

NIXON IS REBUFFED BY SENATE, 52-47, ON CAMBODIA ISSUE

It Rejects Byrd's Proposal to Modify Effort to Curb New Military Forays

A COOPER-CHURCH GAIN

Amendment's Backers Add Clause Denying Aim Is to Cut President's Power

JUN 12 1970

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Special to The New York Times

WASHINGTON, June 11—

In a rebuff to President Nixon, the Senate refused today to modify proposed legislative restrictions on future American military operations in Cambodia.

By a vote of 52 to 47, the Senate rejected a proposal to declare that the President, under his authority as Commander in Chief, could retain troops in Cambodia if he thought such action necessary to protect the safety of American forces in Vietnam. The proposal had been offered by Senator Robert C. Byrd, Democrat of West Virginia, and endorsed by Mr. Nixon.

The vote provided the clearest test of the sentiment in the Senate for imposing legislative restrictions on the President's authority to involve the nation in military action in Cambodia without the consent of Congress.

July 1 Deadline Proposed

Such restrictions are embodied in the pending amendment offered by Senators John Sherman Cooper and Frank Church to a bill on foreign sales of weapons. The amendment would prohibit the President, in the absence of Congressional approval, from spending any funds after July 1—the deadline set by Mr. Nixon for withdrawal—for retaining United States forces in Cambodia, for providing military advisers or combat air support to the Cambodian forces and from financing the pay of forces from third countries going to the aid of the Cambodian Government.

The effect of the vote today was to reinforce expectations that the Senate, trying to reassert Congress's war-making powers under the Constitution, would eventually approve the bipartisan Cooper-Church draft. Mr. Cooper is a Kentucky Republican and Mr. Church an Idaho Democrat.

Throughout the four-week debate, the discussion has focused on whether the amendment would infringe upon the President's constitutional powers as Commander in Chief.

In an attempt to clarify the issue—as well as to obtain support in a close vote—the Cooper-Church forces added a provision today specifying that nothing in the amendment "shall be deemed to impugn the constitutional powers of the President as Commander in Chief."

The provision, offered by Senator Mike Mansfield, the

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majority leader, was adopted by a vote of 51 to 41.

The unanimous vote made it apparent that there were differing interpretations about the legal effect.

Many supporters of the Administration obviously voted for the provision on the promise that if like the Byrd amendment would prevent the President in various legislative restrictions in the Cooper-Church proposal, the forces backing the amendment maintained that the provision only made explicit what they have contended for months in debate—ask the amendment to demand withdrawal of troops from Cambodia and Vietnam.

Senator Byrd explained that the President could under take such operations as "pursuit of Communist forces, rescue operations for prisoners of downed pilots, and temporary incursions that may be necessary to protect American troops and aircraft." But he demanded the President should not have a "blank check" to spend money without obtaining the approval of Congress.

Shift in Burden of Proof

Mr. Byrd contended that "without the Byrd amendment, the President would have the burden of proof to show that such operations were necessary. But with the amendment, the burden of proof would be on the President."

Mr. Byrd said that the amendment would "prevent the President from spending any funds after July 1 for retaining United States forces in Cambodia, for providing military advisers or combat air support to the Cambodian forces and from financing the pay of forces from third countries going to the aid of the Cambodian Government."

specified that the provision against retaining forces in Cambodia "shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam."

Mr. Byrd contended that the amendment was intended to limit the authority of the President as Commander in Chief. Mr. Church objected that the effect was "a grant of a waiver that would eliminate the substance of the limitation in the Cooper-Church amendment."

The real issue was to "settle the debate and end the uncertainty of the congressional process," Mr. Church declared. "We stand up now or roll over and play dead."

President Nixon, in a letter last week to the Senate Republican leader, Hugh Scott, said the Byrd amendment "is not binding on the constitutional duties of the President as Commander in Chief, resulting only in a challenge to the President's exercise of his powers as Commander in Chief."

White House in Denial

In the course of the debate, White House sources said they were "not aware of any formal agreement with Mr. Byrd" to support the amendment. The President's press secretary, Ronald H. Ziegler, contended that while Mr. Nixon had expressed his point of view, "we have not endorsed any amendments."

Senator Scott, according to Senate sources, had insisted that the letter was necessary to win support for the Byrd amendment. The effect of the letter was to turn the vote today into something of a test.

Senate Vote on Byrd Amendment

WASHINGTON, June 11 (AP)—Following is the roll-call vote by which the Senate today rejected an amendment by Senator Robert C. Byrd, Democrat of West Virginia, asserting the President's authority to take whatever action he decided was necessary to protect United States troops in South Vietnam.

FOR THE AMENDMENT—47

Democrats—31

- Holland (Fla.)
- Hollings (S.C.)
- Long (La.)
- McClellan (Ark.)
- McGee (Wyo.)
- Reese (Ga.)
- Stevenson (Ala.)
- Stevens (Miss.)
- Tamm (Ga.)

Republicans—16

- Hansen (Wyo.)
- Hruska (Neb.)
- Jordan (Idaho)
- Mohr (Iowa)
- Wicker (Calif.)
- Wright (Kan.)
- Young (Pa.)
- Stevens (Alaska)
- Chambers (S.C.)
- Tower (Texas)
- Williams (Del.)
- Young (N.D.)

AGAINST THE AMENDMENT—52

Democrats—39

- Anderson (N.M.)
- Bayh (Ind.)
- Burke (N.J.)
- Church (Utah)
- Cranston (Calif.)
- Eagleton (Mo.)
- Fulbright (Ark.)
- Core (Iowa)
- Gravel (Alaska)
- Harris (Ore.)
- Hart (Mich.)
- Hatch (Utah)
- Hirshon (N.Y.)
- Inouye (Hawaii)
- Jackson (W.V.)
- Jordan (N.C.)
- Kennedy (Mass.)
- Mansueti (Mass.)
- Manfield (Ohio)
- McCarthy (Minn.)
- McGuire (S.D.)
- McIntyre (N.H.)
- Metcalfe (Mont.)
- Monrath (Minn.)
- Moynihan (N.M.)
- Muskie (Me.)
- Nease (Wis.)
- Pastore (R.I.)
- Pell (R.I.)
- Proxmire (Wis.)
- Randolph (W. Va.)
- Rosen (Conn.)
- Spong (Va.)
- Symington (Mo.)
- Tydings (Md.)
- Williams (N.J.)
- Yarborough (Tex.)
- Young (Ohio)

Republicans—13

- Aiken (Vt.)
- Brocke (Mass.)
- Case (N.J.)
- Conrad (Ky.)
- Gannett (N.Y.)
- Hathfield (Ore.)
- Javits (N.Y.)
- Mathias (Md.)
- Packwood (Ore.)
- Perot (Ill.)
- Saxton (Ohio)
- Schweiker (Pa.)
- Smith (Me.)

Absent—Mondt (R., S.D.)

of confidence for the President and his Cambodian policies.

In the vote, 39 Democrats and 13 Republicans opposed the Byrd amendment and 29 Republicans and 18 Democrats supported it.

Senators who might have tipped the balance in favor of the amendment were Henry M. Jackson, Democrat of Washington, and B. Frank Jordan, Democrat of West Virginia—decided to vote against the amendment.

Mr. Jordan, a former student lobbyist, had spent weeks apparently in the effort, particularly in North Carolina, to lead a group of North Carolina college students that he believed legislative steps should be made to get the United States out of Vietnam.

He then ran into editorial criticism from North Carolina papers when he joined his colleague, Senator Sam J. Ervin Jr., in endorsing the Cambodian operation.

In a statement today explaining his vote, Mr. Jordan referred to his meeting with the

students and said that he had decided the war in Southeast Asia "ought to be broadened only with the consent of Congress."