



CASE STUDY
National War College
National Defense University

Violating Reality

The Lavelle Affair, Nixon, and the Parsing of the Truth

by Mark Clodfelter



National War College

National Defense University

The National War College at the National Defense University in Washington, DC, is the premier Department of Defense joint professional military education institution for national security strategy. Its mission is to educate future leaders of the Armed Forces, Department of State, and other civilian agencies for high-level policy, command, and staff responsibilities by conducting a senior-level course of study in the theory, development, and assessment of national security strategy.

The 10-month curriculum emphasizes the joint and interagency perspective. Reflecting this emphasis, 59 percent of the student body is composed of equal representation from the land, sea, and air Services (including the Marine Corps and Coast Guard). The remaining 41 percent is drawn from the Department of State and other Federal departments and agencies, as well as international fellows from a number of countries. Graduates earn a master of science in national security strategy.

The NWC commandant, a military officer of one-star rank, occupies a nominative position that rotates among the Army, Navy, and Air Force. As joint sponsor of the National War College, the Department of State nominates a Foreign Service Officer with Ambassadorial rank to serve as the commandant's deputy and international affairs adviser.

Cover

In this 1972 photograph, General John D. Lavelle, USAF, is shown as Seventh Air Force Commander in Saigon (AP File Photo)

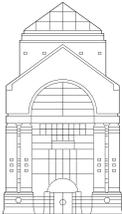
Violating Reality

Violating Reality

The Lavelle Affair, Nixon, and Parsing the Truth

by Mark Clodfelter

National War College
Case Study



NDU
Press

National Defense University Press
Washington, D.C.
March 2016

“Mark Clodfelter uncovers the truth about a dedicated Air Force leader who was treated unjustly and wrongly abandoned by the government he served. It is time to correct that error.”

Lieutenant General David A. Deptula, USAF (Ret.)
Deputy Chief of Staff for Intelligence, Surveillance, and Reconnaissance, 2006–2010
Dean, Mitchell Institute of Aerospace Power Studies

“Mark Clodfelter’s analysis of the Lavelle Affair is a terrific piece of scholarship.”

Dr. Richard H. Kohn
Chief of the Office of Air Force History
Chief Historian, USAF, 1981–1991
Professor Emeritus of History, University of North Carolina at Chapel Hill

Opinions, conclusions, and recommendations expressed or implied within are solely those of the author and do not necessarily represent the official policy of the Defense Department or any other agency of the Federal Government. Cleared for public release; distribution unlimited.

Portions of this work may be quoted or reprinted without permission, provided that a standard source credit line is included. NDU Press would appreciate a courtesy copy of reprints or reviews.

First printing, March 2016

Contents

Foreword.....	ix
Acknowledgments.....	xi
Introduction.....	1
Background.....	4
Initial “Unauthorized” Strikes.....	8
Appeals for “Liberal” ROE Interpretations.....	12
The Moc Chau Radar Attack.....	16
Netting of North Vietnam’s Radars.....	19
The Dong Hoi Mission and Allegations of Falsified Records.....	23
“Mad Bomber” Nixon Secretly Changes the ROE.....	29
Lavelle’s Relief from Command—and Nixon’s Reaction.....	37
Judging the Truth.....	48
Assessment and Legacy.....	60
About the Author.....	65

Foreword

Dr. Mark “Clod” Clodfelter is a nationally recognized scholar and valued faculty member at the National Defense University. Clod has put countless hours into researching this monograph about former U.S. Air Force General John D. Lavelle, who commanded Seventh Air Force in Vietnam from 1971 to 1972. Scholars have peer reviewed the monograph and found it to be a study of significant historical value.

Scholars may disagree with Dr. Clodfelter’s conclusions, but they cannot dispute the value of his work for use by military institutions, from Service academies through senior Service colleges, as a case study in civil-military relations.

A handwritten signature in black ink, appearing to read "Fm Padilla". The signature is written in a cursive, slightly slanted style.

MajGen F.M. Padilla, USMC

President

National Defense University

Acknowledgments

For comments and critiques, the author is grateful to Professor Emeritus Peter Maslowski at the University of Nebraska; Professor Emeritus Richard Kohn at the University of North Carolina; Professor Rondall Rice at East Carolina University; Maj Gen Robertus “Dutch” Remkes, USAF (Ret.); Lt Col Wendy Walker, USAF, at Offutt Air Force Base, Nebraska; Col Andrew Nielsen, USAF, Adam Oler, and Professor David Tretler at the National War College; Professors David Mets (Emeritus), Harold Winton, Mark Conversino, and Rich Muller at the School of Advanced Air and Space Studies.

The author also thanks Maranda Gilmore at Air University’s Air Force Historical Research Agency; Martin Gedra, Dr. Alex J. Daverede III, John Clagett, and Jennifer Dryer at the National Archives and Records Administration at College Park, Maryland; and Patrick Casey and Jennifer Krist at Myers, Brier, and Kelly, LLP, for invaluable research assistance.

The author further thanks Dr. Jeffrey D. Smotherman, George Maerz, Lisa Yambrick, Dr. John J. Church, Joanna E. Seich, and Dr. William T. Eliason at NDU Press for their superb work in preparing this case study for publication.

Introduction

On December 20, 2010, the Senate Armed Services Committee (SASC) denied the Pentagon's request, endorsed by President Barack Obama, to advance posthumously Air Force Maj Gen John D. Lavelle to the retired list in the rank of general.¹ Thirty-eight years earlier, Air Force Chief of Staff Gen John D. Ryan had fired the four-star Lavelle as the Seventh Air Force commander in Saigon for allegedly conducting unauthorized airstrikes against North Vietnam and ordering the falsification of mission reports. Senate hearings in September 1972 deemed Lavelle guilty of both offenses, resulting in his demotion to major general following retirement. Yet a careful reading of documentary and taped evidence, much of it recently discovered and not available at the time of the original Senate hearings, reveals that General Lavelle neither violated the rules of engagement (ROE) that prescribed America's air war at the time of his dismissal nor falsified mission reports. Accordingly, Lavelle should have his rank restored, and the so-called Lavelle affair should serve as a cautionary tale for political and military leaders alike who question the proper conduct of "civil-military relations" in the complex and often confounding era of modern limited war.

The declassification and release of segments of President Richard Nixon's White House tapes in 2002 and 2003 disclosed that Nixon had authorized many of the airstrikes that Lavelle had ordered. Those tapes, along with the release of formerly classified documents in the eighth volume on the Vietnam War in the State Department's *Foreign Relations of the United States* series, papers in the National Archives to include several documents declassified in 2015, General Lavelle's 1978 Air Force oral history interview, and recent interviews of individuals who participated in the events in question, shed new light on the 1972 SASC and House Armed Services Committee (HASC) hearings addressing Lavelle's actions as Seventh Air Force Commander. Those hearings gained the most publicity, given that the June 1972 HASC hearing was the first to highlight the Lavelle affair in an attempt to discover what had transpired and why, and the September 1972 SASC hearings decided Lavelle's retired rank. Two other hearings also offered insight on Lavelle's conduct: the June 1972 SASC hearing that considered the reappointment of Admiral Thomas H. Moorer, as Chairman of the Joint Chiefs of Staff (JCS), and the March 1973 SASC hearing to determine if 180 Air Force and Navy officers involved in allegedly unauthorized airstrikes should

¹ Letter, John McCain, Ranking Member, and Carl Levin, Chairman, Senate Armed Services Committee, to Secretary of Defense Robert M. Gates, December 20, 2010, available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2015/10/12084248/Letter-to-Secretary-Robert-Gates-from-John-McCain-and-Carl-Levin-12-20-10-00218716xBF28F.pdf>>.

receive promotions. When combined, all of those sources show that Lavelle complied with the wishes of “higher authority” and accurately reported his actions to the command echelons in both military and civilian spheres. The materials now available further reveal that some general officer testimony provided under oath during House and Senate hearings was not always exact, and those discrepancies—along with the failure of the Nixon White House to acknowledge publicly its new bombing policy—helped to seal Lavelle’s undeserved fate.

Lavelle’s supposedly unauthorized bombing came to light in early March 1972, after General Ryan received a letter that Air Force Sgt. Lonnie Franks, an intelligence specialist with the 432nd Tactical Reconnaissance Wing at Udorn Royal Thai Air Base, Thailand, had written to Senator Harold E. Hughes (D-IA), a critic of the Vietnam War. The letter alleged that the wing’s pilots regularly filed false reports after flying escort missions for reconnaissance aircraft over North Vietnam, claiming that they had received ground fire from North Vietnamese air defenses when they had not. Ryan dispatched Gen Louis L. Wilson, Jr., the Air Force Inspector General (IG), to Saigon to investigate Lavelle’s actions, and Wilson agreed with Franks’s assessment. The IG further determined that such missions violated the ROE then governing the air war over the North.² Wilson reported that Lavelle had conducted 28 unauthorized missions, consisting of 147 sorties, during a 4-month span in which Seventh Air Force flew between 25,000 and 40,000 total sorties.³ General Ryan called Lavelle to Washington, telling him that he would be relieved of command and demoted to his permanent rank of major general should he decide to remain in the Air Force. Lavelle instead chose retirement, and the Senate Armed Services Committee voted 14–2 to keep him on the retired list as a major general.⁴

² Lieutenant General Louis L. Wilson, Jr., “Report of Investigation Concerning Alleged Falsification of Classified Reports for Missions in North Vietnam,” March 20, 1972, 1–5, available at <<https://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2010/12/Lavelle-IGReport.pdf>>.

³ *Ibid.*, 2; Hearing before the Armed Services Investigating Subcommittee on Armed Services, House of Representatives, 92nd Cong., 2nd sess., “Unauthorized Bombing of Military Targets in North Vietnam” (Washington, DC: U.S. Government Printing Office, 1972), June 12, 1972, 8; Hearings before the Committee on Armed Services of the United States Senate, 92nd Cong., 2nd sess., “Nomination of John D. Lavelle, General Creighton W. Abrams, and Admiral John S. McCain” (Washington, DC: U.S. Government Printing Office, 1972), September 12, 1972, 44; September 13, 1972, 132; September 19, 1972, 320. The SASC hearings of September 12 listed 24 missions and 137 sorties that “appear to fall within the category of mission ordered to expend [ordnance] whether or not there was enemy reaction from SAM defenses or AAA.” See 281.

⁴ Aloysius Casey and Patrick Casey, “Lavelle, Nixon, and the White House Tapes,” *Air Force Magazine*, February 2007, 90.

The 1972 SASC, though, did not have access to much material relevant to the case (such as Wilson's IG report), and additional information has since appeared. The 2010 Senate Armed Services Committee considered some of this material, but it did not consider all of it. In particular, the 2010 SASC failed to connect the numerous classified deletions in key testimony during the 1972 hearings to revelations found in the Nixon tapes and Lavelle's 1978 interview. Such ties added new meaning to the testimony given in 1972 that the 2010 SASC did not take into account. Moreover, documents declassified after the 2010 SASC ruling support Lavelle's contention that he acted with the knowledge—and backing—of his superiors, further demonstrating his innocence.

The case study that follows is not only an effort to help exonerate Lavelle for the unjust treatment he received, but it also reveals much about how American civil-military relations can function during a controversial limited conflict in which disparate personalities often played a dominant role. By the time of the Lavelle affair, the Vietnam War had cost the United States more than 50,000 Americans killed and exceeded \$125 billion in monetary expenditures—enormous outlays in both lives and treasure for no tangible result after 7 years of combat. The war had ripped apart the fabric of the Nation and made the 1968 Presidential race that elected Richard Nixon one of the most contentious contests in American political history. The war's limited character, resulting from the threat of active Chinese or Soviet intervention, not only confused many in the American public, but also baffled many in the American military. Generals and admirals chafed against restrictive ROE that constrained the actions they could take. Meanwhile, beginning with President Lyndon Johnson and his Secretary of Defense Robert McNamara, a mutual distrust developed between America's political and military leadership, and that animosity endured into the Nixon administration. Nixon's approach to Vietnam, though, differed from that of his predecessor, especially in terms of his steadfast reliance on National Security Advisor Henry Kissinger at the expense of Secretary of Defense Melvin Laird, which added a new wrinkle to the civil-military relationship.⁵ Congress, with its penchant for partisan

⁵ The most thorough analysis of Melvin Laird's tenure as Secretary of Defense is Richard A. Hunt, *Melvin Laird and the Foundation of the Post-Vietnam Military 1969–1973* (Washington, DC: Historical Office of the Office of the Secretary of Defense, 2015). Hunt observes that Laird's "relations with the White House and the JCS [Joint Chiefs of Staff] would at times be complicated and characterized by mutual mistrust. The secretary, the White House, and the JCS would deliberately keep each other in the dark about their actions or intentions," 28–29). For an excellent examination of the Nixon-Kissinger relationship, see Larry Berman, *No Peace, No Honor: Nixon, Kissinger, and Betrayal in Vietnam* (New York: Free Press, 2001), especially 37–60.

politics, also played a key role in the Lavelle affair. The twists and turns of the following story offer much worthy of consideration for 21st-century American political and military leaders who will continue to fight limited wars.

Background

The spark that ultimately produced the Lavelle affair was the November 1968 bombing halt “agreement,” concluded as part of the Paris peace negotiations. That agreement came at the end of Operation *Rolling Thunder*, President Lyndon Johnson’s air campaign against North Vietnam that had begun in March 1965 and dropped 643,000 tons of bombs.⁶ The North Vietnamese had refused to engage seriously in negotiations until Johnson stopped bombing their country, and the bombing had also become a focal point for the growing anti-war movement in the United States. As a result, Johnson halted *Rolling Thunder* on October 31, 1968, and soon afterward, an apparent agreement emerged in Paris. In it, the North Vietnamese seemingly concurred that they would not attack South Vietnamese cities, move large quantities of troops or supplies into the South, or fire on unarmed U.S. reconnaissance aircraft over the North in exchange for a bombing halt against North Vietnam.⁷ North Vietnamese violations of those restrictions occurred soon after the agreement and often generated airstrikes against the North in retaliation. As attacks against reconnaissance aircraft increased, the U.S. Air Force and Navy began to escort the aircraft with bomb-laden fighters that could conduct “protective reaction strikes” against North Vietnamese air defenses once they shot at U.S. aircraft. President Nixon announced the rules of engagement governing the air war over the North in November 1970: “If our planes are fired upon, I will not only order that they return the fire, but I will order that the missile site be destroyed and that the military complex around that site which supports it also be destroyed by bombing.”⁸

⁶U.S. Grant Sharp and William C. Westmoreland, “Report on the War in Vietnam (as of 30 June 1968)” (Washington, DC: U.S. Government Printing Office, 1969), 53.

⁷Former President Lyndon Johnson, who approved the “agreement,” wrote in his memoirs: “Our negotiators reported that the North Vietnamese would give no flat guarantees; that was in keeping with their stand that the bombing had to be ended without conditions. But they had told us that if we stopped the bombing, they would ‘know what to do.’ [American negotiators] were confident Hanoi knew precisely what we meant and would avoid the actions that we had warned them would imperil a bombing halt.” See *The Vantage Point: Perspectives of the Presidency 1963–1969* (New York: Holt, Rinehart and Winston, 1971), 518.

⁸Quoted in “Nomination of Lavelle, Abrams, and McCain,” September 12, 1972, 98.

Nixon's description of the ROE was not entirely accurate, however. American technicians had perfected a radar homing and warning (RHAW) indicator that triggered a tone in a pilot's headset when the radars guiding North Vietnamese surface-to-air missiles (SAMs) or anti-aircraft artillery (AAA) locked on to an aircraft prior to firing.⁹ This warning of radar activation gave the pilot several seconds of reaction time before missile launch or AAA firing and enabled him to attack the threat before it shot at him. As a result, the following rules of engagement for fighters escorting reconnaissance aircraft over North Vietnam were in effect when Lavelle took command of Seventh Air Force on July 29, 1971: "Fighter aircraft may strike any SAM or Triple A site below 20 degrees north [latitude] which fires at or *is activated against* U.S. aircraft conducting missions over Laos or North Vietnam [emphasis added]."¹⁰ The phrase "is activated against" stemmed from the creation of RHAW gear and significantly altered the ROE to allow airmen to fire first in the case of an imminent threat from radar-guided SAMs or AAA. That development, and the North Vietnamese counter to it, created the controversy that ultimately resulted in Lavelle's relief.

Lavelle had entered the Army Air Corps in 1939 as an aviation cadet after graduating from Ohio's John Carroll University with a bachelor of science degree. In World War II, he flew 76 combat missions in P-47 fighters, including patrolling the Normandy invasion beachhead and providing air support in the drive to the Rhine. During the Korean War, as a supply depot commander in Japan, he reorganized the supply system to allow for the shipment of equipment from the United States directly to South Korea. After commanding McGuire Air Force Base, New Jersey, he attended the Air War College and then alternated between assignments on the Pentagon's Air Staff and in Europe. Promoted to major general in 1966, Lavelle commanded 17th Air Force in Germany, Italy, and Libya, a vast organization that contained fighters in all three locations.

Returning to the Pentagon, he gained his third star and from 1968 to 1970 took charge of the Defense Communications Planning Group, which, among other missions, developed secret sensors used to detect trucks on the Ho Chi Minh Trail. In this assignment, he recalled

⁹ Wayne Thompson, *To Hanoi and Back: The U.S. Air Force and North Vietnam, 1966-1973* (Washington, DC: Smithsonian Institution Press, 2000), 205; Northrop Grumman, "The Radar Warning Story," n.d., 2, available at <http://r.search.yahoo.com/_ylt=AwrBT8wpB.ZVyA8A4lpXNyoA;_ylu=X3oDMTByOHZyb21tBGNvbG8DYmYxBHBvcwMxBHZ0aWQDBHNlYwNzcg-/RV=2/RE=1441167274/RO=10/RU=https%3a%2f%2fwww.myaoc.org%2fEWEB%2fimages%2faoc_images%2fgoldcrows%2fweb%2fRadarWarnStory.doc/RK=0/RS=qEKsPlgTsYW_Ok9aZOkIRB1V3Y->>.

¹⁰ "Nomination of Lavelle, Abrams, and McCain," September 18, 1972, 281.

that he often clashed with Air Force Chief of Staff Ryan, most notably when Lavelle opposed Ryan's desire for the Air Force to take control of Lockheed-Marietta because of its significant cost overruns in developing the Air Force's C-5 transport aircraft. Secretary of the Air Force Robert C. Seamans supported Lavelle, whose view prevailed. Ryan ultimately sent Lavelle to a posting in Hawaii as the Vice Chief of Pacific Air Forces rather than to Lavelle's desired job as the commander of Air Training Command.¹¹ Ryan, interviewed in 1979, could not remember the rift over Lockheed-Marietta or that Lavelle wanted to serve in Training Command. The former Chief of Staff did recollect discord over sending F-4Cs to Vietnam to support the sensor program, but he remarked, "I was against the F-4Cs, but my God, there weren't any strained relations. . . . Hell, if it was strained relations, I would never have promoted him to four stars and put him down there at Seventh Air Force."¹²

"Obviously the Chief was not as down on me as I thought he was because he has final say [in selecting the Seventh Air Force Commander]," Lavelle remembered, "but part of the reason that I got the job was because I was asked for."¹³ Lavelle had strong backing from Gen George S. Brown, who commanded Air Force Systems Command and had served as Seventh Air Force Commander in 1968–1969, and from the commander of Military Assistance Command, Vietnam (MACV), Army GEN Creighton Abrams, who had interacted frequently with Lavelle during Lavelle's posting as Vice Chief of Pacific Air Forces. Abrams, who would serve as Lavelle's boss, directed the overall American military effort in Vietnam and had his sights set on thwarting an anticipated North Vietnamese invasion, which intelligence analysts projected for early 1972. President Nixon's commitment to reducing American troop totals in Vietnam would result in only 156,800 Soldiers and Marines in the South by the end of 1971; that total would drop to 69,000 by May 1972.¹⁴ Thus, South Vietnamese ground forces and American airpower were the

¹¹ See U.S. Air Force Oral History Interview of Gen John D. Lavelle by Lt Col John N. Dick, Jr., McLean, VA, April 17–24, 1978, K239.0512-1036, Air Force Historical Research Agency (AFHRA), Maxwell AFB, AL, 442–446, 528–539, and 549–554. Lavelle contended that Ryan took out his wrath on him over the Lockheed-Marietta incident by assigning him to be Vice Chief of Pacific Air Forces, widely viewed as a "backwater" position. See, especially, 535–536.

¹² U.S. Air Force Oral History Interview of Gen John D. Ryan by Dr. James C. Hasdorff, San Antonio, TX, May 15–17, 1979, K239.0512-1123, AFHRA, Maxwell AFB, AL, 223, 226–227.

¹³ Lavelle oral history interview, 553.

¹⁴ The Gilder Lehrman Institute of American History, "The Vietnam War: Military Statistics," available at <www.gilderlehrman.org/history-by-era/seventies/resources/vietnam-war-military-statistics>.

main elements available to stop the expected assault, and Lavelle, as Abrams's air deputy, immediately began to work with his new commander to negate such an attack.

Soon after his arrival in Saigon, Lavelle got a lesson on how political concerns could affect his ability to command his forces. On September 21, 1971, Seventh Air Force fighters, in concert with a small number of Navy aircraft, conducted Operation *Prize Bull*, bombing targets north of the Demilitarized Zone (DMZ), the dividing sector between North and South Vietnam. *Prize Bull* was not Lavelle's idea. He had received a late-night notice from Air Force Lt Gen John W. Vogt, the Director of the Joint Staff in Washington, DC, who called on behalf of Joint Chiefs Chairman Admiral Moorer. (Before passage of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, the Chairman was in the operational chain of command.) Vogt told Lavelle to prepare a list of suitable Northern targets within 35 miles of the DMZ and then bomb them regardless of weather conditions. Lavelle did as directed but found few targets worthy of attack. The weather proved dreadful, allowing pilots only 6 hours to drop their bombs blind using radar techniques in 198 strike sorties.¹⁵ Lavelle surmised that the White House had ordered the attack, and his supposition proved correct. A breakdown in the Paris peace negotiations caused Nixon to demand the raid, which Lavelle thought did little to thwart the North Vietnamese build-up.¹⁶ The attack did illustrate, though, that when the President ordered an airstrike, the previously established ROE for bombing did not apply.

In the wake of *Prize Bull*, Lavelle still faced the prospect of a North Vietnamese assault, and ominous signs pointed to a massive attack. Along with stockpiling materiel along their southern border and in Laos, the North Vietnamese had begun bolstering their air defenses in the area. During the 1970–1971 “dry season” stretching from September to February, they had placed only 2 SAM sites below 20 degrees north latitude in either North Vietnam or Laos; a year later, they had constructed 13. That addition resulted in more than 200 SAM firings in 1971–1972

¹⁵ Memorandum for the Chairman, Joint Chiefs of Staff, from Air Force Lt Gen John W. Vogt, Director, Joint Staff, Subject “Protective Reaction Strikes,” DJSJ 2168-71, December 2, 1971, Attachment 4, Folder: Vietnam—November–December 1971, Box 27, File: 92-0029—Records of Admiral Thomas H. Moorer, 1970–1974; Record Group (RG) 218—Records of the U.S. Joint Chiefs of Staff, National Archives and Records Administration (NARA), College Park, MD. Vogt remarked, “Operation had to start on 21 September without regard to weather. . . . Evaluation: Objective of all-weather option achieved. US intent to protect aircraft in Laos demonstrated.”

¹⁶ Thompson, 202–203; Lavelle oral history interview, 605–612; Henry Kissinger, *White House Years* (Boston: Little, Brown, and Company, 1979), 1037–1038. Lavelle's oral history interview mistakenly notes that this mission occurred in November 1971.

compared to 20 the previous year. Meanwhile, the North Vietnamese started moving MiG fighters to southern airfields and flying over Laos, where they could not only provide air cover for the build-up, but also threaten American B-52 bombers, RC-135 intelligence aircraft, and AC-130 gunships. Indeed, on October 4, 1971, a MiG attempted to shoot down a B-52, and by the end of the 6-month dry season in March 1972, 72 MiGs had flown through Laotian or South Vietnamese airspace, compared to 5 the year before.¹⁷

As General Abrams's air deputy, Lavelle was responsible for controlling the skies above South Vietnam and Laos—and protecting any American aircraft flying there, as well for obtaining photographs of the North Vietnamese build-up. Much of the reconnaissance duty went to the 432nd Wing at Udorn, Thailand, which sported a squadron of unarmed, camera-equipped RF-4s plus two squadrons of ordnance-carrying F-4s. For “protective reaction strike” missions, two F-4s typically accompanied a single RF-4 that photographed the North Vietnamese landscape, with its crew looking for stockpiled goods, tanks, AAA, SAM sites, missile transporters, trucks, and MiGs parked on airfields. According to the ROE, if fired upon—or activated against—during such a mission, the crews of the F-4s could respond only to the air defense threat, not against targets such as tanks or stockpiled equipment.

Initial “Unauthorized” Strikes

The attempted shoot-down of the B-52 in October troubled Lavelle, who monitored North Vietnamese airfields for the appearance of MiGs. In early November 1971, intelligence reports indicated that MiGs had begun consistent operations from airfields at Dong Hoi and Quang Lang,¹⁸ both located in the southern part of North Vietnam. Abrams requested that Lavelle conduct a photo reconnaissance mission of Dong Hoi, located farther to the south than Quang Lang.¹⁹ Admiral Moorer was in Saigon at the time, and, according to Lavelle, Moorer advised him to conduct a protective reaction strike against Quang Lang airfield, the base for the October MiG attack on the B-52. Moorer told Lavelle that “if you get fired at over there, then you can go after the MiGs,” believing that defensive fire would certainly occur when American aircraft

¹⁷ Lavelle oral history interview, 569–583.

¹⁸ In messages and other correspondence, “Quang Lang” is sometimes written as “Quan Lang.”

¹⁹ “Nomination of Lavelle, Abrams, and McCain,” September 13, 1972, 105; “List of Allegations,” Binder: SASC Hearing, September 27, 1972, 2, Box 90, Admiral Moorer Records, RG 218, NARA, College Park, MD.

appeared over Quang Lang—and thus the raid would be in accordance with the ROE.²⁰ Technically, protective reaction strikes were to be happenstance events transpiring when the North Vietnamese fired—or intended to fire—at American aircraft on a reconnaissance mission. Yet drawing enemy fire over an important target like Quang Lang was almost inevitable. Indeed, Moorer told President Nixon 3 months later that the North Vietnamese always shot at American aircraft over the North,²¹ a sentiment that General Abrams echoed in his September 1972 testimony to the SASC.²²

In his Senate testimony in September 1972, Moorer remarked, “At no time did I suggest to General Lavelle that he should preplan these strikes against these fields [Dong Hoi and Quang Lang].” Moorer told the SASC that he assumed Lavelle would operate according to the ROE, which required aircrews to take fire before they could return it, and “any suggestion that I authorized anything different is incorrect.”²³ Nonetheless, Lavelle thought Moorer wanted him to attack Quang Lang, albeit in a manner that would satisfy the ROE, so the Seventh Air Force commander doubled the number of escort aircraft for the mission.²⁴ In reality, Moorer’s February 2, 1972 conversation with Nixon revealed that the Chairman intended for air commanders to conduct exactly the type of preplanned missions that he criticized when testifying before the SASC. Moorer told the President that he had directed General Abrams “to increase his airfield reconnaissance and to make certain these reconnaissance aircraft are heavily supported with bombing aircraft, and if these aircraft are fired upon, *which they always are*, he was to then attack

²⁰ Quoted in Lavelle oral history interview, 575–576; “Nomination of Lavelle, Abrams, and McCain,” September 12, 1972, 55, 59–60.

²¹ “National Security Council Meeting,” February 2, 1972, *Foreign Relations of the United States* (hereafter, *FRUS*), 1969–1976, Vol. VIII, *Vietnam: January–October 1972* (Washington, DC: U.S. Government Printing Office, 2010), 50. Also contained in “Meeting of President Nixon and the National Security Council,” February 2, 1972, in *The Nixon Tapes*, ed. Douglas Brinkley and Luke A. Nichter (Boston: Houghton Mifflin Harcourt, 2014), 367.

²² “Nomination of Lavelle, Abrams, and McCain,” September 13, 1972, 128.

²³ *Ibid.*, September 28, 1972, 444. Yet Moorer later stated during the hearing, “going to an airfield like Quang Lang, it would be, you know, the ultimate in nonprofessionalism if you just waited until you got there, flying at 500 or 600 knots, to decide what you are going to do in case you do get fired upon. So they [air crews] make a very careful study of the antiaircraft sites, the missile sites, and say, if we get attacked, I want you to do this, you to do that. But if we do not get attacked, we just fly right on over and in this case, we had alternate targets in Laos that they would have gone on over and attacked.” See 463–464.

²⁴ Colonel Charles A. Gabriel, USAF, “Statement of Witness,” March 14, 1972, in Wilson, Jr., “Report of Investigation.”

the airfield, and *so we have been doing a series of operations of this type, sir* [emphasis added].” Moorer went on to mention raids against Dong Hoi, Quang Lang, and Vinh, noting that “they’re very effective” and that the attacks must “be done continually in order to make certain that the airfield is not restored to operation.”²⁵

On November 7, 1971, Seventh Air Force aircrews flew a protective reaction strike against the airfield at Dong Hoi, and the following day they did the same for the one at Quang Lang, receiving ground fire in both cases. Lavelle noted afterward that Moorer had played a key role in arranging the Quang Lang attack by securing permission for Air Force aircraft to fly there, given that the airfield was in one of the Navy’s zones of operation.²⁶ Moorer denied that claim in Senate testimony in September 1972, remarking that “all I told him was that he could simply coordinate with the Navy to insure that both the Navy and the Air Force did not arrive on the target at the same time in their photorecce [photo reconnaissance] flights. It was not a matter of getting permission at all; it was just a matter of conducting a routine coordination which is done daily.”²⁷ Moorer’s statement was disingenuous, however, because “routine coordination” between the Air Force and Navy rarely resulted in permission for one Service to operate in another’s airspace; Moorer’s intervention would have quickly cut through the Service parochialism that often

²⁵ “National Security Council Meeting,” *FRUS, Vietnam: January–October 1972*, 50. Also in “Meeting of President Nixon and the National Security Council,” *The Nixon Tapes*, 367.

²⁶ “Nomination of Lavelle, Abrams, and McCain,” September 12, 1972, 38; Lavelle oral history interview, 575–576. In April 1966, Admiral U.S. Grant Sharp, the Commander of Pacific Command, divided the airspace over North Vietnam into seven bombing zones to deconflict aircraft and prevent mid-air collisions. The Navy received four zones and the Air Force three; Air Force aircraft could not fly in Navy zones, and vice versa, without receiving prior permission from the other Service.

²⁷ “Nomination of Lavelle, Abrams, and McCain,” September 28, 1972, 444, 449, 455. In answering questions from Senator Hughes, Moorer stated that *Lavelle*, not he, did the coordination with the Navy to fly in the Navy’s airspace for the Quang Lang mission, noting that such coordination “is the simplest kind of thing that goes on all the time.” Hughes followed with, “Did General Lavelle lie, then, in his statement [that Moorer secured permission from the Navy for the mission to occur]?” Moorer responded, “I think he, in using the word ‘permission,’ certainly gave the impression that he was forbidden to do this at the time before he discussed it with me. That was not the case.” Moorer uses the word “permission” to mean that the Navy had no authority to tell Lavelle what type of missions he could fly in Navy-controlled airspace once coordination occurred with that Service; Lavelle uses “permission” as a synonym for “coordination.” Moorer depends on this semantical distinction to claim that he did not communicate with the Navy to secure the airspace for Lavelle, and he persisted with it in additional exchanges with Senator Hughes. Semantics aside, in the final analysis, Hughes was correct: either Lavelle or Moorer did not tell the truth.

denied such requests.²⁸ As for the attacks on Dong Hoi and Quang Lang, airmen saw no MiGs on either mission, but they cut the runway at Quang Lang. Lavelle gave post-strike photographs to Moorer before he returned to Washington. To the Seventh Air Force commander, the admiral seemed pleased by the results.²⁹

The attacks on the Dong Hoi and Quang Lang airfields marked the first of Lavelle's "unauthorized attacks" cited in the March 20, 1972, Air Force IG report. During his Senate testimony 10 months later, General Ryan condemned the attacks as ROE violations, stating, "I think it is a violation to preplan an attack that says you will drop bombs regardless of whether you are fired on or not."³⁰ Two weeks after the airstrikes, however, Admiral John S. McCain, the commander of Pacific Command, sent a message to Moorer, copying Ryan, Abrams, and Lavelle, stating that the raids "were protective reaction strikes conducted in accordance with current air operating authorities."³¹ Lavelle recalled that most of the ordnance for the Dong Hoi and Quang Lang missions "was maximized for AAA suppression," not bombing airfields. He added:

We resolved then and there that when we were going on future high priority missions of this nature, and we were going to get the opportunity to do something, we would plan the mission in detail. It just didn't make sense to carry on random protective action strikes without any tactics developed to make the most effective use of the opportunities that were given us. So from then on we did plan when we went in on an escort of the recces, if we were fired on and we attacked a target, we would optimize our effort by hanging munitions on board that were good not only for AAA suppression but to strike targets.³²

²⁸ During Operation *Rolling Thunder*, the air campaign against North Vietnam from March 1965 to October 1968, the Air Force and Navy competed with one another for maximum number of sorties that each could fly in its respective zones of operation and used the sortie totals as a measuring stick to indicate which Service was contributing the most to winning the war. See Mark Clodfelter, *The Limits of Air Power: The American Bombing of North Vietnam* (Lincoln: University of Nebraska Press, 2006), 129–130.

²⁹ Lavelle oral history interview, 576.

³⁰ "Nomination of Lavelle, Abrams, and McCain," September 18, 1972, 256.

³¹ Message, McCain to Moorer, info to Ryan, Lavelle, Abrams, and others, 0005Z, November 21, 1971, available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-LAV-51-54-00224829xBF28E.pdf>>.

³² Lavelle oral history interview, 578–579.

Ryan told the SASC in September 1972 that the Quang Lang attack was not a template for future protective reaction strikes, but simply revealed the need to get permission before flying in Navy territory.³³ When asked if Admiral Moorer's assistance on the Quang Lang raid could not be interpreted "as the Chairman giving permission to General Lavelle to preplan and to [go] in and strike?" Ryan curtly replied, "No, sir."³⁴

At the time of the raid, though, Ryan's thoughts about it were very different—he berated Lavelle for poor bombing. Ryan contacted Gen Lucius D. Clay, Jr., the Pacific Air Forces commander and Lavelle's "Air Force boss," bemoaning the "disappointing results."³⁵ Clay in turn told Lavelle, "We know what you are trying to do and appreciate your taking advantage of the opportunities, but when you get such an opportunity, you're going to have to do a better job of it."³⁶ Moreover, in early December 1971, when Ryan visited Vietnam, he took a side trip to the base at Udorn, Thailand, and told the crews who had flown the mission that he was upset by their dismal performance.³⁷ Colonel Charles Gabriel, the 432nd Wing commander, highlighted Ryan's trip to Udorn in a personal statement attached to the March 1972 Air Force IG report. "Members of the 432nd have inferred from this incident," Gabriel wrote, "that all our planned and directed protective reaction strikes have been cleared at least as high as the Chief of Staff level and probably at the JCS level since our Chief had received some criticism in the JCS over the poor BDA [bomb damage assessment] resulting from this air raid."³⁸

Appeals for "Liberal" ROE Interpretations

The attacks on Dong Hoi and Quang Lang did little to deter the North Vietnamese. On November 20, 1971, a MiG took off from Dong Hoi and fired on a flight of B-52s with air-to-air missiles; the bombers managed to escape harm. General Bruce K. Holloway, the commander of Strategic Air Command (SAC) who controlled the B-52 fleet, then grounded all B-52s in Southeast Asia for 48 hours as a result of the apparent inability of Seventh Air Force to protect his bombers.³⁹ Holloway did so without informing Admiral Moorer, General Abrams, or Gen-

³³ "Nomination of Lavelle, Abrams, and McCain," September 18, 1972, 278.

³⁴ Ibid.

³⁵ Lavelle oral history interview, 578.

³⁶ Quoted in *ibid.*

³⁷ "Nomination of Lavelle, Abrams, and McCain," September 12, 1972, 60, 85; Gabriel, "Statement of Witness," in Wilson, Jr., "Report of Investigation."

³⁸ Gabriel, "Statement of Witness," in Wilson, Jr., "Report of Investigation."

³⁹ Lavelle oral history interview, 593–596.

eral Ryan, although the SAC commander did tell Gen J.C. Meyer, the Air Force Vice Chief of Staff—who failed to notify the Chief.⁴⁰ Abrams, who relied on the aerial behemoths to deliver firepower to American and South Vietnamese troops, and Ryan were irate over Holloway’s action.⁴¹ Moorer exploded in a message to Holloway: “It would certainly have been most helpful at the Washington level if the JCS could have had some prior warning that you contemplated such unilateral action which impacts heavily on tasks assigned the field commanders.”⁴² As a result, the Joint Chiefs of Staff called for a conference to determine how best to defend American aircraft, especially B-52s.

In Honolulu on December 4–5, Lt Gen Vogt relayed Admiral Moorer’s directives to an assembly that included Admiral McCain, the commander of Pacific Command and Abrams’s reporting official; Air Force General Clay, the commander of Pacific Air Forces; and Air Force Maj Gen Winton W. Marshall, the vice commander of Seventh Air Force, who attended the meeting on behalf of General Lavelle. Vogt’s message from Moorer was blunt and mimicked what the admiral would later tell President Nixon: field commanders should be more aggressive and more flexible in applying the existing authorities that they had for attacking North Vietnamese air defenses. He recommended raising the number of escorts for reconnaissance aircraft from 2 to 8 or even 16 if required to guarantee damage in protective reaction strikes; commanders should employ the maximum number of escorts if intelligence indicated MiGs on airfields to the south. In addition, the Joint Chiefs would not question aiming points on protective reaction strikes, and commanders could expect full backing from the chiefs for the raids

⁴⁰ Ibid.

⁴¹ Abrams cabled Admiral McCain: “The issuance of an order which materially and suddenly alters the application of combat power to an ongoing mission without prior consultation with the field commander is in itself disturbing. Perhaps even more serious are the implications of force employment which are involved. . . . The whole psychology of force employment in SEA [Southeast Asia] is involved in the CINCSAC [Commander in Chief, Strategic Air Command] decision to withdraw his force from the threat area. If too great a reluctance to risk losses becomes the dominant psychology in SEA, it should be a matter of the highest concern. Such a psychology is infectuous and could have widespread impact.” Message, Abrams to McCain, MAC 11312, 1028Z, December 1, 1971, quoted in Lewis Sorley, *A Better War: The Unexamined Victories and Final Tragedy of America’s Last Years in Vietnam* (New York: Harcourt, Brace, and Company, 1999, 2007), 314.

⁴² Message, Admiral Moorer to General Holloway, Admiral McCain; Info: General Abrams, General Lavelle, 1 December 1971, Subject: “Arc Light,” available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-LAV-8570-8572-00224843xBF28F.pdf>>.

conducted.⁴³ By acknowledging that air commanders could choose their own aiming points, Vogt gave those leaders the green light to select the targets that they wanted to attack before the mission occurred.

In short, Vogt's relayed message appeared to be a call for more missions like Quang Lang—with better planning—and better results. Lavelle viewed Vogt's guidance that way, remembering that the conference "was the beginning of our more aggressive actions, if you will."⁴⁴ Air Force Maj Gen Alton D. Slay, Lavelle's Deputy Chief of Staff, Operations, for Seventh Air Force, recalled, "You don't have to be behind the door when brains were passed out to figure that you're going to do something with those 16 airplanes. That's overkill to protect one little reconnaissance airplane. . . . What they were saying was if they [the North Vietnamese] give you the slightest provocation, then you go ahead and zap them."⁴⁵ When questioned by the SASC about the Honolulu conference and Vogt's recommendation to increase escort fighters on protective reaction strikes, Moorer noted that the MiG threat necessitated the doubling of escorts; for now, such missions would have to include fighters on combat air patrol to engage with potential MiGs.⁴⁶ Yet in early February 1972, Moorer described a protective reaction strike to the President as a mission that would contain "one reconnaissance aircraft, two fighters protecting against MiGs, and eight attack planes," with the attack aircraft receiving the preponderance of emphasis.⁴⁷ Furthermore, Moorer's description of the outcome of the Honolulu conference, provided to Secretary of Defense Melvin Laird at Laird's request, discussed only how to deal with MiG threats and made no reference at all to protective reaction strikes or the procedures guiding them.⁴⁸

The Honolulu conference amplified the impetus to attack North Vietnam that Lavelle had already received from Secretary Laird. In early November 1971, Laird visited Saigon, and Lavelle had a private conversation with him for about 10 minutes before a dinner at Ambassa-

⁴³ "Nomination of Lavelle, Abrams, and McCain," September 12, 1972, 20, 48, 50; September 19, 1972, 314; Lavelle oral history interview, 597–599.

⁴⁴ Lavelle oral history interview, 599.

⁴⁵ U.S. Air Force Oral History Interview of General Alton D. Slay by Dr. Edgar F. Puryear, Jr., February 18, 1981, K239.0512-11496, AFHRA, Maxwell AFB, AL, 83.

⁴⁶ "Nomination of Lavelle, Abrams, and McCain," September 28, 1972, 446.

⁴⁷ "National Security Council Meeting," February 2, 1972, *FRUS, Vietnam: January–October 1972*, 50. See also "Meeting of President Nixon and the National Security Council," *The Nixon Tapes*, 367.

⁴⁸ Memorandum for the Secretary of Defense from the Chairman of the Joint Chiefs of Staff, Subject: "Operating Authorities," CM-1439-72, January 10, 1972, Binder: SASC Hearing 27 September 1972, Box 90, Admiral Moorer Records, RG 218, NARA, College Park, MD.

dor Ellsworth Bunker's residence. Lavelle mentioned the threat to American aircraft from MiGs operating from airfields in southern North Vietnam and the need for changes in the ROE to attack them directly. Laird replied that "it was an inopportune time" to request new bombing authorities; Lavelle and Abrams should "make maximum use of the authorities we had and he would support us in Washington."⁴⁹ In his 1978 oral history interview, Lavelle recollected that the time was "inopportune" for announced ROE changes because of "public apathy and dissidence about the war." He added that Laird "told me I should make a liberal interpretation of the rules of engagement in the field and not to come to Washington and ask him, under the political climate, to come out with an interpretation; I should make them [sic] in the field, and he would back me up. While on the other hand, if I asked for authority, he would probably have to turn it down for political reasons."⁵⁰ Lavelle reported the conversation to Abrams, recalling that he agreed with Laird's advice.⁵¹ In a May 2007 letter to *Air Force Magazine*, Laird confirmed that he had told Lavelle "my order on 'protective reaction' should be viewed liberally" and added that Moorer and Abrams "all agreed with the liberal interpretation of my order on protective reaction. The new orders permitted hitting anti-aircraft installations and other dangerous targets if spotted on their missions, *whether they were activated or not* [emphasis added]."⁵²

Besides the Honolulu conference and Laird's encouragement, Lavelle received another inducement to intensify bombing. When he returned to the United States to attend a commanders' conference in Washington in December, he received a detailed briefing—at the direction of Air Force Vice Chief of Staff Meyer—from Air Staff officers describing how he might destroy the North Vietnamese radar site at Moc Chau, a "ground control intercept" (GCI) radar that relayed radar information to MiG pilots so that they could position themselves to shoot down American aircraft. Its span of coverage provided a "radar air picture" over Laos and southern North Vietnam unavailable to American aircrews, giving the MiG pilots in that area a distinct advantage. Before receiving the briefing, Lavelle learned that MiGs operating with the Moc Chau site had downed three F-4s over Laos in concert with a large-scale North Vietnamese ground offensive there; 25 MiGs had covered the Northern advance.⁵³ Lavelle later reflected on

⁴⁹"Nomination of Lavelle, Abrams, and McCain," September 12, 1972, 50.

⁵⁰Lavelle oral history interview, 592–593.

⁵¹*Ibid.*, 593.

⁵²Melvin R. Laird, Letter to the Editor, *Air Force Magazine*, May 2007, 4.

⁵³That number of MiGs was the largest total to fly on a single day in the war. Lavelle oral history interview, 582.

the proposed attack on Moc Chau: “No one mentioned anything to me about doing it, legal, illegal, or what have you. . . . Just how to.”⁵⁴

The Moc Chau Radar Attack

The loss of the F-4s caused Lavelle to cut short his visit to Washington and return to Vietnam. Shortly after arriving in Saigon, he attempted to implement the proposed attack on Moc Chau raised by the Air Staff.⁵⁵ The mission failed to knock out the site because the radar was off the air at the time of the raid, preventing the attacking fighters with anti-radiation missiles (ARMs) to lock on to the radar signal, and the pilots brought their ordnance back to base. Lavelle would not give up on taking out Moc Chau, but before another opportunity could appear, President Nixon decided to order airstrikes of his own.

Dismayed by the continued North Vietnamese build-up, the President ordered a 5-day series of attacks dubbed Operation *Proud Deep*. From December 26–30, Air Force and Navy fighters combined for 1,000 sorties that reached as far north as the 20th parallel, almost to North Vietnam’s heartland. The initial purpose of the raids was to destroy 130-millimeter (mm) heavy artillery that the North Vietnamese had prepared to move south, but the targets expanded as the attacks continued, including the Quang Lang airfield. Dismal weather caused much of the bombing to occur through the clouds using radar techniques, and results were less than desired.⁵⁶ Once again, Nixon displayed his ability to take control of the air war at a moment’s notice, perhaps hoping to indicate that he was willing to begin unrestrained bombing of the North.⁵⁷ For those raids, intelligence analysts did not complete the computerized post-mission report, known as the Operational Report Number 4 (OPREP-4), to list the results of *Proud Deep* missions, though Nixon remained informed of the attacks throughout the operation.⁵⁸

⁵⁴ Ibid., 587; Thompson, 206.

⁵⁵ Lavelle oral history interview, 586.

⁵⁶ Thompson, 203; Lavelle oral history interview, 618; Bernard C. Nalty, *Electronic Countermeasures in the Air War against North Vietnam 1965–1973* (Washington, DC: Office of Air Force History, 1977), 78–80.

⁵⁷ In his memoirs, Nixon stated that the *Proud Deep* attacks stemmed from the shelling of Saigon, in violation of the 1968 bombing halt agreement. The failure of North Vietnamese representative Le Duc Tho to meet with National Security Advisor Henry Kissinger in a secret November session during the Paris peace negotiations, followed by a lack of communication from Hanoi in December, likely spurred the airstrikes as well. See Richard M. Nixon, *RN: The Memoirs of Richard Nixon* (New York: Grosset and Dunlap, 1978), 584.

⁵⁸ Hearing before the Committee on Armed Services, United States Senate, 93rd Cong., 1st sess., “Certain Nominations in the Air Force and the Navy” (Washington, DC: U.S. Government Printing

Following *Proud Deep*, Lavelle returned to the problem of the Moc Chau radar. On January 5, 1972, he successfully attacked the facility, sending two ARM-equipped F-105s that flew formations resembling F-4s to deceive the North Vietnamese and cause them to leave their radar on, enabling the F-105s to bomb it. The raid put the facility off the air for 18 days.⁵⁹ Lavelle had briefed Abrams before the attack, and both men believed that the airstrike was a necessity, given that Moc Chau had facilitated the recent MiG attacks. Moreover, at the time of the raid, Lavelle's aircraft would help protect American helicopters engaged in an extraction operation near the area, and MiGs were almost certain to be airborne—controlled by Moc Chau. Major General Slay explained the logic this way: “The Moc Chau radar is an extension of the pilot's gunsight; it tells him where we are; it points him; it aims him and this, to us, is a part and parcel of the defense network against which we are authorized to strike.”⁶⁰ The Joint Chiefs viewed the raid differently once they received its post-mission report. They responded with a message to Abrams stating that they sympathized with the rationale for the attack but that it did not adhere to the ROE, and that he should not do it again.⁶¹

The Moc Chau mission did not make the Air Force IG's list of unauthorized raids, yet the raid is a noteworthy component of the Lavelle affair for several reasons. First, the September 1972 Senate hearings referenced it multiple times to highlight the Joint Chiefs' displeasure with the perceived ROE violation. Second, Maj Gen Slay told the SASC that he and Marshall had planned the airstrike and briefed it to General Abrams because Lavelle was away in the United States at the time.⁶² Lavelle noted in his 1978 oral history interview that he had returned to Vietnam before Christmas and “planned and approved the Moc Chau raid.”⁶³ Abrams's September 1972 testimony to the SASC confirmed that Lavelle was present before the raid and had discussed it extensively with Abrams before it occurred. “We were altogether—General Lavelle, some of his staff, some of my staff; and, in fact, I am the one who gave the approval to make that strike,” Abrams told Senator John C. Stennis (D-MS), the SASC chairman. Stennis responded, “You two discussed it, and this was before the strike and all, and you gave approval?” “I did,”

Office, 1973), March 22, 1973, 20; “Nomination of Lavelle, Abrams, and McCain,” September 15, 1972, 232–233, 238.

⁵⁹ Lavelle oral history interview, 588, 625.

⁶⁰ “Nomination of Lavelle, Abrams, and McCain,” September 19, 1972, 304.

⁶¹ *Ibid.*, September 12, 1972, 62–63 and September 13, 1972, 107–108; Lavelle oral history interview, 589–590.

⁶² “Nomination of Lavelle, Abrams, and McCain,” September 19, 1972, 291–292, 304–305.

⁶³ Lavelle oral history interview, 589.

answered Abrams.⁶⁴ Slay's inexact statements regarding the Moc Chau planning—an easily verifiable episode—call into question the veracity of parts of his testimony to the SASC.

A third reason for the significance of the attack on Moc Chau was that it triggered a change in the ROE. On January 26, 1972, after several pleas from Admiral Moorer, Secretary of Defense Laird modified the ROE to permit attacks against GCI radars such as Moc Chau “when MiGs were airborne and indicated hostile intent.”⁶⁵ The new ROE still remained somewhat vague because Laird offered no precise definition of “hostile intent.”⁶⁶ Lavelle decided to make that determination, telling his aircrews “that anytime MiGs were airborne below 20 degrees north, it was [*sic*] hostile because it was far enough south to attack one of our airplanes, our troops, or our bases.” Seventh Air Force fighters subsequently attacked the Nam Lang Nhia GCI site, and Lavelle received a message from the Joint Chiefs asking who had called an airborne MiG hostile that was not in the immediate vicinity of Nam Lang Nhia. “We reported that I had declared it

⁶⁴“Nomination of Lavelle, Abrams, and McCain,” September 13, 1972, 106–107.

⁶⁵Quoted in “Unauthorized Bombing of Military Targets in North Vietnam,” 33. See also “Nomination of Lavelle, Abrams, and McCain,” September 13, 1972, 104; Hearing before the Committee on Armed Services, United States Senate, 92nd Cong., 2nd sess., “Nomination of Admiral Thomas H. Moorer, USN, for Reappointment as Chairman, Joint Chiefs of Staff,” June 23, 1972, 13.

⁶⁶The following exchange between Senator Barry Goldwater (R-AZ) and General Lavelle reveals the lengths to which air commanders in Vietnam often had to go to verify that an enemy aircraft was “hostile”:

Goldwater: Were your orders specifically against attacking MiGs on fields below the 19th parallel?

Lavelle: I would say so, Senator, but it was an indirect type; they had to be declared hostile.

Goldwater: A MiG had to be declared hostile?

Lavelle: Had to be declared hostile and it had to show hostile intent and a MiG on the ground we didn't interpret it as showing hostile intent.

Goldwater: You didn't?

Lavelle: We didn't feel we had authority to.

Goldwater: You didn't have the authority to hit a MiG just because it was sitting both on an airfield below the 19th parallel; you could not consider that hostile until something shot at you and he took off?

Lavelle: Yes sir; that's right.

Goldwater: It is a hell of a way to run a war.

See “Nomination of Lavelle, Abrams, and McCain,” September 12, 1972, 56.

hostile because it was south of 20 degrees and in a position to hit our aircraft,” Lavelle remembered. “We never heard anything more about it.”⁶⁷

Netting of North Vietnam’s Radars

For Lavelle, the GCI radar sites not only were a threat to his aircrews when MiGs were airborne, but also had become a significant threat even when MiGs failed to fly. In December 1971, the North Vietnamese succeeded in “netting” their various radar systems so that the GCI radars could provide tracking information to SAM sites.⁶⁸ As a result, the SAM operators now had to turn their Fan Song radars on for only an instant to gain a final position reading, which allowed the firing of missiles at the last possible second and minimized—or negated completely—the warning tone that pilots received in their headsets before missile launch. “Crews reported that in many of the SAM incidents they had little or no Fan Song RHAW indications prior to missile sighting,” remarked Air Force Col Clifford Beaton, Seventh Air Force’s Director of Operational Intelligence. “It is apparent that the Fan Song was being activated almost simultaneously with missile launch, and that the SA-2 [missile] system was relying heavily on data provided by GCI and other search radar equipment.”⁶⁹ In mid-December, the North Vietnamese downed an F-105 and an F-4 using this new tactic, and Lavelle determined that the notion of “radar activation” based on receiving an RHAW gear warning from a North Vietnamese SAM site was no longer valid. The situation demanded a new interpretation, Lavelle believed, and he concluded the netting of North Vietnamese radars meant that American pilots were now “always activated against” when they flew over the North.⁷⁰

Lavelle first discussed the dangers that the netted radars posed to his crews with General Abrams in a December 19, 1971, Saigon staff meeting. Abrams questioned the recent loss of the F-105, asking Lavelle if the crew had received a warning signal. Lavelle responded, “No, sir.

⁶⁷ Lavelle oral history interview, 589–590.

⁶⁸ For a thorough review of North Vietnamese air defenses, see Nalty, 1–13, and especially 10 on netting.

⁶⁹ Colonel Clifford M. Beaton, Seventh Air Force Director of Operational Intelligence, “End of Tour Report, 22 April 1971–23 April 1972,” K740.131, AFHRA, Maxwell AFB, AL, Attachment 2, “The SA-2 Threat,” 4. Beaton further observed that this “adjustment in North Vietnamese SAM tactics and techniques . . . reduces the warning time available to aircrews and gives the [SAM] site added protection from anti-radiation missiles.”

⁷⁰ “Unauthorized Bombing of Military Targets in North Vietnam,” 34. See also Lavelle oral history interview, 637–639; “Nomination of Lavelle, Abrams, and McCain,” September 12, 1972, 55–56.

Apparently the tactics they're using is to home in and get their azimuth, sir, by tracking aircraft without turning on their Fan Song [SAM radar] equipment." "This would be by [GCI] radar?" Abrams asked. "Yes, sir," Lavelle answered. "As a result of that, they have their azimuth problem all worked out. They can go ahead and fire the missile without turning the Fan Song on until the last minute, the last 20 seconds, before impact—before engagement. So as a result of that the crews getting the signal don't have time to react. The missile's already on them before they can—so they're using a new tactic is what it amounts to." Abrams gave that insight a long pause before asking why the North Vietnamese had not done that before. "Good question," Lavelle replied. "I just think it's a new tactic they're using. . . . [It's] the first time this week, as we recall, that they're using this kind of a tactic. And we're only guessing. The F-105 crew did not have any previous warning until practically the time of impact." Abrams paused again for an extended span before stating, "Well, that thing's going to require some study."⁷¹

In their testimony to the Senate, both Abrams and Lavelle confirmed they often discussed radar netting and its impact.⁷² Yet Lavelle also stated to the SASC, "I cannot say to you that I then said, therefore, under this interpretation we should consider the system activated against us. I can say to you that I did point out and did discuss with him [Abrams] and we did agree that the system was activated against us and that crews that were going in there had to be protected and couldn't just stand around and wait until somebody shot one down before we could attack."⁷³ Abrams told the SASC that Lavelle never gave him the impression that pilots were to attack regardless of enemy reaction, but added that he never heard Lavelle's logic that netting indicated radar activation until just before the September 1972 hearings began.⁷⁴

In actuality, Abrams fully appreciated Lavelle's argument that radar netting was a deadly new tactic, and the MACV commander agreed that dealing with it in the manner that Lavelle recommended conformed to the ROE. The day following the attack on Moc Chau, Abrams sent a message to Admiral McCain, with information copies to Admiral Moorer and General Ryan, describing the rationale used for bombing the GCI radar. In the first half of the message, Abrams argued that MiGs had to rely on information from GCI sites to be effective, and thus those radars were valid air defense targets. He then stated:

⁷¹ Transcript of 19 December 1971 Commanders Weekly Intelligence Estimate Update at MACV Headquarters, in Lewis Sorley, ed., *Vietnam Chronicles: The Abrams Tapes, 1968–1972* (Lubbock: Texas Tech University Press, 2004), 722.

⁷² "Nomination of Lavelle, Abrams, and McCain," September 11, 1972, 24; September 13, 1972, 105.

⁷³ *Ibid.*, September 11, 1972, 24.

⁷⁴ *Ibid.*, September 13, 1972, 106, 151.

In addition to the use of GCI radars to control and vector attacking fighters, the enemy is now using EW [early warning] and GCI radars as an integral part of the SA-2 missile fire control system. The SA-2 missiles are aimed and launched using EW or GCI radar derived azimuth and range information. At a predetermined time, the Fan Song radar is turned on for a very short period (from two to five seconds) during which time terminal guidance information is sent to the missile. This tactic effectively negates the protection afforded by our radar homing and warning equipment since there is little or no time to evade the missile with such a short warning. We believe that this tactic was used in the shootdown of the F-105 and F-4 near Mu Gia pass on 10 and 17 December respectively. This tactic must be countered if we are to continue to operate within the SAM threat area.

For the reasons outlined above, I consider protective reaction strikes against EW and GCI radars to be consistent with the published rules of engagement.⁷⁵

Abrams's message assured that Moorer, as well as Ryan and McCain, now knew that North Vietnamese netting posed a lethal threat to American aircrews—and that Abrams wanted to take action to forestall it. Moorer agreed that the role of GCI radars in vectoring MiGs also constituted a legitimate reason to bomb those radar sites, but according to the current ROE, he could not condone the attack on Moc Chau. He could, though, try to get the ROE changed. The day after receiving Abrams's message, Moorer sent a memorandum to Secretary Laird requesting approval for attacks on GCI sites and sent a follow-up request on January 20, 1972. In the latter memo, Moorer noted that “the ability to determine on a real time basis which specific GCI site is controlling a MiG intercept is extremely limited,” and thus all sites should be designated valid targets. Moorer also mentioned the SAM threat stemming from radar netting as a legitimate reason for attacking GCI sites. “Due to the number of radars involved in providing track information to the SAM system, and the number of SAM battalions involved (26 south of 20 degrees North [latitude]), there is no capability for field commanders to equate radar emissions to specific SAM activity,” he explained. “The only reliable, and timely [indication] that a SAM battalion is about to attack a target is reception of a brief burst of SAM guidance signals.”⁷⁶

⁷⁵Message, General Abrams to Admiral McCain, Info Admiral Moorer, General Ryan, General Clay, Admiral Clarey, and General Lavelle, 0405Z, January 6, 1972, Subject: “Iron Hand Expenditure,” Folder: COMUSMACV GENSER MSGS (1 January–14 January 1972), Box 62, Admiral Moorer Records, RG 218, NARA, College Park, MD.

⁷⁶Memorandum for the Secretary of Defense from the Chairman of the Joint Chiefs of Staff,

Moorer knew from Abrams's message that a "brief burst of SAM guidance signals" was likely insufficient for an aircrew to respond to the threat. His appeals about the importance of GCI radars to both MiG and SAM operations ultimately caused Laird to permit attacks on GCI sites, with the caveat that MiGs had to be "airborne and hostile."

Although Abrams's January 6, 1972, message about radar netting also went to General Ryan, 9 months later Ryan would remark to the SASC that netting "was not a new phenomenon; it had been practiced in North Vietnam, I would say for certain, since 1967 when I commanded the Pacific Air Force."⁷⁷ When pressed by senators on that claim, Ryan recanted, "Perhaps the internetting was developed to a greater degree in 1971 and early 1972 than it was in 1967. I have no way of knowing this."⁷⁸ As the Chief of Staff of the Air Force and a member of the Joint Chiefs who received constant updates on the air war over the North and monitored its developments closely, Ryan's assertion that he had "no way of knowing" the extent of North Vietnamese radar netting is subject to question, especially given his receipt of Abrams's January 6, 1972, message. Ryan added, "As far as coming to my attention that the internetting should have an effect on the Rules of Engagement, I don't recall it coming to my attention."⁷⁹

In contrast to Ryan's dogmatic denial that radar netting affected the ROE, General Slay wavered in answering the SASC. Slay was uncertain if Lavelle had ever talked to Abrams about whether netting triggered radar activation. Slay also vacillated to the SASC about whether he had discussed the concept with the commander of Seventh Air Force. When asked if Lavelle had stated "that any time you crossed the [North Vietnamese] border that that radar system was activated against you?" Slay first responded, "General Lavelle has mentioned this many times." The exchange continued:

Senator Hughes: Did you actually discuss this with him?

General Slay: Yes sir, I have.

Senator Hughes: Did he communicate to you that he considered this an activation of the radar system of your plane?

General Slay: I can't say, sir; I really can't.

Subject: "Operating Authorities," CM-1464-72, 20 January 1972, Binder: SASC Hearing 27 September 1972, Box 90, Admiral Moorer Records, RG 218, NARA, College Park, MD.

⁷⁷ "Nomination of Lavelle, Abrams, and McCain," September 18, 1972, 251.

⁷⁸ Ibid., 279.

⁷⁹ Ibid.

Senator Hughes: He has implied that this, in his mind, was his authorization to go ahead and preplan and conduct the strikes.

*General Slay: That's a fine point, sir. I don't know.*⁸⁰

The Dong Hoi Mission and Allegations of Falsified Records

Lavelle's interpretation of the ROE had enormous consequences for the missions that followed and for the accusation that he ordered the falsification of post-strike mission reports. On January 23, 1972, relying on his expanded definition of "radar activation," Lavelle ordered a protective reaction strike against the airfield at Dong Hoi. The impetus for the raid stemmed from actions that Lavelle had taken after the MiG firing on B-52s in November 1971. That attack caused Lavelle to develop a "counterplan" in case a MiG again flew to Dong Hoi in preparation to attack a bomber. Dubbed "Quick Check Recce," Lavelle's plan placed an RF-4 and two escorts on alert at Da Nang, the closest South Vietnamese air base to Dong Hoi. On January 23, intelligence analysts reported that a MiG had taken off from Hanoi headed for Dong Hoi and noted that a flight of B-52s would be in the area that evening. Before implementing Quick Check Recce, Lavelle recalled that he contacted General Abrams and received Abrams's approval for the strike.⁸¹ Lavelle then dispatched the aircraft on alert at Da Nang to Dong Hoi. In the meantime, the weather deteriorated. Lavelle determined that his crews could fly under the clouds and bomb the airfield, which they did, compelling the MiG to return to Hanoi.⁸²

After the escorts had cut the runway and departed the target, the RF-4 crew radioed the immediate post-strike mission report, known as the Operations Report 3 (OPREP-3). Through code, the airmen stated that the escorts had expended ordnance and the raid was successful, but that the enemy had not reacted, meaning that the North Vietnamese had not fired at them. General Lavelle, who monitored the mission from the Seventh Air Force command post, heard the transmission and stated that the aircrew could not report "no reaction." As he subsequently recounted to both the HASC and the SASC, he meant by that statement that the North Vietnamese had

⁸⁰ Ibid., September 19, 1972, 306.

⁸¹ Ibid., September 11, 1972, 9–11, 37.

⁸² Ibid., 36–37; Lavelle oral history interview, 599–601. Much of the SASC testimony regarding the January 23, 1972, Dong Hoi raid contains deletions because details of the strike were classified at the time of the Senate hearings. Lavelle's 1978 oral history provides missing information from the Senate account. Conversely, Slay in his SASC testimony contends that Lavelle never implemented Quick Check Recce. See "Nomination of Lavelle, Abrams, and McCain," September 19, 1972, 278.

indeed reacted by activating their GCI radars, and the RF-4 crew should report that fact. Lavelle directed General Slay to contact Colonel Gabriel at 432nd Tactical Fighter Wing and make sure that the wing did not post “no reaction.” In later discussing the incident with the SASC, Slay had difficulty remembering which mission triggered Lavelle’s remark in the command post, but he recalled that Lavelle “got me right after that, as well as my chief in the command post and explained the facts of life to us, that ‘Anytime you are over North Vietnam you have, just by definition, people [who] are going to shoot at you so you must report that you have been reacted upon.’”⁸³ Lavelle told the SASC that he should have specified his intentions more clearly than he did and should have directed Slay to convey, “Report hostile reaction radar.”⁸⁴ Yet given the tense atmosphere in the command post, with a MiG headed for Dong Hoi where it could intercept a flight of B-52s, Lavelle’s comment was not as complete as it could have been.

As a result of Lavelle’s guidance, Slay relayed to the 432nd a requirement to state that the North Vietnamese had shot at the flight. Colonel Gabriel, his pilots, and intelligence specialists at Udorn never realized Lavelle’s intent to categorize the raid as one stemming from the threat posed by netted radars. Told that they could not state “no reaction” on the written post-strike mission report, the OPREP-4, intelligence analysts selected from one of the four “reaction categories” on the form—SAMs, AAA, small arms, or MiGs—and chose AAA; “radar activation” was not an option listed. Furthermore, Sergeant Franks, whose dismay with inputting seemingly invalid data into the OPREP-4 prompted the Lavelle investigation, later told the SASC that he and his fellow Udorn intelligence specialists were unaware that radar activation was a valid reason for escort pilots to expend ordnance on protective reaction strikes.⁸⁵ Franks said that on the raids in question, he and other intelligence specialists usually reported on the OPREP-4 that pilots did not observe mission results because of “smoke and foliage.”⁸⁶

For the remaining “unauthorized” protective reaction strikes through early March, Franks and his cohorts repeated the process used to complete the OPREP-4 for Dong Hoi.⁸⁷ Gabriel recalled Slay telling him, “You will report it in that way each time; regardless of whether or not

⁸³ “Nomination of Lavelle, Abrams, and McCain,” September 19, 1972, 290.

⁸⁴ *Ibid.*, September 11, 1972, 31, 46; “Unauthorized Bombing of Military Targets in North Vietnam,” 22.

⁸⁵ “Nomination of Lavelle, Abrams, and McCain,” September 14, 1972, 190–191.

⁸⁶ *Ibid.*, 163.

⁸⁷ Two of those strikes listed as “unauthorized” included attacks on 130mm artillery, approved by President Nixon, on February 16–17, 1972. Those raids did not yield OPREP-4s.

there is a reaction you will report reaction, fighters expended.”⁸⁸ Franks remembered that Gabriel, in turn, frequently met with his vice commander, Air Force Colonel Jerome O’Malley, to determine the data that should appear on OPREP-4s.⁸⁹ Yet Slay also told Gabriel to send him a detailed, accurate report describing what had actually occurred on each mission, and relayed that information to Lavelle.⁹⁰

The OPREP-4 was a cumbersome mission summation read by a computer and completed by preparing punch cards; preparation of it was time-consuming, and its value was questionable. Slay remarked:

*I doubt if there is anyone above the rank of sergeant or so whoever, at headquarters, whoever looks at the OPREP-4. It is in a form that the computer can digest. . . . If there was an OPREP-4 in front of me right now I could not tell you what that OPREP-4 said without some sort of a format to go by. . . . For a usable piece of paper for somebody to pick up and read it and say, “This is what happened,” it is terrible. It is not in script; it is in—it is all chopped up. But the computer likes it and we were using the computer for our data base.*⁹¹

The report went to almost 200 recipients, many of whom had no interest in its information. Yet for an Air Force that had defined “success” for much of the war by reporting a high sortie count—especially a count that exceeded the Navy’s sortie total⁹²—the data reflected on the antiquated OPREP-4 could serve as a mechanistic way of gauging a contribution to the war effort during a time when other Services appeared to contribute more. Lavelle was unaware that the report even existed and stated that the first time he saw an OPREP-4 was when General Wilson, the Air Force IG, produced a copy of it after arriving in Saigon in March 1972.⁹³ For determining mission success, Lavelle relied on the reports that he received from Slay, forwarding those to Abrams. Ultimately, those reports would go to the White House.

⁸⁸ “Nomination of Lavelle, Abrams, and McCain,” September 15, 1972, 201.

⁸⁹ *Ibid.*, September 14, 1972, 169.

⁹⁰ *Ibid.*, September 15, 1972, 234–235, September 19, 1972, 288, 289, 300–301; IG interview of Colonel Charles Gabriel, March 12, 1972, in Wilson, Jr., “Report of Investigation,” Appendix F.

⁹¹ “Nomination of Lavelle, Abrams, and McCain,” September 19, 1972, 313.

⁹² Clodfelter, 129–130.

⁹³ “Nomination of Lavelle, Abrams, and McCain,” September 12, 1972, 78; “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 49.

As for the veracity of the OPREP-4s filed in concert with the allegedly unauthorized missions, the nature of the protective reaction strikes made it difficult for inspectors to determine if those reports were indeed erroneous. “It was clear to Colonel Gabriel that his reports had to be that a reaction had occurred,” Slay observed to the SASC. “Now, whether, in fact, they [*sic*] had occurred, or not, I don’t think there is anybody, even the pilots on the flights, could say for certain whether they did or not. In other words, if they didn’t see any that still doesn’t mean that there was none. There could have been.”⁹⁴ Sergeant Franks, who completed only “three or four” OPREP-4s, recollected that often aircrews “did get shot at; as I pointed out when I first started out, they did not get shot at and after a while they did and when they did get shot at after a while we did report it accurately.”⁹⁵ Asked when the first false reports appeared, Slay responded, “As a matter of fact, as I say, I am not sure, to be extremely technical, that they were false.”⁹⁶

J. Fred Buzhardt, the general counsel for the Department of Defense, conducted his own investigation of the Lavelle affair from April through October 1972 and concluded that the special reports that came to Lavelle’s headquarters following each protective reaction strike negated the charge that Lavelle had falsified mission reports. “In essence,” Buzhardt observed, “the people were reporting accurately in special category messages precisely what did happen.”⁹⁷ He continued, “To sustain a criminal charge of falsifying records, it is necessary, because it is one of the elements of the offense, to prove a specific intent to deceive. Where people are reporting the facts to their superiors correctly, you cannot sustain the element of a specific intent to deceive.” Moreover, Buzhardt maintained, “As to the question of proof, on either a violation of the Rules of Engagement or falsifying reports, after the most intensive investigation we are even now not in a position to prove with any degree of conclusiveness that there was no enemy fire except on only one of the missions that took place. That was at Dong Hoi on the 23rd of January.”⁹⁸

The immediate reaction of the Joint Chiefs to the Dong Hoi attack—the third of Lavelle’s “unauthorized” raids—was to praise it. Admiral Moorer even lauded the strike to President Nixon.⁹⁹ The January 26, 1972, message from Moorer, notifying Admiral McCain and General Abrams of the ROE change permitting strikes on GCI radars when hostile MiGs were airborne, contained a congratulatory note for the Dong Hoi raid. Moorer stated that since the

⁹⁴“Nomination of Lavelle, Abrams, and McCain,” September 19, 1972, 290.

⁹⁵Ibid., September 14, 1972, 168, 171.

⁹⁶Ibid., September 19, 1972, 295.

⁹⁷“Certain Nominations in the Air Force and the Navy,” March 22, 1973, 19.

⁹⁸Ibid., 5.

⁹⁹“Meeting of President Nixon and the National Security Council,” *The Nixon Tapes*, 367.

December 1971 Honolulu conference, commanders had “adopted a more vigorous protective reaction posture which has resulted in several highly successful protection reaction strikes.”¹⁰⁰ He listed a Navy strike on Quang Lang on December 18 plus the Air Force’s January 23 raid on Dong Hoi as examples to follow. When asked by the SASC about the Dong Hoi mission, General Abrams said that he remembered little about it, though he likely forwarded the laudatory JCS message to Lavelle because Lavelle was not an addressee on it. Abrams elaborated to the SASC about how Dong Hoi was an important North Vietnamese base because a MiG there could threaten B-52s, and thus he had instructed Seventh Air Force to conduct a protective reaction mission over Dong Hoi on November 7, 1971.¹⁰¹ As for the attack against it on January 23, Abrams reported, even after checking records of the raid, “there is nothing about it which sticks in my mind”¹⁰²—an odd statement for him to make given the serious MiG threat occurring in concert with the mission.

Throughout his testimony to the House and Senate, Lavelle remained adamant that North Vietnam’s radar netting expanded the definition of “activated against” and that the protective reaction strikes that he ordered not only suited that definition, but also conformed to the guidance that he had received to interpret the ROE more liberally than before. The following exchange with Senator John Tower (R-TX) on September 21, 1972, revealed the depth of Lavelle’s conviction:

Senator Tower: Did you advise . . . General Abrams or Admiral Moorer or Secretary Laird, did you advise them and discuss these missions with them, that

¹⁰⁰ Message, Admiral Moorer to Admiral McCain, info General Abrams, 0032 Zulu, January 26, 1972, available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-LAV-209-212-00224830xBF28F.pdf>>. General Lavelle received formal notification of the updated ROE in Message, Admiral McCain to General Abrams and Admiral Clarey, info Admiral Moorer, General Clay, General Lavelle, Vice Admiral Mack, and Rear Admiral Cooper, 2153 Zulu, January 26, 1972, Subject: “Operating Authorities and Strike Planning,” Folder: CINCPAC GENSERV MSGS (January 1972), Box 57, Admiral Moorer Records, RG 218, NARA, College Park, MD. That message contained no congratulatory comments. “Zulu time,” abbreviated “Z,” referred to Greenwich Mean Time, which the U.S. military used as the “standard time” for all military activities.

¹⁰¹ “Nomination of Lavelle, Abrams, and McCain,” September 13, 1972, 105. Abrams stated, “A MiG at Dong Hoi was important to me, because with the GCI that they had, it gave it—it could get properly handled as far south as Da Nang. And this meant then that if that was in fact true it extended the MiG threat for B-52s and other aircraft that much further south.”

¹⁰² *Ibid.*, 106.

you had ordered your recon escort aircraft to expend ordnance on these missions regardless of the absence of enemy reaction?

Lavelle: Sir, we never dispensed ordnance without enemy reaction; it was there—the radars.

Tower: Did you, and you never ordered them to expend ordnance even in the absence of enemy reaction?

Lavelle: How could there be an absence, sir? You see, the recce said the system was activated against us; we considered them activated against us.¹⁰³

As Lavelle confirmed during the House hearings on June 12, 1972, according to his logic SAMs were activated, as far as his pilots were concerned, “any time [they] were over North Vietnam.”¹⁰⁴

Still, that reasoning did not allow him to bomb indiscriminately, and he attacked only a selected number of North Vietnamese air defense targets that he believed could endanger American aircrews. Those targets included SAMs, radars, MiGs, AAA, and their support equipment. When a reconnaissance mission discovered about 60 North Vietnamese tanks in the open, roughly 8 miles north of the DMZ, Lavelle refused to attack them even though Slay and other officers recommended it. “However liberally I wanted to interpret those rules, I could not interpret them to hit those tanks. I had to hold my men back,” Lavelle told the HASC.¹⁰⁵ The Air Force IG labeled two strikes against missile transporters on January 31, 1972, as “unauthorized,” contending that Lavelle had scheduled the raids regardless of whether the enemy returned fire. Lavelle viewed the missiles on the transporters as a direct threat; earlier, the North Vietnamese had fired four SAMs from Laos at AC-130 gunships, with one of the missiles a near miss. He informed the SASC that he had shown photographs to GEN Abrams of the transporters parked near the Laotian border, telling him that “we just morally could not sit there and let them come into Laos when the weather got bad and shoot down an airplane.”¹⁰⁶ Lavelle stated that Abrams agreed with him—and with Lavelle’s plan to launch

¹⁰³ Ibid., September 11, 1972, 21.

¹⁰⁴ “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 35.

¹⁰⁵ Ibid., 43–44. See also “Nomination of Lavelle, Abrams, and McCain,” September 11, 1972, 21, 49.

¹⁰⁶ “Nomination of Lavelle, Abrams, and McCain,” September 12, 1972, 67.

protective reaction strikes to destroy the missiles regardless of whether any enemy firing occurred.¹⁰⁷

In sum, Lavelle believed that the raids he conducted—and the logic that he used to justify them—matched what “higher authority” wanted him to do. He refused to engage in “trolling,” a tactic used by the Navy in which a reconnaissance aircraft flew solo over a desired target to draw fire while escorts waited at a distance, because he thought that the practice needlessly threatened the reconnaissance crew.¹⁰⁸ Lavelle was convinced that his procedures for protective reaction strikes offered the best chance for his aircrews to survive and still accomplish the mission that he had received. He remarked to the SASC in September 1972:

It was quite clear that we were first encouraged to be and then commended for being more aggressive; that we were told to be more flexible; that we were told to increase the number of fighter escorts with the reconnaissance aircraft to ensure effective results on protective reaction strikes; that Washington wouldn't question our aiming points and would back us up. . . . Higher authority had recommended, encouraged, and then commended an extremely liberal targeting policy, well beyond the language of the R.O.E. This liberal interpretation by higher authority of WHAT could be struck, plus the encouragement to be more aggressive and more flexible, influenced my determination to make a similar, though I believe less liberal, interpretation of the conditions under which we could strike (emphasis in original).¹⁰⁹

In early February 1972, Lavelle would find that “higher authority” would exert greater influence on his ability to conduct missions than he had thus far seen.

“Mad Bomber” Nixon Secretly Changes the ROE

To Richard Nixon, bombing, or the threat of bombing, offered answers to many national security problems. He contended that President Dwight Eisenhower had successfully ended

¹⁰⁷ Ibid., 67–68. According to the special message sent from the 432nd Wing to Seventh Air Force Headquarters after the attacks, the raids destroyed 30 trucks and triggered 3 large secondary explosions. See also Lavelle oral history interview, 635.

¹⁰⁸ “Nomination of Lavelle, Abrams, and McCain,” September 11, 1972, 39–40, September 15, 1972, 221, September 19, 1972, 287.

¹⁰⁹ Ibid., September 12, 1972, 51.

the Korean War by threatening a nuclear airstrike on Manchuria in the spring of 1953 that convinced the Chinese to back down.¹¹⁰ Eisenhower's action—or Nixon's interpretation of it—affected the then–Vice President's view of airpower's efficacy. In May 1954, Nixon recommended American bombing in support of the French garrison at Dien Bien Phu, arguing that a few conventional strikes would suffice “to let the Communists see that we were determined to resist.”¹¹¹

Soon after becoming President, Nixon, supported by General Abrams, Secretary Laird, National Security Advisor Henry Kissinger, and the then–Chairman of the Joint Chiefs, Army GEN Earle Wheeler, began a secret air campaign with B-52s against North Vietnamese troops and supply depots in Cambodia, technically a neutral country.¹¹² Crews flew 4,308 B-52 sorties against Cambodian targets between March 1969 and May 1970, with the Air Force maintaining two sets of mission reports for the raids—similar to the two sets of reports kept following Lavelle's allegedly unauthorized protective reaction strikes.¹¹³ One set of reports showed that the bombs fell in South Vietnam, and the other revealed that the bombs actually fell in Cambodia—the President did not want to trigger protests from the American public, which wanted to leave Vietnam, by showing that he had enlarged the war.¹¹⁴ Nonetheless, on May 9, 1969, the *New York Times* reported that B-52s had bombed enemy outposts in Cambodia.¹¹⁵ The feared public protests never materialized, though Kissinger spent considerable time with Federal Bureau of Investigation Director J. Edgar Hoover trying to find the leak.¹¹⁶ The raids continued despite the loss of secrecy as Nixon believed them worthwhile, pointing to lower American casualty rates as proof of that claim.¹¹⁷ Bombing would remain his option of choice for dealing with North Vietnam. Once the North Vietnamese finally began their anticipated offensive at the end of March 1972, he told Kissinger to relay to Northern negotiators in Paris: “You tell those sons of bitches

¹¹⁰ Jeffrey Kimball, *Nixon's Vietnam War* (Lawrence: University Press of Kansas, 1998), 82–84.

¹¹¹ Nixon, 154.

¹¹² *Ibid.*, 380–381.

¹¹³ Hearings before the Committee on Armed Services, United States Senate, 93rd Cong., 1st sess., “Bombing in Cambodia” (Washington, DC: U.S. Government Printing Office, 1973), July 16, 1973, 2–12, July 20, 1973, 132–133. B-52s dropped 120,578 tons of bombs on Cambodia during the 15-month span. See Carl Berger, ed., *The United States in Southeast Asia, 1961–1973: An Illustrated Account* (Washington, DC: Office of Air Force History, 1984), 141.

¹¹⁴ Nixon, 382.

¹¹⁵ William Beecher, “Raids in Cambodia by U.S. Unprotested,” *New York Times*, May 9, 1969.

¹¹⁶ William Shawcross, *Sideshow: Kissinger, Nixon, and the Destruction of Cambodia* (New York: Simon and Schuster, 1979, 1981), 33–35. For more on “Nixon, the Mad Bomber,” see Kimball, 76–86.

¹¹⁷ Nixon, 382; *Bombing in Cambodia*, 133.

that the President is a madman and you don't know how to deal with him. Once reelected I'll be a mad bomber."¹¹⁸

In February 1972, Nixon not only concluded that airpower was a key weapon to stymie the invasion build-up, but he also feared that increased North Vietnamese aggressiveness might cause the loss of a B-52. The downing of a key symbol of America's military might would be a massive blow to national prestige and would certainly bolster North Vietnam's determination to win the war. The President was not about to let that happen. He fully endorsed the liberal interpretation of the ROE advocated by Lavelle, telling Admiral Moorer and Secretary of Defense Laird at a National Security Council meeting on February 2, "If you're following your intelligence reports, we're having *correct* protective reaction strikes every damn day right now, so you're hitting things. Incidentally, and I understand, and I just want to be sure, that that's being interpreted very, very broadly [emphasis added]."¹¹⁹

Yet Nixon did not want a "broad interpretation" of the ROE to result in publicity that would trigger an adverse reaction from the American people. Following the invasion of Cambodia in May 1970, he had endured massive protests from 4,350,000 college students at more than 1,300 universities that included shootings at Kent State, the State University of New York–Buffalo, and Jackson State.¹²⁰ Moreover, the Democrats held sizable majorities in both houses of Congress, and in December 1970 Senator Frank Church (D-ID) had joined with anti-war Senator Sherman Cooper (R-KY) to secure passage of an amendment preventing the President from putting American ground forces in Cambodia or Laos.¹²¹ Nixon warned the National Security Council: "We don't want to do anything that is stupid. We don't want to do anything that unnecessarily exacerbates our public in this country, the ugly youth. We must realize that as support for what we're doing—or, shall we put it, as the level of criticism of what we do escalates, it encourages the enemy."¹²² He then returned to a firm stance, concluding the meeting by stating, "There's

¹¹⁸ Quoted in Seymour M. Hersh, *The Price of Power: Kissinger in the Nixon White House* (New York: Summit Books, 1983), 568.

¹¹⁹ "National Security Council Meeting," *FRUS, Vietnam: January–October 1972*, 58. Also in "Meeting of President Nixon and the National Security Council," *The Nixon Tapes*, 375.

¹²⁰ Kimball, 216.

¹²¹ Julian E. Zelizer, "How Congress Got Us Out of Vietnam," *The American Prospect*, February 19, 2007, available at <<http://prospect.org/article/how-congress-got-us-out-vietnam>>. Noted Zelizer, "The passage of the Church-Cooper amendment marked the first successful use of congressional budgetary authority to limit the war."

¹²² "National Security Council Meeting," *FRUS, Vietnam: January–October 1972*, 66–67. Also in "Meeting of President Nixon and the National Security Council," *The Nixon Tapes*, 381–382.

one determination that I've made: we're not going to lose out there. . . . And that means we will do what is necessary. But we can't do it in terms of pusillanimous planning and options that are inadequate."¹²³

In an Oval Office gathering with Kissinger and Ambassador Ellsworth Bunker the next day, Nixon elaborated on just how broadly he wanted to interpret the ROE. Nixon still feared that the movement of SAMs into Laos and southern North Vietnam would lead to the loss of a B-52. Yet he was afraid of giving Abrams "blanket authority" to attack SAM sites because "it'll get out." On the eve of departing for his noteworthy visit to China, the President was anxious that increasing the intensity of the air war might affect the trip or stir anti-war protests at home. Thus, as was the case with Cambodia, he decided that he would intensify bombing—and keep it secret. Nixon told Bunker that protective reaction strikes against SAMs would now really become "preventive reaction." He elaborated, "I am simply saying that we expand the definition of protective reaction to mean preventive reaction, where a SAM site is concerned. And I think that, but let's be sure that anything that is done there it's best to call an ordinary protective reaction. Who the hell's going to say that they didn't fire?" Kissinger, concerned about a leak that the ROE had changed, retorted, "No, but could they stop from blabbing it at every bloody briefing?" and Bunker answered, "Yes, absolutely."¹²⁴

The President emphasized what Bunker was to do after returning to Saigon: "Tell him—I want you to tell Abrams when you get back, he is to tell the military not to put out extensive briefings with regard to our military activities from now till we get back from China. Do it, but don't say it." "Yeah," Bunker responded. Nixon then highlighted his feelings about the matter: "God-damn it, he [Abrams] can do that. . . . Because goddamn it, these PRO [public relations officers] officers blab. . . . He can hit SAM sites, period. Okay? But he is not to build up publicity for the duration. And, if it does get out, to the extent it does, he says it's a protective reaction strike."¹²⁵

¹²³ "National Security Council Meeting," *FRUS, Vietnam: January–October 1972*, 68. Also in "Meeting of President Nixon and the National Security Council," *The Nixon Tapes*, 383.

¹²⁴ "Conversation Among President Nixon, the President's Assistant for National Security Affairs (Kissinger), and the Ambassador to South Vietnam (Bunker)," February 3, 1972, *FRUS, Vietnam: January–October 1972*, 73–74. Also in "Oval Office Meeting with Nixon, Bunker, and Kissinger," *The Nixon Tapes*, 387–388.

¹²⁵ "Conversation Among President Nixon, Kissinger, and Bunker," *FRUS, Vietnam: January–October 1972*, 74–75. Also in "Oval Office Meeting with Nixon, Bunker, and Kissinger," *The Nixon Tapes*, 388–389.

Bunker confirmed that he would deliver the message, and the President provided an addendum to his order:

Nixon: He [Abrams] is to describe it as a protective reaction, and he doesn't have to spell out that they've struck. After all, it is a SAM site, a protective reaction strike against a SAM site. As you know, when we were hitting the [Mu] Gia Pass and the rest, we'd call that protective reaction—

Bunker: Yeah.

Nixon: —and then bomb the hell out of a lot of other stuff.

Bunker: Sure.

Nixon: Okay?

Bunker: Sure.

Nixon: So what we want is protective reaction. Fair enough?

*Kissinger: Fair enough.*¹²⁶

The only restriction that the President placed on attacking SAM sites was timing. Abrams could attack the sites “and bomb the hell out of a lot of other stuff” until Nixon departed for China on February 17. Limited attacks would continue in the northern portion of the DMZ while the President was overseas. Nixon implied that he would relate the Oval Office discussion in a meeting with Admiral Moorer later that afternoon, telling Kissinger to remember to stress the point about attacks in the northern DMZ.¹²⁷ The President then chastised his military chiefs for being too timid: “We will see that the authorities are adequate. I can assure you that the authorities will be adequate. We will see that more planes are put in there, and carriers.

¹²⁶ “Conversation Among President Nixon, Kissinger, and Bunker,” *FRUS, Vietnam: January–October 1972*, 75–76. Also in “Oval Office Meeting with Nixon, Bunker, and Kissinger,” *The Nixon Tapes*, 389.

¹²⁷ “Conversation Among President Nixon, Kissinger, and Bunker,” *FRUS, Vietnam: January–October 1972*, 76. Also in “Oval Office Meeting with Nixon, Bunker, and Kissinger,” *The Nixon Tapes*, 390.

Goddamn it, they should have asked for more planes and carriers. Henry, I don't understand the military."¹²⁸

Nixon's meetings with Bunker and Moorer produced rapid effects. On February 5, Secretary Laird sent Moorer a memorandum authorizing airstrikes on any target in the northern portion of the DMZ whenever General Abrams "determines the North Vietnamese are using the area in preparation for an attack southward."¹²⁹ Moorer relayed that message to Abrams 2 days later but stressed: "No public announcement of any kind will be made with regards to these actions."¹³⁰ That same day, Moorer notified Admiral McCain and General Abrams, as well as the four Service chiefs, that the President wanted a daily update of events in Vietnam:

*As you are no doubt aware, highest authority is following the Southeast Asian situation very closely. In this regard, I have been asked to provide a daily report of the situation to include a personal assessment. It would be most helpful if Abe could provide me, on a daily basis, his very brief personal assessment on the friendly-enemy situation to include any significant items which would be of interest to the commander in chief. I will need this report in Washington NLT 1200Z, beginning 7 February.*¹³¹

To answer Moorer's request in terms of the air war, Lavelle sent Abrams the detailed mission summaries from the protective reaction strikes that Colonel Gabriel had forwarded to General Slay. Those reports included specific targets attacked, number of sorties flown, damage inflicted, enemy response, and whether any American aircraft were shot down or damaged. Abrams in turn forwarded the information through Admiral McCain in Hawaii to Admiral

¹²⁸ "Conversation Among President Nixon, Kissinger, and Bunker," *FRUS, Vietnam: January–October 1972*, 77. Also in "Oval Office Meeting with Nixon, Bunker, and Kissinger," *The Nixon Tapes*, 390.

¹²⁹ Memorandum, Secretary Laird to the Chairman of the Joint Chiefs of Staff, Subject: "Operating Authority for Southeast Asia," February 5, 1972, available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-LAV-8607-00224844xBF28F.pdf>>.

¹³⁰ Message, Admiral Moorer to Admiral McCain, information copy to Abrams and the four Service chiefs, Subject: "Standby Authorities," 2134 Zulu, February 7, 1972, available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-LAV-269-270-00224840xBF28F.pdf>>.

¹³¹ Message, Admiral Moorer to Admiral McCain and General Abrams, 2334 Zulu 5 February 1972, available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-LAV-266-00224831xBF28F.pdf>>. Copies of this message also went to the four Service chiefs.

Moorer, and Moorer sent the reports to Laird, who forwarded them to the President. Kissinger frequently saw the reports and commented on them as well. For all of those carefully recorded raids (17 missions, comprising 70 percent of the alleged unauthorized strikes), no complaints came to either Abrams or Lavelle from Nixon, Laird, Kissinger, or the Joint Chiefs. Indeed, on the February 8 report of air action over North Vietnam, Nixon scribbled in the margin for Kissinger: “K—is there *anything* Abrams has asked for that I have *not* approved [emphasis in original]?”¹³²

Although Nixon had told Ambassador Bunker that attacks should occur on North Vietnam only in the northern DMZ during the China visit, airstrikes continued above the DMZ during that time, and Nixon received daily updates on them while in Beijing. Abrams later told the SASC that the President’s China trip influenced actions in Vietnam and that “we were instructed to make sure that we did nothing outside of what we had been authorized to do that would become an embarrassment and that sort of thing.”¹³³ Still, Nixon himself authorized 2 days of large-scale airstrikes against 130mm artillery positions in North Vietnam that occurred on February 16–17, the latter day being his departure date for Beijing.¹³⁴ The two attacks made the list of “unauthorized” airstrikes conducted by Lavelle, although at the time he received a congratulatory message from Moorer praising the bombing.¹³⁵ Like the *Prize Bull* and *Proud Deep* missions, intelligence analysts did not record the raids’ results on OPREP-4s. Gabriel still reported the attacks’ outcome to Slay, and Slay sent the results to Lavelle, who forwarded them up the chain of command until they reached the traveling President. The mission summaries to the President continued for protective reaction strikes from February 18 to March 9, as did the compiling of OPREP-4s.

In his testimony to the HASC in June 1972, Air Force Chief of Staff Ryan acknowledged that Seventh Air Force received an accurate report of protective reaction strikes from Colonel

¹³² “Memorandum for the President from Henry A. Kissinger, Subject: Secretary Laird’s Daily Report on Southeast Asia Situation,” February 8, 1972; Folder: Vietnam, January—February 1972 (2 of 3); Box 158, National Security Council Files, Nixon Presidential Library, Yorba Linda, CA. Also in *FRUS, Vietnam: January-October 1972*, 84.

¹³³ “Nomination of Lavelle, Abrams, and McCain,” September 13, 1972, 126.

¹³⁴ *Ibid.*, September 18, 1972, 282.

¹³⁵ Message, 1841 Zulu, February 17, 1972, for Admiral McCain, info General Holloway, General Abrams, Admiral Clarey, General Clay, General Lavelle, VAdm Mack, RAdm Cooper, from Admiral Moorer; Subject: “Air Strikes against Enemy Gun Positions,” available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-LAV-285-286-00224841xBF28F.pdf>>.

Gabriel saying, “This is what we really hit.” Ryan continued, “It was a special, what we call ‘Specat [special category report] eyes only’; in other words, a message that does not come to the normal distribution centers.” Asked twice if the Specat went to General Abrams at MACV Headquarters, Ryan responded, “No, sir. It went to no one but Seventh Air Force.”¹³⁶ That statement was an unusual one for Ryan to make, given that he had received a copy of the February 7, 1972, message from Admiral Moorer to Admiral McCain and General Abrams requesting that Abrams provide McCain with a daily update of activities that would ultimately go to the President. Ryan knew that the information forwarded to Abrams about the Air Force’s air war came from Lavelle. Moreover, once the daily activity summary arrived at Moorer’s office, Ryan, as a member of the Joint Chiefs, would likely have seen it given that he closely monitored airstrikes on North Vietnam, as demonstrated by his reaction to the poor bombing on the November 8, 1971, raid against Quang Lang airfield. Ryan further observed to the HASC that the post-strike information provided by the Specats appeared within 24 hours after an attack; in contrast, the OPREP-4s generally took much longer to complete.¹³⁷

On March 11, with the arrival in Saigon of the Air Force IG, Lavelle halted protective reaction missions—not because he believed that they violated the ROE, but because he could not figure out how to report those missions correctly on the OPREP-4. “When we stopped, that very day I assigned a group of three men to find out how we could continue what we were doing, but report it accurately,” Lavelle told HASC member Representative Alexander Pirnie (R-NY) in June 1972. “But the reports were in such detail, we were not able to find a way where we could accurately report what we were doing.” Congressman Pirnie responded, “It was for that reason that it [the bombing] was stopped? Not because of what was being accomplished was contrary to the basic mission of protection of the forces and stopping the enemy buildup?” Lavelle answered, “That is correct, sir.” Pirnie persisted, “But merely because, as of that time, authority was not granted for carrying out those actions without fulfilling the reporting requirements?” Lavelle again answered, “That is correct, sir.”¹³⁸

Designed in 1968 to report the results of a mission conducted according to the questionable terms of the “bombing halt agreement,” the OPREP-4 had remained constant in format despite the technological changes affecting the air war almost 4 years later. As Lavelle noted, the form provided no way to accommodate the alterations, and Fred Buzhardt, the Department of

¹³⁶ “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 37.

¹³⁷ *Ibid.*; “Nomination of Lavelle, Abrams, and McCain,” September 19, 1972, 300–301.

¹³⁸ “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 30.

Defense (DOD) General Counsel, agreed with Lavelle's assessment. "We don't believe there was any falsification of records by these people [involved in the alleged unauthorized missions] in the legal sense," Buzhardt stated in March 1973. "They were using a reporting format given to them." He added, "When the people came in and debriefed, they actually reported what took place and we have this in evidence from the messages. . . . They did not conceal what actually took place."¹³⁹

Lavelle's Relief from Command—and Nixon's Reaction

Once recalled to Washington, in a meeting at Ryan's home on March 26, Lavelle argued that he—and his superiors—had received accurate accounts of the raids in question, but he also took blame for failing to articulate clearly his notion of "activated against," which produced OPREP-4s that may have contained false information. Lavelle remained adamant that he had not ordered the falsification of those reports.¹⁴⁰ Ryan recalled the dialogue differently: "He [Lavelle] came in, and I asked him what the hell was going on. Here is what the Inspector General had found out, that they [Seventh Air Force personnel] were falsifying reports on his orders. He admitted that he had told them to falsify reports. . . . The gist of our conversation was that he told my crews to lie."¹⁴¹

Lavelle remembered asking Ryan to contact Abrams, but Ryan satisfied himself with Abrams's comments in General Wilson's March 20, 1972, IG report. Yet those remarks implied support for Lavelle's direction of protective action strikes. As recorded by Wilson, Abrams's observations were that "the defenses in the southern area of North Vietnam had progressively, year after year, increased until they were now more severe than at Hanoi. He said that as a matter of policy, this country insisted on the right of free overflight of North Vietnam to maintain surveillance of the activity going on there, and we would take whatever action was necessary to preserve this right."¹⁴² Ryan stated to the HASC in June 1972 that Abrams was aware of many of Lavelle's protective reaction strikes, based upon what Lavelle had told Ryan after Lavelle's recall to Washington. Representative Otis G. Pike (D-NY) asked about the January 23, 1972, Dong Hoi mission, "Is there any question in your mind about the veracity of what General Lavelle has

¹³⁹ "Certain Nominations in the Air Force and the Navy," March 22, 1973, 7–8.

¹⁴⁰ Lavelle oral history interview, 642.

¹⁴¹ Ryan oral history interview, 219–220, 231.

¹⁴² General Creighton Abrams, Interview Summary, March 11 and 16, 1972, in Wilson, Jr., "Report of Investigation," appendix D.

just said, about his statement that he talked to General Abrams about it?” In response, Ryan provided a tepid endorsement of Lavelle’s honesty, “I have his statement for it. I have the Secretary of Defense’s statement. I have the Secretary of Defense’s statement that General Abrams told him that he had not given him the authority to strike.” Pike retorted, “That is not the question. The question was not whether he had given him authority to strike; the question was whether he had been made aware in advance of the strike that this was going to take place.” Ryan responded, “I cannot answer that question, Mr. Pike, because I did not talk to General Abrams.”¹⁴³

After returning to Washington, Lavelle determined that he would not only talk to General Abrams, but would also meet with Secretary of Defense Laird and Secretary of the Air Force Seamans. Lavelle succeeded in reaching Abrams’s deputy, Army GEN Frederick C. Weyand, who sympathized with Lavelle and said that he would notify Abrams and call back, but neither Weyand nor Abrams returned the call.¹⁴⁴ According to Lavelle, Ryan said that he would try to arrange appointments with Laird and Seamans.¹⁴⁵ After waiting to see both secretaries for a week, Lavelle determined that he would receive no high-level backing and decided to retire, especially when informed by Ryan that other officers could receive punishment if Lavelle pursued the matter. Ryan advised him to take a medical retirement that would likely include 50 percent disability, meaning that much of Lavelle’s retired pay would avoid taxes because of his health issues—Lavelle had a heart murmur following a heart attack as well as emphysema and a variety of other ailments. The Air Force Chief further told Lavelle that he would support him for the retired rank of lieutenant general, rather than Lavelle’s permanent rank of major general. Although Ryan did not think a court-martial was appropriate, he was emphatic that Lavelle could not remain in the Service at his present rank. Lavelle recalled that Ryan mentioned recently approving the dismissal of 20 cadets from the Air Force Academy for an honor code violation, and stated that the Air Force could not have two standards—one for generals and one for cadets. When Lavelle countered that he had no knowledge of the alleged false reports, Ryan answered that Lavelle was responsible for them, and Lavelle agreed with that assessment.¹⁴⁶

On the morning of April 6, as Lavelle signed his retirement papers, President Nixon met in his White House office with Lavelle’s replacement as Seventh Air Force Commander, Lieutenant General John Vogt, Jr. Nixon was unaware of Lavelle’s dismissal, but Kissinger, who was also

¹⁴³ “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 47–48.

¹⁴⁴ Lavelle oral history interview, 643.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*, 642–649. Lavelle actually received 70 percent disability.

present, had carefully monitored events in Saigon and had lobbied for Vogt to get the job. Kissinger knew Vogt well; Vogt had studied with him in a Harvard program for senior officers.¹⁴⁷ Kissinger had also worked with him as the Director of the Joint Staff, and Vogt was familiar with the air situation in Southeast Asia—he had delivered Admiral Moorer’s message to the Honolulu conference for Lavelle to be more aggressive in conducting protective reaction strikes. Although Vogt was in line for a fourth star and a position on the North Atlantic Treaty Organization staff, he was receptive to taking over Seventh Air Force. For Kissinger, Vogt was the perfect choice to go to Vietnam. The National Security Advisor was unpopular at MACV Headquarters, and Vogt’s appointment as Abrams’s air commander would give Kissinger a back-door channel to Saigon. On April 5, Kissinger called Moorer from the Oval Office recommending that Vogt receive the command, and Nixon chimed in about the need for “someone with imagination and verve.”¹⁴⁸ That input eclipsed Ryan’s choice of Air Force Lt Gen Marvin McNickle, the commander of Thirteenth Air Force in the Philippines, to replace Lavelle.

Kissinger called Vogt that afternoon to let him informally know that he would command Seventh Air Force. Though pleased, Vogt was also apprehensive about the reception he might receive from Abrams. He said to Kissinger, “I definitely will have a problem at the other end.” Kissinger responded, “We will make heads roll. You do what is wanted and he’s got to get out of the way.”¹⁴⁹ Vogt stated that he would like to meet with Kissinger before departing for Saigon, and Kissinger arranged for him to see the President as well.

Throughout their ensuing April 6 meeting, Nixon referenced the North Vietnamese offensive that had finally begun on March 30—a massive, 120,000-man assault backed by large numbers of tanks and 130mm heavy artillery—and how airpower should thwart it. “The only thing the whole goddamn thing is about now is air, right Henry?” the President asked. Kissinger quipped, “Oh yeah; this is sophomoric.” Stopping the offensive, Nixon said, required dynamic, innovative leadership, and he maintained that theme throughout the gathering. He further believed that the Air Force’s performance thus far had been inadequate because of a failure to fly in poor weather. He declared, “If the Air Force at this point doesn’t do an adequate job at this time, and screws it up, as it has been screwed up before, because of a lack of imagination, a lack of willingness to take risks . . . this is probably the last time the Air Force is going to have a combat

¹⁴⁷ Stephen P. Randolph, *Powerful and Brutal Weapons: Nixon, Kissinger, and the Easter Offensive* (Cambridge: Harvard University Press, 2007), 94.

¹⁴⁸ Quoted in *ibid.*, 95.

¹⁴⁹ Quoted in *ibid.*, 99.

role.” He added, “You’re going out there on a rescue operation. But if you have to go out there I want you to know, I want you to know that you’ll be backed to the hilt, and you’ll have to take some casualties. . . . I feel very strongly about this.”¹⁵⁰ Presidential aide H.R. Haldeman, who was also present and taking notes, jotted down:

Vogt said he understood what the P[resident] was saying loud and clear and that he’d move in and get it solved. The P told him to bypass Abrams, that he did not have confidence in Abrams, that he’d been a great commander in World War II but that Vogt was to get things done. If he had any problems he was to let the P know, not just let things simmer.

*Vogt then raised the point that his hand would be greatly strengthened if he were to be made Deputy Commander out there instead of just Air Commander and the P said that it is to be done and ordered Henry to get it done. It was quite a dramatic meeting and I think undoubtedly had a dramatic effect on General Vogt.*¹⁵¹

Vogt would later describe Nixon as “wild-eyed” during the meeting; “he wanted somebody to use imagination—like Patton.”¹⁵²

After Vogt and Kissinger left the Oval Office, Haldeman confided to Nixon, “You got a guy volunteering for the assignment because he knows it’s fucked up out there. . . . That’s why he volunteered.” Nixon, stupefied by that statement, responded, “He volunteered?” “Yeah,” Haldeman replied. He continued:

He came to Henry and said, “I’ll give up my, my fourth star, he’s so smooth, I’ll give up my fourth star if you’ll let me go out to Vietnam and [get] the military back.” He saw what they were doing wrong. Instead of worrying about his own fat ass in the Pentagon; it’s his interest in trying to get out and win the goddamn war.

¹⁵⁰ Transcript of White House conversation—President Richard Nixon, Henry Kissinger, Lt Gen John W. Vogt, H.R. Haldeman, April 6, 1972, available at <https://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2010/07/Lavelle-Presskit-09-White_House_Tape_Transcript_19720406_Nixon_Kissinger_Vogt.pdf>.

¹⁵¹ H.R. Haldeman, *The Haldeman Diaries: Inside the Nixon White House* (New York: G. P. Putnam’s Sons, 1994), entry for Thursday, April 6, 1972, 436–437.

¹⁵² Quoted in Hersh, 506.

*And then you put it the way you did. He knows he's got backing. He knows, you told him pretty clearly he's not to listen to his commanders.*¹⁵³

Haldeman believed Kissinger's description of why Vogt sought command of Seventh Air Force, and the aide's recitation of the story sold Nixon as well. Throughout the Oval Office conversation, the President had no idea that Ryan had sacked Lavelle, and likely had never heard Lavelle's name. Nixon instead ruminated about Vogt's potential to succeed, remarking that "Vogt has to pull this off; it's the Air Force," and then the President shifted his thoughts to whether Abrams might become Chairman of the Joint Chiefs. Haldeman offered that Vogt's Vietnam performance might place the Air Force general in the running, an idea that intrigued Nixon.¹⁵⁴

On April 7, Ryan announced that Lavelle had retired from the Air Force "for personal and health reasons"¹⁵⁵ and that Vogt, who was promoted to four-star general that day, would replace him as Seventh Air Force Commander. Secretary Laird had directed Lavelle's removal from command to Admiral Moorer on March 30, advising Moorer, "It is important that this matter be handled on an urgent and discreet basis."¹⁵⁶ On April 8, the day following Ryan's announcement, a *New York Times* article revealed that Ryan had met Laird's first requirement, but not the second. Reporting on American bombing in response to the North Vietnamese offensive, correspondent William Beecher highlighted "the sudden decision to replace the current commander" and noted that "the official reason given for General Lavelle's replacement was 'ill health.'"¹⁵⁷ Beecher's story fueled speculation that a more significant factor had spurred Lavelle's removal from command, given that the change had transpired only a week after North Vietnam had begun its massive assault.

Otis Pike (D-NY) was one individual skeptical of the official reason given for Lavelle's retirement. A member of the House Armed Services Committee, Pike had observed fellow committee members investigating the 1968 My Lai massacre—and its associated cover-up—during

¹⁵³ Transcript of White House conversation, April 6, 1972.

¹⁵⁴ Ibid.

¹⁵⁵ "Unauthorized Bombing of Military Targets in North Vietnam," December 15, 1972, 1.

¹⁵⁶ Memorandum for Chairman, Joint Chiefs of Staff, from Secretary of Defense Melvin R. Laird, Subject: Command of Air Elements in Southeast Asia, 30 March 1972, available at <<http://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2014/06/16214459/Extraction.-8613-00225960xBF28F.pdf>>.

¹⁵⁷ William Beecher, "Secretary Assails Hanoi; Laird Says U.S. Will Bomb Until North Pulls Back," *New York Times*, April 8, 1972.

hearings in the spring of 1970. He felt that a similar whitewashing might be at hand as he tried to secure additional information about Lavelle's retirement from the Pentagon's Air Staff but was "rebuffed."¹⁵⁸ The chief counsel for the HASC's special investigating subcommittee, who contacted the Air Force on April 27, also received no response. On May 4, Pike wrote the HASC chairman, F. Edward Hébert (D-LA), requesting a formal inquiry, and Hébert granted the request. Pike argued on the floor of the House of Representatives on May 15 that the Air Force had not told the truth about Lavelle's removal from command. The congressman continued:

I believe there is a major issue here, important to our Air Force, and important to our nation.

*Perhaps the most major issue is the credibility of our military. The military complains that it is misunderstood and mistrusted. It cannot be understood and will not be trusted as long as it tries to sweep its scandals under the rug and as long as it persists in trying to obscure the truth instead of telling the truth.*¹⁵⁹

Later that day, Ryan responded to Pike's accusations: "Gen. John D. Lavelle was retired at his request for personal and health reasons. His retirement became effective April 7, 1972. He had been relieved of command of the 7th Air Force by me because of irregularities in the conduct of his command responsibilities."¹⁶⁰ Pike wasted no time in answering Ryan's declaration, telling his fellow congressmen the next day:

*Now, Mr. Speaker, at long last a tiny bit of the truth is beginning to emerge. But, only a tiny bit. "Irregularities in the conduct of his command responsibilities" is a gloriously vague phrase, designed to create the illusion of truth while concealing the facts. What irregularities? What conduct? What command responsibilities? The American people are entitled to all the facts, not a tiny little piece of them.*¹⁶¹

¹⁵⁸ Otis G. Pike, "Reports from Washington," *Congressional Record* 12, no. 17, May 18, 1972.

¹⁵⁹ Otis G. Pike, "The Air Force Is Trying to Sweep a Scandal under the Rug," *Congressional Record* 118, May 15, 1972, 4490.

¹⁶⁰ Quoted in "Unauthorized Bombing of Military Targets in North Vietnam," June 12, 1972, 2.

¹⁶¹ Otis G. Pike, "Is General John D. Lavelle a Goat or a Scapegoat?" *Congressional Record* 118, 92nd Cong., 2nd sess., May 16, 1972, 4568.

Once the House hearing began on June 12, Chairman Hébert asked a similar series of questions to open the proceedings.¹⁶²

Ultimately, the House determined that although Lavelle bore responsibility for the false reports, his actions had been in good faith, and he was not the type of commander who would circumvent the ROE. “Common sense and the law of survival compelled the assumption that SAM/AAA sites in North Vietnam were always ‘activated against’ U.S. or allied aircraft,” the HASC report concluded.¹⁶³ It added:

*That he [Lavelle] lived “by the book” is an inescapable conclusion, and there is nothing in his record which would cast the slightest shadow on his integrity or doubt on his ability. . . . Is it likely that such a man would jeopardize a brilliant career by engaging in actions which could bring him neither honor nor glory, but which could almost certainly bring him dishonor and disgrace? The law of probabilities would suggest a negative answer.*¹⁶⁴

The HASC berated the Defense Department for failing to provide requested documents, such as the Air Force IG report and the rules of engagement, to the subcommittee conducting the hearing. The HASC further admonished some Defense Department representatives for the “incredible secrecy” surrounding the case, noting that the secrecy appeared to stem from the desire to avoid embarrassment to Lavelle. “But having just summarily relieved him of his command, reduced him in rank, and caused him to retire, it is difficult to understand how either the Air Force or DOD could have added to the General’s embarrassment,” the report stated. “Therefore, one might be excused for entertaining an uneasy feeling that someone other than General Lavelle could be receiving the benefits of this secrecy.”¹⁶⁵

The House hearing came as a surprise to the President. On June 14, after it had ended, Nixon revealed his ignorance of the Lavelle affair in an Oval Office meeting with Secretary of State William Rogers and Kissinger. Rogers started the conversation by saying, “That damn general is going to cause you a lot of trouble; that Lavelle.” Nixon replied, “What the hell is that all about? Who is Lavelle?” Kissinger began an explanation and the President cut him off, “And

¹⁶² “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 2.

¹⁶³ *Ibid.*, December 15, 1972, 9.

¹⁶⁴ *Ibid.*, 7.

¹⁶⁵ *Ibid.*

is he being made a goat? If he is, I don't, it's not good. I don't believe in it." The National Security Advisor then offered his account of what had occurred:

Kissinger: Well, well, ah. He's ah. What happened was that during March he apparently interpreted protective reaction orders very liberally to put it mildly. And sometimes initiated attacks, and when Laird found out about it he removed him. And—

Nixon: Laird removed him?

Kissinger: Laird removed him. In April, early April, without practically—without telling us that he had already done it. So now he's, that fellow before the Congressional committee . . .

Rogers: Giving you a good—

Kissinger: And he admits that he had launched twenty-three unauthorized attacks. And of course that knocks into the head our argument that all during March we restrained ourselves.

Rogers: Plus the fact that the young sergeant has written some Senators saying that he was advised to fabricate reports, which is going to be difficult to explain.

Nixon: Well, I just think that they had made a goat of him for that. I don't know Lavelle.

Kissinger: I don't know Lavelle either. This wasn't—

Nixon: Are we making him a goat? You think so?

Kissinger: Well I think ah. I think it was X-rated where he stood; there's more damage out of the service than he would have done if it had been handled more . . .

Rogers: He also indicated that Abrams knew about the previous; that Abrams knew about it previous. He said Abrams knew about this.

Nixon: He probably did.¹⁶⁶

¹⁶⁶ Transcript of Oval Office conversation among President Richard Nixon, National Security Advisor Henry Kissinger, and Secretary of State William Rogers, The White House, June 14, 1972, available

Later that morning, Nixon met privately with Kissinger, and the topic of Lavelle came up at the start of the conversation. The President reiterated that he did not want Lavelle “to be made a goat,” and added, “We all know what protective reaction is, this damn Laird playing games.” Kissinger responded, “What happened with Lavelle was he had reason to believe that we wanted him to take aggressive steps,” to which Nixon replied, “Right, that’s right.” Kissinger continued, “Then he did it. And then suddenly Laird came down on him like a ton of bricks. And he had him already removed by the time I even learned of it. By that time, the damage was done.” The President mentioned his concern for Lavelle on multiple occasions, and each time that Nixon did, Kissinger tried to change the subject. When Nixon asked why Laird had removed Lavelle, remarking that “you destroy a man’s career,” Kissinger began to discuss Laird’s character and how the Secretary of Defense had seemingly manipulated the budget. Nixon finally said, “But come back to Lavelle. I don’t want a man persecuted for doing what he thought was right. I just don’t want it done.” The President then disparaged Sergeant Franks, comparing him to Daniel Ellsberg, who had leaked the Pentagon Papers. “Of course, the military are impossible too,” Kissinger rejoined. Nixon responded, “Well, they all turn on each other like rats.” Kissinger agreed, and then began discussing how the Russians would respond to the air attacks on North Vietnam stemming from the North’s offensive. Nixon told him to “come back to Lavelle now” and asked, “Can we do anything to stop this damn thing? Why’d he [Laird] even remove him?”¹⁶⁷

Kissinger’s response, and Nixon’s follow-on questions, revealed much about how the National Security Advisor had taken advantage of the situation while providing minimal information to the President:

Kissinger: No. If they hadn’t removed, well. . . . They kept John Vogt instead who is probably better, but. . . . Because he understands us better. But, Lavelle was actually moved out before Vogt went out there. Lavelle was removed at the end of March.

Nixon: Because of this?

Kissinger: Yeah.

at <https://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2010/07/Lavelle-Presskit-11-White_House_Tape_Transcript_19720614_Nixon_Rogers_Kissinger.pdf>.

¹⁶⁷ Ibid.

Nixon: Why the hell did this happen!?! A decision of that magnitude without? I should have known about it Henry, because this is a—

Kissinger: Well, Mr. President, the point was—

Nixon: Because this is something we told. You remember we, we, we told Laird to keep the pressure on there in March!

Kissinger: By the time I knew about it, it had already been done. There was no point in—

Nixon: I see.

Kissinger: —involving you anymore. Because he notified me after the guy had already been removed.¹⁶⁸

Nixon then turned from compassion to pragmatism, asking, “How do we handle it public relations-wise?” Kissinger answered, “I think this will go away. I think we should just say ah . . . after all we took corrective steps. We could have easily hidden it. I think you might as well make a virtue of a necessity.” Nixon replied, “Well, I don’t think anybody gives a damn that we went in and bombed. I think they probably favored it. . . . I don’t like to have the feeling though that the military can get out of control. Well, maybe this censures that. This says we do something when they . . .” and he stopped in mid-sentence. Then he added, “It’s just a hell of a damn. And it’s a bad rap for him, Henry.” Near the conclusion of the conversation, Nixon confessed, “Well you see, deep down, the thing I’m getting at is this. That ah, with Laird, I just don’t like him to make a goat of this fellow. Because Laird knows goddamn well, that ah, I told him, I said it’s protective reaction. He winks, he says, ‘Oh I understand.’”¹⁶⁹

Nixon continued to vacillate between sympathy and practicality, but in the end, his version of pragmatism won out. He requested a summary of Lavelle’s actions from Laird, but the Secretary’s description contained numerous inaccuracies. Laird noted that aircrews had bombed targets such as “truck convoys” and “POL [petroleum, oil, and lubricants]” when the missions in question had not struck those objectives. In addition, Laird wrote, “General Lavelle admitted to the Air Force Inspector General that he had ordered the preplanned missions to be conducted and that he had

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

also directed that the fact of no enemy reaction in the form of anti-aircraft fire or radar activation could not be reported.¹⁷⁰ That comment was a half-truth at best, given that Lavelle had said nothing about reactions to anti-aircraft artillery and failed to clarify his remark about radar activation following the January 23, 1972, Dong Hoi mission. One week after his conversation with Kissinger, Nixon decided to take his National Security Advisor's advice. In a June 22 news conference, the President answered questions about Lavelle's dismissal by declaring, "The Secretary of Defense has stated his views on that; he has made a decision on it. I think it was an appropriate decision."¹⁷¹ A week later Nixon elaborated to the press, "But he [Lavelle] did exceed authorization; it was proper for him to be relieved and retired. And I think it was the proper action to take, and I believe that will assure that kind of activity may not occur in the future."¹⁷²

After making statements that assured the Lavelle affair would not affect his Presidency, Nixon still felt remorse for the general whose fate the President had ultimately sealed. On September 15, 1972, while the SASC hearing on Lavelle convened, Nixon met with Army MG Alexander Haig, Kissinger's deputy, in the Old Executive Office Building. The President wanted to take action on the "Lavelle incident," observing that he had directed the conduct of protective reaction strikes. Haig responded that Lavelle "falsified reports—and it just wasn't necessary." Nixon answered, "He didn't shred evidence."¹⁷³ A month later, after the SASC had ruled against Lavelle, the President again spoke to Haig, "All of this goddamn crap about Lavelle! And I feel very sorry for the fellow, because you and I know we did tell him about 'protective reaction' being, very generally . . ." "Very liberal," Haig offered. "Yeah, very liberally, very liberally," Nixon responded. "Remember I said it was, if they, if they hit there, go back and hit it again. Go back and do it right. You don't have to wait till they fire before you fire back. I told Laird that. And I meant it. . . . Now Lavelle apparently knew that and received that at some time. . . . There

¹⁷⁰ Memorandum for the President from the Secretary of Defense, Subject: "Circumstances Surrounding the Replacement of General John D. Lavelle as Commander, 7th Air Force," 15 June 1972, Binder: SASC Hearing 27 September 1972, Tab H-2, Box 90, Admiral Moorer Records, RG 218, NARA, College Park, MD.

¹⁷¹ "Transcript of the President's News Conference Emphasizing Domestic Affairs," *New York Times*, June 23, 1972.

¹⁷² "Transcript of the President's News Conference Emphasizing Foreign Affairs," *New York Times*, June 30, 1972.

¹⁷³ Transcript of Old Executive Office Building conversation between President Richard Nixon and Major General Alexander M. Haig, Jr., September 15, 1972, available at <https://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2010/07/Lavelle-Presskit-13-White_House_Tape_Transcript_19720915_Nixon_Haig.pdf>.

wouldn't be any crap at all if we hadn't stopped the bombing [in 1968]. If you look back, all he did was hit the goddamn SAM sites and military targets!"¹⁷⁴

In all likelihood, Lavelle felt much the same as the President. "If I had it to do all over again, I would do the same thing, but I would look into and understand the reporting system so that [false reporting] would not have happened," Lavelle told the HASC in June 1972. When asked if the alleged unauthorized missions were necessary, he responded, "Yes, sir. And I believe also that they were within an interpretation of the rules of engagement that as the commander on the spot, seeing them, I could make." Lavelle elaborated on the netting of North Vietnamese radars and how the tactic affected his interpretation of "activated against" in the ROE. He then stated, "And I have said, and I still say, that in certain limited instances when the target was critical on saving the lives of our crews I applied this rule."¹⁷⁵ Lavelle might have added, as Nixon repeatedly emphasized, that as Seventh Air Force commander facing an imminent enemy offensive, he received significant encouragement to interpret the ROE "liberally." Most of that encouragement came with promises of support. "I was sure I was going to be [backed-up] because I was told that was going to be," Lavelle reflected in 1978, "but I wasn't."¹⁷⁶

Judging the Truth

In the years that have transpired since the October 1972 SASC ruling, much evidence has come to light revealing how unjust that decision truly was. The Nixon tapes are the most obvious addition, but much declassified message traffic has since appeared, as well as the Air Force IG report, which the 1972 SASC did not see. Given the availability of the additional materials, the 2010 SASC's refusal to consider the Pentagon's request to have Lavelle's retired rank posthumously advanced to general is especially confounding. In the SASC's letter of December 20, 2010, to Secretary of Defense Robert Gates, Senator Carl Levin (D-MI), the SASC chairman, and Senator John McCain (R-AZ), the SASC ranking member, cited the failure of Deputy Under Secretary of Defense for Personnel and Readiness, William J. Carr, and the Air Force Board for Correction of Military Records to examine thoroughly several sources and reconcile "conflicting documentary evidence." Those sources included documents in the eighth volume of the State Department's

¹⁷⁴ Transcript of Old Executive Office Building conversation between President Richard Nixon and Major General Alexander M. Haig, Jr., October 23, 1972, available at <https://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2010/07/Lavelle-Presskit-14-White_House_Tape_Transcript_19721023_Nixon_Haig.pdf>.

¹⁷⁵ "Unauthorized Bombing of Military Targets in North Vietnam," June 12, 1972, 25.

¹⁷⁶ Lavelle oral history interview, 676.

Foreign Relations of the United States series on Vietnam, the Joint Chiefs' reaction to the January 5, 1972, attack on the Moc Chau radar site, and Secretary Laird's "authorized" biography. The SASC also criticized the Defense Department for "not consider[ing] sufficiently the importance of the falsified official reports submitted by Maj Gen Lavelle's command." The SASC further requested that "living witnesses to the events in question are afforded the opportunity to provide evidence and comment on the issues raised by this nomination" and that the Defense Department should "consider the issue of Maj Gen Lavelle's role in the falsification of official reports."¹⁷⁷

Yet instead of undermining the Pentagon's case that Lavelle should receive posthumous promotion, the considerations mentioned by the 2010 SASC amplify why he should. Moreover, the 2010 SASC failed to mention a key source that provides perhaps the strongest argument for why Lavelle should get his two stars back: the testimony provided by general officers to the 1972 and 1973 House and Senate Armed Services Committees when viewed against the evidence now available.

The SASC letter noted that the Pentagon's request relied "heavily" on Nixon's Oval Office conversation with Ambassador Bunker and Kissinger on February 3, in which the President directed attacks on SAM sites whether or not they fired at American aircraft. The letter further stated that in that meeting, Nixon "said the bombings should stop between February 17 and March 1, 1972" during his China trip. Without a doubt, Nixon's February 3 discussion was important. The President not only condoned attacks on SAM sites but also conveyed to Bunker that attacks could occur against other North Vietnamese military facilities, citing earlier protective reaction strikes against the Mu Gia Pass that bombed "the hell out of a lot of other stuff." Concerning airstrikes on North Vietnam while he was in China, Nixon did tell Bunker that bombing should not occur then, except for the northern portion of the DMZ.¹⁷⁸ Nevertheless, the President changed his mind, because he approved the 2-day series of raids on 130mm artillery positions north of the DMZ transpiring on February 16–17. Moreover, for the seven allegedly unauthorized airstrikes occurring during the February 17–March 1 span, Nixon received detailed daily reports from Laird, with the original information provided by Lavelle. The President never said to stop the attacks.

¹⁷⁷ Letter, John McCain, Ranking Member, and Carl Levin, Chairman, Senate Armed Services Committee, to Secretary of Defense Robert M. Gates, December 20, 2010.

¹⁷⁸ Conversation Among President Nixon, the President's Assistant for National Security Affairs (Kissinger), and the Ambassador to South Vietnam (Bunker), February 3, 1972, *FRUS, 1969–1976, Vol. VIII, Vietnam: January–October 1972*, 76.

The SASC letter also mentioned that the day after Nixon's Oval Office conversation with Bunker, the President approved National Security Decision Memorandum (NSDM) 149, which went from Kissinger to Laird. The memorandum reiterated that airstrikes could occur in the northern portion of the DMZ, but it limited attacks on SAM sites until "the enemy offensive commences but not prior to March 1, 1972 and only after final clearance with the President."¹⁷⁹ As for his approval of NSDM 149, Nixon reveled in making key decisions via covert or back-channels, and he excelled in defying existing policy to suit his own ends. His February 3 direction to Bunker that Abrams "can hit SAM sites period—do it, but don't say it," was just one example of Nixonian decisionmaking; the "official" policy in NSDM 149 made no substantial change in the ROE that would attract the press attention Nixon feared, while the actual policy altered those rules significantly. The President had used the same technique when he ordered the 1969 secret bombing of Cambodia without informing Secretary of the Air Force Seamans or Air Force Chief of Staff Ryan (neither found out until the *New York Times* broke the story).¹⁸⁰ Similarly, Nixon dispatched Kissinger to Moscow in April 1972, without notifying either Secretary of State Rogers or the American ambassador to the Soviet Union, to arrange a May summit with Soviet leaders.¹⁸¹ The President had further kept the "real" Paris peace negotiations, ongoing between Kissinger and Le Duc Tho since August 1969, secret until announcing them in January 1972.¹⁸² Perhaps the best summation of Nixon's decisionmaking methodology came from Kissinger, as recorded in Haldeman's diary following Nixon's verdict to send B-52s against Hanoi targets in the December 1972 "Linebacker II" campaign: "Henry makes the point that the P's best course is brutal unpredictability."¹⁸³

An elaborate set of back channels assured that Kissinger as well as Nixon could communicate directly with military leaders to convey commands without going through the Secretary of Defense. Since the North Korean shoot-down of a Navy EC-121 reconnaissance aircraft in April 1969, a rift had developed between Nixon and Laird over how best to respond to international crises.¹⁸⁴ Admiral Moorer, the Chairman of the Joint Chiefs, became a primary target for receiv-

¹⁷⁹ National Security Decision Memorandum 149, February 4, 1972, *FRUS, 1969-1976, Vol. VIII, Vietnam: January–October 1972*, 79.

¹⁸⁰ Shawcross, 29.

¹⁸¹ Kissinger, 1123–1125.

¹⁸² Richard Nixon, "Address to the Nation on a Plan for Peace in Vietnam," January 25, 1972, transcript available at <millercenter.org/president/Nixon/speeches/speech-3879>.

¹⁸³ Haldeman, December 18, 1972, 557.

¹⁸⁴ After the shoot-down, Nixon wanted to resume EC-121 intelligence flights near North Korea

ing personal Presidential direction. Laird had notified military chiefs and high-ranking civilian defense officials that they had to communicate with him first before contacting the President, but Moorer rejected that notion. In a February 1, 1972, telephone conversation with Haig, the admiral revealed that he had told Kissinger a week earlier, “My first loyalty is to the President and the orders he gives me are obeyed immediately.” Moorer added, “Any order from the President, of course, will be obeyed from me regardless of Laird.”¹⁸⁵ After Nixon’s discussion with Ambassador Bunker on February 3, the President met with Moorer about the air war and likely revealed the contents of the earlier conversation; Nixon emphasized that he wanted frequent updates on the war and that Moorer should provide them directly to the White House.¹⁸⁶ Meanwhile, Kissinger established a separate back-channel line of communication with Lavelle’s successor as Seventh Air Force Commander, General Vogt, to undercut Abrams’s command authority. Neither Nixon nor Kissinger had much direct contact with Abrams because they did not view him as an exceptionally competent commander. “Abrams doesn’t think creatively,” the President said in a February 5, 1972, telephone conversation. “No, he is a shell,” Kissinger replied.¹⁸⁷

By the start of the September 1972 Senate hearing, the list of Lavelle’s allegedly unauthorized missions had changed three times, and the SASC ultimately recorded six attacks that occurred before Nixon’s February 3, 1972, directive to Bunker: the November 7, 1971, attack on Dong Hoi airfield; the November 8, 1971, attack on Quang Lang airfield; the January 23, 1972, attack on Dong Hoi airfield; the January 25, 1972, attack on a SAM site near Route 137; and

immediately, but Laird delayed in implementing that order for 3 weeks. See “Editorial Note,” *FRUS, Vietnam: January–October 1972*, 80–81; and Hunt, 38–45. Nixon recalled the episode in his memoirs: “Thanks to this incident I learned early in my administration that a President must keep a constant check not just on the way his orders are being followed, but on whether they are being followed at all.” See *Nixon*, 385.

¹⁸⁵ From Moorer diary, February 1, 1972, in “Editorial Note,” *FRUS, Vietnam: January–October 1972*, 81.

¹⁸⁶ *Ibid.*, 82. Moorer wrote in his diary: “At the conclusion of our discussion he [Nixon] asked me to submit proposals for ensuring that we did have adequate military capability and went on to say that he would like to see me *frequently* in order to be kept up-to-date.” Original emphasis.

¹⁸⁷ “Transcript of a Telephone Conversation Between President Nixon and the President’s Assistant for National Security Affairs (Kissinger),” February 5, 1972, *FRUS, Vietnam: January–October 1972*, 83. Nixon had seriously considered firing Abrams in September 1971 after the general stated publicly that the United States would not maintain a residual force in Vietnam after combat operations ended. The President told Kissinger, “Get someone second in command that will keep him [Abrams] from drinking too much and talking too much.” Quoted in Hunt, 196.

two attacks on January 31, 1972, against missile transporter convoys.¹⁸⁸ Lavelle conducted the November 7, 1971, Dong Hoi mission after coordinating with Abrams, and Lavelle coordinated with Moorer for the Quang Lang airfield attack the next day; aircrews on both missions received ground fire approaching the targets. Though the Joint Chiefs judged the January 5, 1972, attack on the Moc Chau GCI radar site to have exceeded authority, it did not make the “unauthorized” list because Abrams ordered it, plus it spurred Secretary Laird to change the ROE to allow attacks against GCI radars when hostile MiGs were airborne. Thus, when Lavelle bombed the Nam Lang Nhia GCI radar after Laird’s revised ROE and reported to the Joint Chiefs that a MiG had flown south of the 20th parallel during the raid, he received no reprimand.

The third allegedly unauthorized strike was the January 23, 1972, raid on the Dong Hoi airfield when a MiG was enroute there from Hanoi. The attack also produced the first questionable OPREP-4, stemming from Lavelle’s statement that aircrews could not report “no reaction” on the mission. Additionally, beginning with that mission, Colonel Gabriel started sending General Slay complete mission summaries that in turn went to Lavelle. The next raid on the Senate’s list was the January 25 attack on a SAM site, which Lavelle described to the SASC as “a normally scheduled reconnaissance flight, fired on by a SAM. The escort aircraft expended their ordnance on the missile site.”¹⁸⁹ The fifth and sixth “unauthorized” flights were attacks on January 31 against missile transporters. For those strikes, Lavelle maintained that he coordinated with Abrams, who approved them. Lavelle told the SASC, “I could have made this raid without getting his [Abrams’s] approval. I did not and would not because we were going into North Vietnam under a liberal interpretation of the rules to let me hit it. So I went to General Abrams and said that I was going in there and he concurred.”¹⁹⁰

After conducting a 4-month examination of the Lavelle case that was far more exhaustive than the Air Force IG’s investigation, Department of Defense General Counsel Fred Buzhardt concluded that aside from the January 23, 1972, Dong Hoi raid, no certainty existed that an ROE violation had occurred on any of Lavelle’s questioned attacks. A pilot’s ability to detect enemy fire depended on a number of factors, to include weather conditions, and for the Dong Hoi attack, the weather was marginal. Furthermore, the Dong Hoi mission, with a MiG barreling

¹⁸⁸ Lavelle provided a detailed, notarized response to all of the allegedly unauthorized raids in a September 26 statement; see “Nomination of Lavelle, Abrams, and McCain,” September 26, 1972, 95–99. See also September 18, 1972, 281.

¹⁸⁹ “Nomination of Lavelle, Abrams, and McCain,” September 26, 1972, 96.

¹⁹⁰ *Ibid.*, September 12, 1972, 69.

toward the airfield and posing a threat to B-52s, was not a typical protective reaction strike. Despite Abrams's professed inability to recall the raid to the SASC, Lavelle remembered it clearly, recollecting that Abrams told him after learning of the prospective MiG attack, "Well I certainly consider that protective reaction; the system is activated against us."¹⁹¹

The 2010 SASC letter also probed the veracity of the guidance that Lavelle received from Secretary Laird to conduct protective reaction strikes more aggressively. In particular, the letter questioned the reliability of Laird's account of his early November 1971 meeting with Lavelle in Saigon, in which Laird confirmed to *Air Force Magazine* in 2007 that he had told Lavelle to take a liberal view of the ROE.¹⁹² The SASC letter claimed that Laird's comments contradicted Laird's authorized biography, *With Honor: Melvin Laird in War, Peace, and Politics*, written by Dale Van Atta and published in 2008. Yet a close examination of the three pages devoted to the Lavelle affair in Van Atta's book reveals a summary riddled with inaccuracies, such as a description of the ROE in effect during the McNamara era; an assertion that Lavelle ordered a "mission unauthorized by the field commander General Abrams" the day after Laird departed Saigon; and a claim that falsified mission reports began with the November 1971 attacks on Dong Hoi and Quang Lang airfields.¹⁹³ Van Atta's interpretation of Laird's "more liberal" protective reaction policy, "hitting enemy anti-aircraft sites if enemy radar tracked an American plane or had been activated on previous missions to the same area,"¹⁹⁴ actually hews closely to Lavelle's reading of the ROE once the North Vietnamese netted their various air defense radar systems in December 1971. On the

¹⁹¹ Ibid., September 11, 1972, 10.

¹⁹² Laird, Letter to the Editor, *Air Force Magazine*, May 2007, 4. The SASC letter incorrectly referenced Laird's visit to Saigon in December 1971; Laird actually visited Saigon in early November 1971, in concert with Chairman Moorer's visit.

¹⁹³ In *With Honor: Melvin Laird in War, Peace, and Politics* (Madison: University of Wisconsin Press, 2008), 399, Dale Van Atta writes, "Under the McNamara authorities, before Laird instituted 'protective reaction,' various targets were allowed only if the enemy had fired upon American planes." The ROE for *Rolling Thunder* stemmed from a target's location and whether the President had authorized it for attack, not on whether the North Vietnamese fired at the attacking aircraft. See Clodfelter, 117–134. The day after Laird departed Saigon, Seventh Air Force aircraft flew a reconnaissance mission against Dong Hoi airfield that received fire. Abrams ordered that mission, according to his own admission in testimony provided the SASC in September 1972. See "Nomination of Lavelle, Abrams, and McCain," September 13, 1972, 105. According to both the March 20, 1972, Air Force IG report and the 1972 House and Senate hearings, the first instance of a falsified mission report occurred in concert with an attack on Dong Hoi airfield on January 23, 1972.

¹⁹⁴ Van Atta, 399.

whole, though, the mistakes permeating Van Atta's account make it a dubious resource to challenge the truth of Laird's 2007 statement.

The alleged fabrication of the OPREP-4 postmission reports and Lavelle's role in that process became central aspects of the Lavelle affair, and the 2010 SASC letter highlighted those facets. The reports in question listed anti-aircraft artillery fire occurring on the controversial missions, though as Buzhardt's thorough investigation revealed, AAA fire may well have occurred and gone unnoticed on virtually all airstrikes. Moreover, even if the falsification of OPREP-4s transpired, Lavelle and his subordinates made no effort to hide the true results of the missions, and indeed Lavelle received detailed mission summaries filed by Gabriel for Slay. Buzhardt remarked, "In those instances he [Lavelle] told them not to report, in effect, in the operational report No. 4 or 3 the fact of lack of enemy reaction, but he instituted a separate form of reports which came to his headquarters in which he required them to give all the facts in detail of what happened over the target. In essence, the people were reporting accurately in special category messages precisely what did happen."¹⁹⁵ Buzhardt finished his investigation in October 1972—a month after the SASC hearings to determine Lavelle's retired rank had ended. The Specat reporting requirement that Buzhardt highlighted—and that received minimal attention in the 2010 SASC review of the case—significantly undermines challenges to Lavelle's veracity. If the general had harbored the intent to mislead, creating such reports would have been senseless. Instead, they corroborate his testimony that inaccurate OPREP-4s were the product of a communication error, not malfeasance.

Lavelle fully acknowledged his responsibility for failing to state during the January 23 Dong Hoi mission that his aircrews should have reported, "Enemy reaction—hostile radar." His lack of clarity led to OPREP-4s that may have been incorrect, but he neither ordered nor sanctioned such reporting. "My instructions were not clear and were subject to misinterpretation and, in retrospect, were apparently interpreted by my subordinates as an exhortation to report enemy fire when there was none," Lavelle explained to the SASC on September 26, 1972. In addition, he never knew that the computer-fed OPREP-4 existed. Once General Wilson showed him copies during the IG's visit to Saigon, Lavelle stopped the questionable reporting and ended protective reaction strikes. Two weeks later, a SAM downed an AC-130 gunship, killing 13 airmen.¹⁹⁶

Lavelle's commitment to preserving the lives of his aircrews likely spurred his "liberal" interpretation of the ROE, but the original impetus for such action came from elsewhere. The

¹⁹⁵ "Certain Nominations in the Air Force and the Navy," March 22, 1973, 19.

¹⁹⁶ Lavelle oral history interview, 673.

Joint Chiefs, the Air Staff, and the Secretary of Defense encouraged him to broaden the air war by using the “existing authorities” to the fullest, and the loss of two fighters to North Vietnam’s newly netted radar system caused him to take the advice from above and redefine “activated against.” With the ability of SAM operators to use GCI radar information and fire their missiles with little or no warning for American pilots, Lavelle wrote the SASC that his “interpretation of the pertinent rule of engagement was a reasonable one.”¹⁹⁷ He had earlier told the HASC, “Under this condition [netting] that system was activated against us whenever we went over there. Now, I realize . . . that an interpretation of this was that you had to know it was activated against you. Or, you could make the other interpretation—it is always activated against you.” A congressman then asked, “It was never going to be any more activated against you than it was until the missile actually fired, is that correct?” Lavelle replied, “That is correct.”¹⁹⁸ Lavelle’s argument is difficult to counter, especially given that he refused to allow his logic to condone *carte blanche* raids on North Vietnam and restricted his attacks to only air defense–related targets. He had multiple opportunities to bomb tanks but refused to do so.

Several high-ranking officers tended to view Lavelle’s justification differently, and the 2010 SASC letter failed to question this key part of the Lavelle puzzle—the veracity of the testimony given to the House and Senate Armed Services Committees by others wearing the uniform and stars. Just as Lavelle’s testimony needed examination in light of source material now available, the statements made under oath by witnesses who testified during the hearings also required scrutiny. Air Force Chief of Staff Ryan, who ordered the IG investigation after receiving Sergeant Franks’s letter, told the SASC that the members of Seventh Air Force, aside from Lavelle, bore minimum responsibility for what had occurred. “The bad apple was the head apple,” Ryan replied to Senator Hughes when asked if a bad apple in a basket could infect those around it.¹⁹⁹ Yet after his recall to Washington, Lavelle remembered Ryan saying that Lavelle “was the victim of some sorry staff action” and indicating that General Slay was responsible for that failure.²⁰⁰ Ryan also stated he was surprised when he visited Udorn Air Base in December 1971 that Colonel Gabriel and his officers did come forward and apprise him “of the situation when I was out there.”²⁰¹ The “situation” that Ryan referenced was the violation of ROE and falsification of mission reports,

¹⁹⁷ “Nomination of Lavelle, Abrams, and McCain,” September 26, 1972, 99.

¹⁹⁸ “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 34.

¹⁹⁹ *Ibid.*, September 18, 1972, 272.

²⁰⁰ Lavelle oral history interview, 654–655.

²⁰¹ “Nomination of Lavelle, Abrams, and McCain,” September 26, 1972, 271.

though no violations had occurred, nor had any questionable OPREP-4s appeared at that time. In actuality, Ryan was upset then because the November 8 attack on Quang Lang airfield produced such poor bombing, and he notified Lavelle of his displeasure.

Other Ryan statements appeared questionable. Ryan contended that the North Vietnamese had netted their radar system since 1967, a dubious assertion that he then tried to amend. His description of the ROE to the HASC also rang hollow when he downplayed the importance of the phrase “activated against.” “In essence the rules of engagement have been constant that on our protective reaction strikes, escorting our reconnaissance aircraft, that they would be fired on before you took offensive action against that site,” he said.²⁰² Three months later, he maintained to the SASC that the ROE had *not* stayed constant, stating, “later those Rules of Engagement were changed” to allow firing at SAM and AAA radars if they were activated against aircraft.²⁰³ During the HASC hearing, Ryan mentioned that he had examined only three OPREP-4s out of all those submitted for the “unauthorized” airstrikes,²⁰⁴ plus he informed the SASC that he had not read all of Lavelle’s previous testimony.²⁰⁵ Ryan further stated to the SASC that he should have revealed Lavelle’s relief from command in the initial announcement of Lavelle’s retirement, rather than just mentioning that the retirement was for “personal and health reasons.”²⁰⁶ Senator Hughes offered this blunt assessment of Ryan’s actions: “This appears to me from the beginning to have been an effort to conceal the facts from the general public about General Lavelle’s relief of command, his retirement, and the whole works.”²⁰⁷

General Abrams compared the failure to report Lavelle’s actions to the cover-up of the My Lai massacre. “It is the same thing with My Lai,” he told the SASC. “How in the world this was not—I mean, there were so many people who knew about that, so many, I was there the whole time. I was there before that occurred, after it occurred, [and] there was not a thing until that thing broke out in the press.”²⁰⁸ Yet Abrams—whose Senate testimony was used not only as part of the Lavelle case, but also to confirm Abrams’s own appointment as Army Chief of Staff—met with Lavelle frequently regarding protective reaction strikes and never suspected

²⁰² “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 33.

²⁰³ “Nomination of Lavelle, Abrams, and McCain,” September 18, 1972, 245.

²⁰⁴ “Unauthorized Bombing of Military Targets in North Vietnam,” June 12, 1972, 12–13.

²⁰⁵ “Nomination of Lavelle, Abrams, and McCain,” September 18, 1972, 260.

²⁰⁶ *Ibid.*, 258. “In retrospect it probably could have been handled better,” Ryan remarked. “For that I take responsibility.”

²⁰⁷ *Ibid.*, 257.

²⁰⁸ *Ibid.*, September 13, 1972, 135.

any abnormalities. As indicated by Abrams's remarks to Lavelle during the December 19, 1971, staff meeting after the loss of an F-105 to North Vietnam's netted radar system, the MACV commander definitely understood the dangers that netting posed to American aircraft and told Lavelle to study the problem—with the implication being to find a solution for it. Abrams's January 6, 1972, message to McCain, Moorer, and Ryan emphasized that aircrews had lost the ability to detect SAMs before they fired and revealed that Abrams accepted Lavelle's notion that radar activation now always occurred over North Vietnam. Nevertheless, Abrams asserted to the SASC that Lavelle had "acted improperly" regarding the ROE but had no recollections of specific violations.²⁰⁹ Additionally, Abrams's memories of his role in the November 7, 1971, attack on Dong Hoi airfield and in the January 5, 1972, attack on the Moc Chau radar were extensive, but he could not recall the January 23, 1972, strike on Dong Hoi airfield when a MiG threatened a flight of B-52s. Abrams further told the SASC that he never read the Air Force IG report, though General Wilson wrote in the report that Abrams had read a draft of the document.²¹⁰ To Abrams, Lavelle's ROE violations threatened military discipline, but he was uncertain that Lavelle had "acted against policy." When asked by the SASC to clarify what he meant, Abrams responded, "He acted against the rules, and I think rules are a little different than policy. I am not sure of myself there. I just don't know."²¹¹

The testimony of Joint Chiefs Chairman Moorer also contained some dubious remarks. His comments about his role in coordinating the November 8, 1971, raid on the Quang Lang airfield were questionable, for without his efforts Lavelle would likely not have secured the Navy's permission to attack that target. Furthermore, in the June 23, 1972, SASC hearing to confirm Moorer's reappointment as Chairman, the admiral offered observations regarding the chain of command that contradicted the arrangement he had secured with President Nixon. Moorer explained to Senator Margaret Chase Smith (R-ME) that the President gave his orders to the Secretary of Defense to transmit to the military chiefs. Smith then asked if the President "would not go direct, would not bypass the Secretary?" Moorer responded, "All orders to the operating forces pass through the Joint Chiefs of Staff but the President would not go down into the system. Neither would I. I would not bypass Admiral McCain and I would hope the Secretary of Defense

²⁰⁹ *Ibid.*, 108.

²¹⁰ *Ibid.*, 109; Abrams, Interview Summary, March 11 and 16, 1972, in Wilson, Jr., "Report of Investigation," Appendix D.

²¹¹ "Nomination of Lavelle, Abrams, and McCain," September 13, 1972, 109.

would not bypass me.”²¹² As Moorer well knew, Nixon had ordered him to report directly to the White House, and Nixon (and Kissinger) often communicated directly to him.

Moorer’s preparation for the SASC hearings in September 1972 was also telling. For that event, his staff compiled a thick briefing binder that contained arguments to refute eight allegations that Moorer had condoned, or perhaps even induced, Lavelle’s actions. To rebut the allegation that “the authorities above General Lavelle did not know what he was doing [because] there was a breakdown in civilian and military command and control through failure to detect the excesses and false reporting,” staff officers critiqued the reporting system that supposedly guided Lavelle’s actions. They wrote that “only *one*” mission, Dong Hoi on January 23, 1972, was “for sure *flown* in violation of operating authority,” and that the respective November 7–8, 1971, strikes against Dong Hoi and Quang Lang airfields “both IN FACT were flown in accordance with operating authorities [emphasis in original].”²¹³ Despite having this information at his disposal, Moorer refused to reveal it in his testimony, and not until DOD General Counsel Fred Buzhardt’s remarks during the March 1973 Senate hearings—6 months after the SASC had retired Lavelle at the rank of major general—did the lack of certainty regarding Lavelle’s ROE violations come to light. On the penultimate page of the list of allegations prepared for Moorer, the admiral wrote in block letters the word “integrity”—which could serve as an apt, if not ironic, summary for many aspects of the Lavelle affair.

As for the testimony of General Slay, who served as Lavelle’s director of operations for the last 2 months of the controversial raids, parts of it must be read with a jaundiced eye. Slay contended that he designed the January 5, 1972, Moc Chau radar attack because Lavelle was away from Vietnam. Both Lavelle and Abrams reported differently, and transcripts of Abrams’s taped staff meetings reveal that Lavelle was indeed present.²¹⁴ Colonel Gabriel told the SASC that Slay had directed him after protective reaction strikes not to report trucks destroyed on OPREP-4s because trucks were not air defense–related targets;²¹⁵ Slay recalled to the SASC that “trucks were entered into the data base and we would just get credit for the trucks that we would get killed.” R. James Woolsey, general counsel to the SASC who led the Senate’s investigation, asked, “Were you aware before the inspector general’s visit that trucks were not being included

²¹² “Nomination of Moorer for Reappointment as Chairman,” 20.

²¹³ “List of Allegations,” Binder: SASC Hearing, September 27, 1972, 5, Box 90, Admiral Moorer Records, RG 218, NARA, College Park, MD.

²¹⁴ See transcripts of “Special Air Brief, 4 January 1972” and “8 January 1972 Weekly Intelligence Estimate Update,” in Sorley, ed., 742, 743.

²¹⁵ “Nomination of Lavelle, Abrams, and McCain,” September 15, 1972, 202.

in the OPREP-4s when they were, in fact, struck?” Slay responded, “No, sir, I was not.” Woolsey continued, “Did you ever instruct him [Gabriel] to leave any types of targets out of the OPREP-4s from the standard reporting system?” Slay replied, “No, sir; not to my recollection; no, sir.” Woolsey persisted, “Did you ever say anything which could have been interpreted that way by him?” Slay answered, “If he did it, I must have because Charlie is a very honorable man and I don’t think he would just have done that on his own.”²¹⁶ Lavelle remarked in his oral history interview that he had to counsel Slay on three different occasions for publicly berating subordinates. To Lavelle, Slay was the “fair-haired boy” of several Air Force four-star generals. “The Air Force had destined, obviously, for him to go ahead,” Lavelle remembered, “but I couldn’t condone the way he was treating his people.”²¹⁷ In 1981, 2 years after Lavelle’s death, Slay referred to Lavelle’s conduct of protective reaction strikes as “a totally honest misjudgment” in which Lavelle believed he had the “tacit approval [of] the people in Washington. . . . Everybody, at least in my shop, understood those things were recorded and accurate. . . . No one in [Seventh Air Force] headquarters ever gave it a second thought because everybody assumed that this was another exercise like Cambodia.”²¹⁸

Almost 40 years later, two individuals who played central roles in the Lavelle affair offered their thoughts about the Lavelle affair. Otis Pike (D-NY), who had led the call in the HASC for an investigation of Lavelle, expressed his anger at not receiving a copy of the ROE during the June 1972 hearing. He also recalled that Secretary Laird wanted to talk with him privately during the hearing and said that the questions Pike had asked “could affect the next election.” Laird “told me he would give me all the details on the Lavelle case if I would promise not to talk about it anymore. I declined,” Pike remembered. He added, “If I had had the White House tapes at the time I would have been even angrier at President Nixon and Secretary Kissinger for turning General Lavelle loose and then hanging him out to dry by denying they had done so.”²¹⁹ James Woolsey, the SASC general counsel from 1970 to 1973, noted that if the SASC had access to the Nixon tapes and Secretary Laird’s 2007 letter to *Air Force Magazine*, “I am quite confident that it would not have voted against advancing General Lavelle on the retired list.” Woolsey further

²¹⁶ Ibid., September 19, 1972, 325–326. From Lavelle’s perspective, trucks that appeared at radar sites or with missile transporters were valid air defense targets.

²¹⁷ Lavelle oral history interview, 655–659.

²¹⁸ Slay oral history interview, 82–83.

²¹⁹ Letter, Otis G. Pike to John B. Dempsey, April 19, 2008, available at <https://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2010/07/Lavelle-Presskit-18-Pike_Letter_20080419.pdf>.

observed, “It is important to understand that the only offense of which General Lavelle is guilty was not being sufficiently informed about the format of some computer data forms.”²²⁰

Assessment and Legacy

Combining Lavelle’s testimony and his oral history with testimonies of others, the documentary evidence now available, and, in particular, the findings in the Nixon tapes, reveal a picture very different from that seen by the House and Senate Armed Services Committees in 1972 and 1973 and by the members of the Senate Armed Services Committee in 2010. Lavelle did not violate the rules of engagement, nor did he order the falsification of records. Given the conditions that governed the air war over North Vietnam at the time, and the direction that he received from political as well as military leaders, he carried out his orders to the best of his ability while trying to minimize the danger to his aircrews. He was not perfect in trying to accomplish those tasks. Yet the failure to provide clarity does not equate to a deliberate attempt to deceive. Lavelle is not the first, nor the last, commander who failed to provide precision when issuing orders, but he may well be the first four-star officer to be sacked and subsequently demoted because of his failure to be specific. He had no *intent* to deceive, unlike President Nixon, who used deception as a fundamental instrument of policy, as seen by the bombing of Cambodia and the February 3, 1972, decision to attack SAM sites. Lavelle kept his superiors fully informed of his actions, and the commander in chief was pleased by Lavelle’s accomplishments—and genuinely disheartened by his dismissal.

In the final analysis, the Lavelle affair stands as a test of American civil-military relations in the modern era of limited war. Lavelle remembered that military leaders throughout the war were reluctant to confront their civilian masters because such actions might be perceived as challenging the principle of civilian control of the military. Indeed, Lavelle recalled that Ryan’s primary concern after General Wilson’s investigation was the violation of that principle:

When Ryan called me back and fired me, his total discussion for the first hour or two was the Air Force had followed civilian instructions, had done what they were told; they hadn’t liked the job; they didn’t want to fight the war; they weren’t willing to fight the war that way, didn’t want to fight it that way, but there was no

²²⁰ Letter, R. James Woolsey to the Board of Correction of Air Force Records, June 11, 2008, available at <https://mbk-wp-media.s3.amazonaws.com/wp-content/uploads/2010/07/Lavelle-Presskit-16-Woolsey_Letter_20080611.pdf>.

*instance on record of the Air Force not doing exactly what our civilian betters had told us to do, and I [Lavelle] was the first one that cast a doubt on that.*²²¹

During the House and Senate hearings, many editorial writers excoriated Lavelle for conducting his own private air war and trying to hide what he had done. So it must have appeared at the time. In reality, rather than attempting to usurp power, Lavelle grappled with how best to stop an imminent enemy offensive that he could not attack directly with the massive force at his disposal—and how to achieve that goal without further endangering his aircrews. All the while, he received guidance indicating that he should “liberally” interpret the rules and hit the enemy harder, along with promises of support should the situation go awry. Lavelle interpreted the rules as suggested, and for doing so, he was cast adrift by his military chiefs, and ultimately by the President.

Today’s commanders should expect to face the same type of dilemma, because many of the situations they are likely to confront will demand interpretation. The rules of engagement are unlikely to be black and white; thorny phrases such as “activated against” will likely reappear, and what seems to be sound guidance at one point in a conflict may quickly become lethal because the enemy gets a vote—and a savvy enemy will use the ROE to his own advantage. Moreover, no two Presidents will be alike; their personalities and temperaments will have a profound effect on how they use military power, and air power in particular, which is the military instrument that seemingly offers the most gains for the lowest costs. Lyndon Johnson relied heavily on McNamara, his Secretary of Defense, for military insight. In contrast, Nixon did all he could to undercut Laird and called on Kissinger to serve not only as de facto Secretary of Defense, but also as de facto Secretary of State. Professor Richard Kohn, who has written extensively on American civil-military relations, observed, “Civilian control is not a fact, but a process that varies over time and is very much ‘situational,’ that is, dependent on the issues and personalities, civilian and military, involved at any given point.”²²²

Additionally, commanders must understand that “civil-military relations” refers not only to their relationship with the President, but also to how members of Congress interact with the military. Lavelle recalled that he met with Senator John C. Stennis (D-MS), who chaired the SASC, several times before the SASC hearings commenced in September 1972. He asked

²²¹ Lavelle oral history interview, 680.

²²² Richard H. Kohn, “Out of Control: The Crisis in Civil-Military Relations,” *The National Interest* 35 (Spring 1994), 16, available at <<http://nationalinterest.org/print/article/out-of-control-the-crisis-in-civil-military-relations-343>>.

Stennis why the committee would conduct its investigation, given that committee members were already aware of the facts in the case. “This is an election year,” Stennis replied. “Don’t you understand?”²²³ Partisan politics were certainly a factor in the questioning that came to Lavelle and others who testified. The Democrats, who largely opposed Nixon’s handling of the war, controlled both houses of Congress and would still do so after the 1972 election, when they threatened to cut all funding for the war in response to the President’s “Linebacker II” December bombing offensive. Unless generals and admirals have an appreciation for domestic politics and how it can affect strategic decisionmaking by the commander in chief, they will have difficulty providing guidance that the President finds acceptable.²²⁴

Generals and admirals can possess personality defects as well; high rank is no guarantee of sound strategic thinking—and the integrity and responsibility that need to accompany it. What should a commander like Lavelle do if given advice from superiors to interpret existing authorities “liberally”? How should a Chairman of the Joint Chiefs respond if the President tells that individual to ignore the Secretary of Defense? How should a field commander like Vogt respond if the National Security Advisor tells the commander to report directly to Washington rather than through the military chain of command? One might answer these questions, and many others raised by the Lavelle affair, by advising the officer receiving the guidance to get it “in writing.” Asking for such written confirmation may well require a large dose of what Prussian military theorist Carl von Clausewitz referred to as “the courage to accept responsibility, either before the tribunal of some outside power or before the court of one’s own conscience.”²²⁵ The current standing rules of engagement attempt to remove such hesitation, and today’s Air Force doctrine warns commanders to request clarification, guidance, or changes whenever orders may appear uncertain.²²⁶ Despite this evolution in direction, confusion can still occur, especially in situations involving self-defense.²²⁷ In addition, asking for a written

²²³ Lavelle oral history interview, 660.

²²⁴ Noted Prussian military philosopher Carl von Clausewitz, “We can now see that the assertion that a major military development, or the plan for one, should be a matter of *purely military* opinion is unacceptable and can be damaging. Nor indeed is it sensible to summon soldiers, as many governments do when they are planning a war, and ask them for *purely military advice*.” See Carl von Clausewitz, *On War*, trans. and ed. Michael Howard and Peter Paret (Princeton: Princeton University Press, 1976), 607. Original emphasis.

²²⁵ *Ibid.*, 101.

²²⁶ Annex 1-04, “Legal Support to Operations: Rules of Engagement,” March 4, 2012, available at <<https://doctrine.af.mil/download.jsp?filename=1-04-D12-LEGAL-ROE.pdf>>.

²²⁷ The current standing rules of engagement (SROE) for U.S. forces are published in Chairman

confirmation of a directive implies that it is at least questionable, if not illegal, which may not be the case. Furthermore, if the guidance *is* appropriate, asking for it in writing destroys the trust that is fundamental to the sound functioning of the military establishment—and is also essential to the notion of its civilian control.

Such issues will not disappear. The current era of 24/7 news cycles and social media will make dealing with these issues more difficult not only for a field commander, but also for any individual holding a high position. Lavelle met the challenges that he faced with logic, integrity, and dignity. His example offers much food for thought for American leaders in the 21st century.

of the Joint Chiefs of Staff Instruction (CJCSI) 3121.01B, and approved by the Secretary of Defense. See CJCSI 3121.01B, “Standing Rules of Engagement/Standing Rules for the Use of Force for U.S. Forces,” June 13, 2005. Outside U.S. territory, the SROE apply to all military operations and contingencies. The current SROE, which are classified secret, are under revision. For a detailed discussion on ROE, with a particular focus on self-defense, see Christopher D. Amore, “Rules of Engagement: Balancing the Inherent Right and Obligation of Self-Defense with the Prevention of Civilian Casualties,” *National Security Law Journal* 1, no. 1 (Spring 2013), available at <www.nslj.org/pdfs/NSLJ_Vol1_Iss1_Spring2013.pdf>.

About the Author

Dr. Mark Clodfelter joined the National War College at the National Defense University in July 1997. He is a former Air Force officer who was a ground radar officer by trade. After serving radar tours at Myrtle Beach and South Korea, he spent the remainder of his career in military academia. That service has included two teaching tours in the History Department at the Air Force Academy, one at the Air Force's School of Advanced Air and Space Studies at Maxwell Air Force Base, and one as Air Force ROTC Professor of Aerospace Studies at the University of North Carolina at Chapel Hill. He holds a bachelor's degree from the Air Force Academy, a master's degree from the University of Nebraska–Lincoln, and a Ph.D. from the University of North Carolina at Chapel Hill. He is the author of *The Limits of Air Power: The American Bombing of North Vietnam* (Free Press, 1989), *Beneficial Bombing: The Progressive Foundations of American Air Power, 1917–1945* (University of Nebraska Press, 2010), and numerous articles and book chapters dealing with the American military experience. His area of expertise is American military history, with a special emphasis on airpower and the Vietnam War.

