

Semantics in the Senate

After Move to Rescind Tonkin Sanction, War Goes On Under Nixon Rationale

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Twenty years have passed since President Harry S. Truman led the country into what he skittishly called a "police action" in Korea, and the controversy thus raised about a President's power to make war still haunts this capital.

Symbolically enough, the Senate spent the anniversary today with more confusing debate of the issue, unable to close the barn door even

after the horses had fled. The Truman Administration rushed to the aid of South Korea to repel a North Korean invasion under the cover of a United Nations resolution but with scant regard for the Constitution's insistence that the right to declare war belongs to Congress. That particular disguise for an undeclared war was abandoned after the Korean hostilities ceased, but the habit of unchecked Presidential action was not.

The Eisenhower Administration brought forth a new device in 1953 when it obtained Congressional sanction to use troops in the Middle East in support of any country that requested them. The Kennedy Administration risked nuclear war over Soviet missiles in Cuba and sent military "advisers" to South Vietnam without even the pretense of Congressional action.

Naval Incident Off Vietnam

And President Lyndon B. Johnson, building upon the Eisenhower device, seized upon reports of a small naval incident in the Gulf of Tonkin in 1964 to have Congress sanction the use of "all necessary measures" to protect those Vietnam advisers and to prevent "further aggression"—a lien that the White House deemed wide enough to accommodate half a million American troops.

The rubric of war-by-resolution is passing out of fashion. Today the Senate rescinded the Gulf of Tonkin sanction for war in Indochina. Supporters of the war and of the President happily joined their critics in the move, partly to gain a parliamentary advantage but mostly because the Nixon Administration had already settled upon yet another justification for doing what it feels it has to do.

From here on out, the war in Indochina rests legally on what is called the President's constitutional power, as Commander in Chief, to protect the lives of American troops. The troops being already in place in Vietnam, this rationale gives Mr. Nixon all the room he thinks he needs, as he confirmed when he invoked it to justify the incursion into Cambodia.

The President's own explanation of the move into Cambodia showed that he was acting not so much to protect American troops from any imminent danger as to protect them—and South Vietnam itself—from the strategic "loss" of Cambodia and the overthrow of her anti-Communist regime.

Some Limits Imposed

Political pressures at home have led Mr. Nixon to impose some limits of time and scope on the Cambodian operations, but he has fought, with considerable success, for the widest possible latitude for future action under the same ambiguous rationale.

Precisely how well the President is doing in upholding the prerogatives claimed by all his predecessors in this century is hard to tell. The evidence lies buried in the seven weeks of semantic wrangling on the floor of the Senate over efforts to deny him funds to become involved in any way "in support of" Cambodian forces.

It has been a debate more dense than the population of angels on the proverbial head of a pin. Hence even if the hashed and rehashed amend-

ment put forward by Senator John Sherman Cooper, Republican of Kentucky, and Senator Frank Church, Democrat of Idaho, were ever to become law, it could easily be interpreted by the President to have set no significant limitation on his ability to maneuver in Indochina.

Opposition From White House

The Cooper-Church amendment set out to deny funds, after July 1, for "retaining" American forces in Cambodia, for any direct or indirect combat in support of Cambodian forces for payments to others to fight for Cambodia or for air action in support of Cambodians. The amendment was seen as troublesome by the White House because the Administration did not like the implication of censure for the Cambodian action that began on April 30 and because it might yet wish to pay for South Vietnamese and Thai operations to save the Cambodian regime of Premier Lon Nol.

But since the House is expected to reject the whole idea, Mr. Nixon wanted primarily to offset the psychological import of the Senate action. Once they saw that they lacked the votes to kill the amendment, the President's supporters set out to amend it into a more palatable form.

In the haggling over two amendments offered by Senator Robert C. Byrd, Democrat of West Virginia, they lost one key test last week, but added complication to confusion this week to make the whole business even less comprehensible.

The first proposal by Senator Byrd would have denied funds for retaining troops in Cambodia except that the President was not to be precluded from taking "such action as may be necessary" to protect the lives of American troops. It was defeated and Mr. Nixon was said to have been rebuffed.

Second Proposal Approved

This week, however, a second Byrd proposal was approved, stating that nothing in the limitations on the President shall be deemed to impugn his "exercise of that constitutional power [of Commander in Chief] which may be necessary" to protect the lives of American troops—anywhere.

Mr. Byrd said his second proposal went as far as the first and achieved the same objective, and Senator J. W. Fulbright, voting against the proposal, agreed. But Senator Cooper and Church and most of the other critics of the war said it was merely a reaffirmation of powers that the President always enjoyed, and voted in favor.