

No More Free Hand

By Tom Wicker

IN THE NATION

American and South Vietnamese officials are making detailed charges of a substantial North Vietnamese military build-up in the northern provinces of South Vietnam. The most important developments alleged seem to be the construction of a major logistics base at Khe Sanh and a new road from there through the Ashua Valley to the vicinity of Da Nang.

If these reports are true, if the elaborate machinery for peace-keeping in South Vietnam continues to be—as Ron Ziegler might say—“inoperative,” and if Hanoi and Saigon continue to play Catch 22 with each other (Saigon won't negotiate a political settlement until Hanoi withdraws its troops and Hanoi won't withdraw its troops until Saigon negotiates), then it is all too likely that unlimited warfare soon will be resumed. One pessimistic American is quoted as saying that this is a question of when, not if.

Based on the paper-thin justification it is using for its continued bombing in Cambodia, the Nixon Administration in such an event might argue that it had some kind of implied right to police the “peace with honor” it claims to have reached earlier this year. While it is only a remote possibility that American ground forces would return to South Vietnam, or be needed, American air power might well be used to help stem a North Vietnamese offensive, just as it was used in 1972.

This gives immediate point to the Church-Case amendment which is going to be added to the State Department authorization bill before the bill comes out of the Senate Foreign Relations Committee early next week. The amendment would prohibit the use of appropriated funds for any “involvement of United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos or Cambodia,” unless such an involvement were specifically authorized by Congress.

Senate head-counters report they have about 47 solid votes for this amendment, and there are several reasons why they think they might go over the top and even have a chance in the more hawkish House:

American troops having all been withdrawn, Mr. Nixon can no longer invoke his claimed right as Commander in Chief to protect their lives; nor is he literally a wartime Commander in Chief against whose wartime decisions some members of Congress thought it was unpatriotic and impolitic to vote.

The amendment does not, on the

other hand, absolutely prevent Mr. Nixon from intervening with air power in Indochina; rather, it requires him to seek Congressional authorization for doing so. Again, since there are no American forces remaining in South Vietnam, he cannot fairly say that he might have to act to protect them more quickly than Congress could authorize him to do. The amendment would not “tie the President's hands,” as its opponents no doubt will contend; it would refuse him the free hand that he once exercised as a wartime Commander in Chief.

The Church-Case amendment, moreover, has a “sweetener” in it for some Senators and Representatives who might normally oppose it. It would also bar the provision of any kind of aid to North Vietnam—at the moment an unpopular notion in Congress and the country, but a pledged intent of the Administration—without specific authorization of Congress. Once again, it would not absolutely prevent the President from taking action but would require him to do so only with Congressional consent.

A final reason the Church-Case amendment may have a better chance of passing than some of its predecessors is, of course, the Watergate scandal. By diminishing the general prestige and political clout of Richard Nixon, it has diminished also the prestige and credibility of the President and Commander in Chief; and the near-papal infallibility with which too-gullible Americans have invested their Presidents in national security affairs is likely to have been brought into question.

But the Administration is sure to raise one plausible argument against the Church-Case amendment. As military officials in South Vietnam are already contending, the threat that Mr. Nixon will loose the bombers again, against Hanoi as well as in the South, may be having a deterrent effect against an open North Vietnamese offensive. If that deterrent effect exists, it might be diluted if Mr. Nixon were forced to get Congress's permission before renewing the bombing.

Thus, opponents of the amendment will argue that it could make a new war more likely. But that basically is an argument that the peace Mr. Nixon supposedly arranged is so tenuous that for the indefinite future American bombers must enforce it. Besides, nothing in the amendment would prevent the President from seeking the authority to intervene in advance, just as soon as he could prove the threat that required it.