

FORD IS BACKED

NYTimes MAY 15 1975

Senate Unit Endorses His Right to Order Military Action

By PHILIP SHABECOFF
Special to The New York Times

WASHINGTON, May 14—The White House said today that President Ford had consulted with Congressional leaders before ordering an attack on Cambodian patrol boats. At least some of those leaders insisted later, however, that they had not been consulted but merely informed of a Presidential decision already made.

However, members of Congress generally expressed approval of the President's action and the Senate Foreign Relations Committee adopted a strong resolution of support this evening acknowledging the President constitutional right to order military operations.

Yesterday the White House press secretary, Ron Nessen, told reporters that President Ford would "consult" with Congress before ordering any military action to rescue the seized American freighter *Mayaguez*, or its crew.

Action Called Constitutional

He quoted the Congressional War Powers Resolution of 1973, which states, in part, that "the President in every possible instance shall consult with Congress before introducing United States armed forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated."

Roderick Hills, a counsel to the President, told a questioner that Mr. Ford had acted under his Constitutional war powers to protect the lives and property of Americans. When asked to cite the specific authority within the Constitution, Mr. Hills said that he did not have the exact article in front of him.

But he insisted that the inherent right of the President to use war powers to protect lives

and property had not been challenged. The only open question, he said, was the appropriate level of military response.

White House Position

Mr. Hills, an assistant to Philip Buchen, the head of the White House legal department, indicated that the President believed that informing Congress of his actions satisfied the requirement of the War Powers Resolution that he consult with Congress before beginning military operations.

The resolution does not require prior approval of military action by Congress, he asserted.

At today's news briefing, Mr. Nessen said that the President, through his Congressional relations staff, "did consult" with

Continued on Page 18, Column 4

Continued From Page 1, Col. 7

Democratic and Republican leaders of the House of Representatives and Senate between 5:30 and 6 P.M. yesterday, "three hours before the fact," a statement issued by the Defense Department today indicated that the attack began shortly after 8:30 P.M., Eastern Daylight Time.

However, Senator Mike Mansfield, Democratic leader of the Senate and one of those listed by Mr. Nessen as having been consulted, said in a telephone interview today:

"I was not consulted. I was notified after the fact about what the Administration had already decided to do."

In a statement released later, Senator Mansfield said: "I did not give my approval or disapproval because the decision had already been made. My reaction at this point is that there are a lot of questions to which I want answers."

Senator James O. Eastland, Democrat of Mississippi and President Pro Tempore of the Senate, and Senator Clifford P. Case, Republican of New Jersey, the ranking Republican on the Senate Foreign Relations Committee, also said that they had not been consulted but had been informed. Mr. Eastland said he had been told after the attack.

Both, however, indicated that

they strongly supported President Ford's action against the Cambodian boats.

The majority leader of the House of Representatives, Thomas P. O'Neill of Massachusetts, also said he had not been consulted but only informed.

The House minority leader, John J. Rhodes of Arizona, was quoted by The Associated Press as having said that he had not been notified until after the Cambodian vessels were sunk. But a spokesman for Mr. Rhodes told a questioner: "He was notified beforehand. We are calling it a consultation. Mr. Rhodes has no complaint."

A member of the White House Congressional liaison staff told a questioner that leaders of the Senate had been called about the President's planned action, starting with Senator Mansfield at 5:55 P.M., yesterday and concluding with Senator Eastland at 8:20 P.M., or shortly before the attack on the Cambodian vessels began. Memorandums of each call were sent to Max Friedersdorf, head of the Congressional relations staff, who had presumably passed the response along to the President, the staff member added.

This staff member said that about half the Senators had voiced approval of the President's action while the others simply "acknowledged" the information. Earlier today, Mr. Nessen said that the response of the Congressional leaders to

the "consultation" was "a strong consensus of support and no objections."

The members of Congress were not given any legal basis for the President's order for military intervention when they were contacted by the White House staff. At today's briefings at the White House, Mr. Nessen said that "the President has authority to protect the lives of Americans and the property of Americans under the Constitution."

Although several members of Congress charged that the President had violated the War Powers Resolution by failure to consult Congress, there was little criticism of the military action itself.

The resolution adopted by the Senate Foreign Relations Committee, while it will not be voted on by the full Senate, was intended as a vote of Senatorial confidence. It was approved unanimously and said:

"Committee condemns an act of armed aggression on an unarmed U.S. merchant vessel in the course of innocent passage on an established trade route.

"The President has engaged in diplomatic means to secure its release and we support that.

"Third, we support the President in the exercise of his constitutional powers within the framework of the War Powers Resolution to secure the release of the ship and its men.

"We urge the Cambodian Government to release the ship and the men forthwith."