precious minutes discussing who is to be blamed except to say that the Congress must share that blame and must do its share in putting an end to the carnage. In August 1964 Congress, at the request of President Johnson, passed the Tonkin Resolution authorizing the President to take such steps as he deemed necessary to protect American security and preserve peace in Southeast Asia. For nearly six long years that resolution stood and still stands today as the formal official endorsement of the representative of the American people for the pursuit of the Vietnam war. I was one of 88 Senators who voted for it—a vote which I have long since repented. It is useless to say that I did not dream the President would send ground troops to fight almost singlehanded on the continent of Asia or to say that 87 other Senators made the same error. The unlimited authority was there and I could read. Indeed, I am the only member of New Hampshire's delegation who had sat in Congress during the war in Korea and heard General MacArthur and General Ridgway warn against ever again committing ground forces in Asia. The resolution must be repealed.

There are certain things Congress cannot and should not do. One of these is to attempt to direct military operations. After the disastrous Battle of Bull Run, the Congress created a "Committee on the Conduct of the War" which remained for four years as a thorn in the side of President Lincoln. It summoned generals to testify. It recommended changes in command. It debated the places to be attacked. All this was promptly known by the enemy. After the war General Lee remarked that the "Committee on the Conduct of the War" in the Congress was as valuable to him as ten divisions added to his army.

I shall be frank with you. I did not approve of our entrance into Cambodia. I believe that any temporary military advantage would not atone for further disrupting our people and further inflaming world opinion against us. I cannot agree with the President in his support of the Thieu-Ky Government, and I resent attempts of that government to dictate American policy. This I have said to the White House. However, I am not impressed by the attempts of those in the Senate who, having waited so long to take affirmative steps, now seek to harass and discredit the President by fixing dates in advance when the stern measure of shutting off pay, arms, and supplies to our fighting men shall be invoked. If the President fails

to withdraw from Cambodia on the date to which he has pledged himself, that last resort can be put in force. The Defense Authorization Bill will be coming to the Congress at that very time. Reluctantly, many of us supported President Johnson for five years in the hope that he could bring the war to a successful conclusion. We can give President Nixon five weeks before we tie his hands.

One added contribution must be made by the Congress. It must cease delegating its authority to the Executive. Indeed, the very bill to which the limiting amendments are being proposed authorizes the President to distribute arms in the amount of \$600 million to any nation on earth.

But as I have said, Vietnam with all its dead whom we mourn today could be only a preview of what may happen to the United States of America unless we make a complete about-face in the courses we have been following since the end of World War II. Those were jubilant days and full of promise, and the United States was full of promises. With an unselfish devotion to the cause of world peace and the protection of weaker nations, for which we are given little credit today, we were the moving spirit founding the United Nations. We took the lead in organizing various segments of the world into defensive alliances protecting their members from aggression and preserving the peace—NATO in Europe, SEATO in Asia, ANZUS in the Pacific, and O.A.S. for the South and Central American States. All in all, we have committed ourselves to come to the defense of 42 nations. We embarked on a program of financial aid to a vast number of nations outside the Iron Curtain. As time passed, we became imbued with the notion that we were the Heaven-appointed leader, supporter, guardian, and policeman for the whole world. And the world began to resent it. Assaults on our embassies and consulates have spread from country to country. Since World War II we have spent nearly \$3 billion to support the United Nations which now turns its back on us and \$120 billion in aid to countries that now despise us. Our vast military establishment, the cost of which since World War II is now fast approaching a trillion dollars, is spread around the world, mostly in places that do not want us. Yet, despite all these colossal expenditures for world defense, the Soviets are overtaking and surpassing us in the weapons so vital to our own national security.

These are the reasons for our staggering debt, for our taxes, inflation, high interest rates, and a faltering currency. This is the reason we have been unable to cope with water and air pollution, clean up our cities, and preserve our forests and open spaces.

Most of all, this is a contributing cause for the decadence, loss of morale, lawlessness, drug addiction, and actual sedition on the part of many of our people.

Korea and Vietnam should show us how little we may except from our former friends if we keep our pledged word to come to the defense of any one of the 42 nations. We better begin an "agonizing reappraisal" of these obligations and commitments we have assumed.

We have nearly a million military personnel stationed throughout the world not counting Vietnam and Korea. In Europe alone we have 310,000 and 250,000 of their dependents. No country wants them with the possible exception of West Germany and, even there, they are a constant source of irritation. It costs us more than a billion dollars a month to maintain our troops in Europe, money flowing out of this country into foreign countries and ruinous to our balance of payments. Yet, we hear that the Pentagon is considering giving Franco 60 Phantom Jets to permit us to keep our air base in Spain. Why?

That is why I say to you that Vietnam