

Threatening the Truce

President Nixon certainly has every justification for expressing concern over the continuing violations of the Vietnam cease-fire agreements, inasmuch as the "rather serious consequences" he mentioned this week involve not only the truce in Southeast Asia but the stability of the American homefront.

Intelligence reports of apparent massive flows of war materiel—tanks, artillery and anti-aircraft guns—toward South Vietnam from the North are indeed disturbing. The Administration's argument last January for ignoring the continued presence of North Vietnamese troops inside South Vietnam was that without being reinforced and re-equipped they would cease to be an effective military force. Now that assurance may be in jeopardy.

There is ample evidence, however, that the cease-fire violations are not all on the North Vietnamese side. We hope that Mr. Nixon is considerably stronger on this point in his private communications with the Saigon Government than he was in his news conference. In public he seemed to dismiss the violations of the truce on the ground, for which Saigon's forces have been as responsible as Hanoi's, as inevitable "because of the nature of the war." It is untenable to hold one set of violations more legally reprehensible than another; anyone who expects to benefit from the obligations of others has the obligation to honor his own undertakings.

The President left little doubt that he regarded resumption of bombing and harbor mining as a viable option against North Vietnam. Hanoi's leaders recently tried to test Mr. Nixon's resolve on the cease-fire terms by delaying the process of releasing American war prisoners, and when they saw the Administration's firmness they returned to the agreed-upon schedule. A similar response is looked for now.

Contained in the President's scarcely veiled threat, however, was an ominous time-bomb. The Congress has maintained relative silence on recent Vietnam developments only under the firm hand of its Democratic leadership, concerned that the sixty days of releasing the prisoners pass without reverses. Once that process is completed, by March 28, both the Congress and the President must be aware that resumption of combat by American military personnel could threaten a constitutional crisis of the first order.

Senators Church and Case have bipartisan legislation ready for floor action flatly forbidding the reintroduction of any American forces into hostilities in Southeast Asia. Even without passage of such a measure, there are strong arguments from Mr. Nixon's own statements that the President would have no constitutional authority to recommit American military forces. The Tonkin Gulf resolution, which the Johnson Administration considered a virtual declaration of war by Congress, was repealed in 1970. Shortly thereafter Mr. Nixon argued that his legal justification for carrying on the war in North Vietnam was "the right of the President of the United States under the Constitution to protect the lives of American men."

With American prisoners safely at home and American troops correspondingly withdrawn from South Vietnam, the President would be hard-pressed to invoke this justification again. Any move to resume hostilities against North Vietnam could provoke a restive Congress into its most bitter challenge yet of Presidential powers.