

Senate Votes Presidential Power Curb

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The Senate voted yesterday to take away from the executive branch of the government a variety of emergency powers that had been assumed by three presidents in the last four decades.

Approving the National Emergency Act by unanimous voice vote, the Senate acted to terminate four states of emergency imposed by presidents since 1933, repeal 10 emergency-related laws, and suspend 460 other laws that have given extraordinary powers to the executive branch.

The Senate vote came after brief debate. The measure, if passed by the House and signed into law, would end emergency powers assumed by presidents to deal with the depression in 1933, to mobilize the nation for the Korean War, to deal with a 1970 postal strike and to implement currency restrictions to control foreign trade.

The laws that would be suspended, if the measure becomes law, range from establishing presidential authority to imposing marketing quotas to extending the enlistment periods of military men. They also include such powers as authority to abrogate Indian treaties, to take over power plants and to establish detention camps.

"This will help restore the balance of power between Congress and the executive branch," said Sen. Charles McC. Mathias (R-Md.), chief

See **EMERGENCY, A16, Col. 1**

EMERGENCY, From A1

sponsor of the measure along with Sen. Frank Church (D-Idaho).

Mathias and Church served as cochairmen of a special Senate committee created two years ago to investigate the status of emergency presidential powers. The bill now goes to the House where a similar measure, introduced by House Judiciary Committee Chairman Peter Rodino (D-N.J.), is pending.

"In the view of the special committee, permitting this body of potentially authoritarian power to continue in force in the absence of a valid national emergency situation poses a hazard to democratic government," Mathias and Church said in a joint statement yesterday.

"Aggressive presidents, permissive congresses and a long series of successive crises have all contributed to the erosion of the structure of divided powers, the bedrock of our constitutional system of government," they added.

When members of the bipartisan Senate committee began their work they thought the only national emergency still in effect was the 1950 emergency declared by President Truman at the time of the Korean War.

As the committee investigation proceeded, it was learned that still in effect were the 1933 depression state of emergency declared by President Franklin Delano Roosevelt and states of emergency declared in 1970 and 1971 by former President Richard M. Nixon to deal, respectively,

with the Post Office strike and to implement currency restriction to control foreign trade.

In addition, the committee found that Congress delegated emergency powers to presidents in 470 bills that still remained in effect. One of them, among the 10 the Senate voted to repeal, authorized any general to declare any position of the country a military zone, subject to martial law.

"People in such zones can be put in jail for a year for violation of any executive order of the President," Mathias and Church said.

The two senators said that "only a small portion of the 470 delegated emergency powers is being used. This is one significant proof that there is no longer an emergency that requires extraordinary delegations of powers."

However, they said, "some of the departments and agencies have used emergency authorities as basic every day law."

As an example, they cited the Treasury Department, which, they said has used a World War I trading with the enemy law to regulate "aspects of foreign trade and international monetary controls. For example, department used this law in August, 1971, to limit the export of soybeans.

Mathias introduced a last-minute, amendment yesterday exempting the trading-with-the-enemy act from the bill, at the request of the Ford administration. He said the administration believes the act to be absolutely essential for the operation of government.

The 460 laws that would be placed in legal limbo by the bill passed yesterday include such measures as authority for the President to take over communications media, shipping and other private property. Under the bill, such powers could not be used unless a new state of emergency was declared.

If president, under the bill, declared a state of emergency, Congress would have to decide within six months whether it should be continued.

Mathias said that before he and Church introduced the bill Aug. 22, they met with President Ford and agreed "to work with the executive branch at every stage and to consider any new proposals that might be made."

The Senate originally was scheduled to vote on the measure last week but delayed action when Ford administration officials asked that some changes be made.

As a result, Mathias yesterday amended the bill to give the executive branch 12 months to actually end the states of emergency.