

CONGRESS AND VIETNAM WAR

In reality, the most crucial developments relative to the situation in Vietnam during 1973 took place in the United States. Congressional opposition to any further military activity on our part in Southeast Asia steadily increased throughout the spring and early summer. Many attempts were made to add restrictive clauses to various appropriation bills until finally, on 26 June, Congress passed a supplemental appropriation bill that prohibited any U. S. military operations in or over Cambodia or Laos. President Nixon vetoed this bill, but by then testimony had begun before the Senate Watergate Committee, which would start the credibility of the Nixon administration on its steep and irrevocable downward slide. Undoubtedly sensing that already this had diminished his ability to sustain his veto through Congress, the President authorized House Minority Leader Gerald R. Ford on 29 June to inform the House that a bill cutting off all military action by U. S. forces in or over Laos, Cambodia, North and South Vietnam after 15 August would be acceptable. The compromise had been struck: in return for delaying prohibition of U. S. military action until mid-August, the Nixon administration had gone beyond the original congressional intent and added North and South Vietnam to the countries affected. In this sense, Watergate had claimed what may have been its first innocent victim—South Vietnam.

The legislative act that was forthcoming, which the President signed into law on 1 July 1973, read in part as follows:

Sec. 307. None of the funds herein appropriated under this Act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam and South Vietnam or off the shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other Act may be expended for such purpose.

Thus it was clear that the President would be forced to go back to Congress for approval if he wanted to use our forces in Southeast Asia after 15 August. It was equally obvious to friend and foe alike that, given the mood of the Congress and the American people, such approval would be most unlikely. It would therefore be next to impossible to use our air power or our ground forces ever again in support of South Vietnam. The peace treaty could no longer be enforced—Hanoi now had a free hand. We had abandoned South Vietnam.

Later that year, another congressional measure was taken, which essentially sealed South Vietnam's fate. On 12 October, Congress passed the War Powers Resolution, by which the President's traditional freedom of action with regard to the employment of the armed forces was to be severely limited. Indicating that he believed the resolution to be unconstitutional, the President vetoed the legislation on 24 October. By now, however, Watergate was becoming a full-blown scandal, and the President's influence with Congress was all but gone. It was not surprising, therefore, that Congress voted to override the veto on 7 November and the bill became Public Law 93-148.

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Since the impact of the War Powers Resolution goes far beyond the effect on South Vietnam at the time of its passage, it is worthwhile to consider briefly the incredibly restrictive nature of its language. The important parts are quoted in Appendix H, but one key paragraph reads as follows:

Sec. 2. (c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the cir-

cumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

The legislation goes on to proscribe that even then the President must withdraw such forces in sixty days unless Congress declare war or gives him authorization to do otherwise. Furthermore, it specifies that Congress may, by a concurrent resolution, direct the President to withdraw forces from action at any time, if they have not given him such authorization.

As a personal aside, I must comment that if the War Powers Resolution is strictly enforced it will be impossible to use our military forces without the approval of Congress, and this would appear to mean that the world, including a potential enemy, will be informed of our intentions in advance. The strategic element of surprise will thus be lost, with the ultimate result that our casualties will skyrocket. And, while the Congress debates, any situation that requires armed intervention in the first place is bound to deteriorate. In the end, the all-important deterrent effect of our armed strength will be drastically reduced. It is my view that this little-known and less-understood legislation should be subjected to public scrutiny and tested for its constitutionality before we are called upon to test it in the arena of serious world conflict.

During 1974, Congress continued its assault on what was left of our support for South Vietnam by cutting funds for the procurement of military supplies for that beleaguered country. The fiscal year 1975 (starting 1 July 1974) military procurement bill made a relatively modest request of 1.6 billion dollars for South Vietnam, but it was reduced by one-third. The ultimate result was a significant decrease in South Vietnamese military capability. By mid-1974, they were already experiencing shortages of ammunition, fuel and repair parts for all equipment, which seriously affected the fighting capacity of their armed forces—and it was going to get much worse. By 9 August, when Watergate pressures finally forced President Nixon to resign and Gerald Ford became President, the anti-war element was in full control in Congress and continued to systematically choke off supplies to South Vietnam.