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Hill Given Indochina Assurance

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Secretary of State Henry A. Kissinger gave assurance yesterday that no legal device will be used to send American combat forces back into Indochina without congressional approval.

In any event, Kissinger said at a news conference, "we do not foresee this (need for U.S. combat units) as an imminent possibility."

Kissinger's comments appeared to dispose of a flareup of controversy last week over what some members of Congress saw as a threat of possible "legal gimmickry" that could send American bombers back into the Vietnamese or Cambodian wars.

At issue was whether the Nixon administration might interpret the war powers limitation law, which was passed in November over the President's veto, as taking priority over legislation that explicitly bars any further U.S. combat in Vietnam, Laos or Cambodia without congressional authorization. The war powers act permits the President to commit U.S. forces abroad for up to 60 days without congressional authorization, but this was intended by Congress as a limitation on the President's actions, not an invitation to intervene.

Kissinger, noting that he was questioned about the administration's intentions by the Senate Foreign Relations Committee, said:

"Our legal adviser has concluded that the war powers legislation does not supersede any existing legislation... We will notify the chairman of the Senate Foreign Relations Committee to that effect in a formal letter."

Kissinger said that "any military action that would be contemplated would be taken only in accordance with the provisions of both the joint resolution (the war powers act) and existing legislation—in other words, would be fully discussed by the Congress."

The secretary indicated he was drawing no fine distinction between discussing the subject with Congress, or obtaining its agreement. If the administration should conclude it needs to send military forces back into the war, said Kissinger, "I think it would require (action in) whatever form the Congress expresses its approval, but we do not foresee this as an imminent

possibility."

Sen. Frank Church (D-Idaho), who co-sponsored with Sen. Clifford P. Case (R-N.J.) the most recent explicit bans on U.S. combat in Indochina, last week said that to violate those bans "would represent a presumptive case for impeachment" of the President. The last Case-Church amendment, enacted into law on Nov. 17, prohibits further U.S. military involvement in, over, or from onshore of North Vietnam, South Vietnam, Laos or Cambodia "unless specifically authorized hereafter by the Congress."

Kissinger was asked yesterday what he now thinks the prospects are for survival of the Vietnam cease-fire accord which he negotiated last January, in view of the intensified fighting now going on there.

"It is not possible," he said, "to write an agreement whose terms, in themselves, guarantee its permanence. Any agreement will last if the hostility of the parties is thereby lessened; if the parties have an incentive to observe it and/or if the parties pay a penalty for breaking it."

"If those conditions are not met," said Kissinger, "no matter what the terms of the agreement, there is a tendency towards erosion."

In Vietnam, said Kissinger, "we have succeeded in a settlement—not in guaranteeing necessarily a permanent peace but in moving the decision to a Vietnamese decision, which is what we always said our objective was. And we believe there is a possibility of maintaining the peace within that framework."

Kissinger was asked if increasing congressional discussion about impeaching the President, or speculation that he may resign, is impairing the conduct of foreign policy.

Kissinger replied that twice before he expressed concern at press conferences that "to the degree that the authority of those who have the constitutional responsibility for conducting foreign policy is being drawn into question by whatever process, it complicates the task of foreign policy and it creates long-term dangers."

Kissinger declined again yesterday to supply further details about the global alert of American military forces on Oct. 25. The alert was instituted on grounds there was a serious threat of Soviet military intervention in the Arab-Israeli war.

Kissinger said, however, that "this was not a very high state of alert" when the United States went to a Condition 3 alert, on a scale of 1 to 5. He said Condition 3 is a state of alert in which the Pacific Command is at all times and "the Strategic Air Command is always in Defense Condition 4..."