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Can The Impossible Become Reality?

By Tom Tiede

WASHINGTON — (NEA) — Richard Nixon may be losing all the battles lately, but there are macabre whispers here that he still has an "atomic" way to win the war. Today or tomorrow the President could simply declare his emergency a national emergency and then, by decree, seize all communications media, commandeer all power plants, confiscate the control of transportation and transportation routes — and perhaps even stop the impeachment proceedings in Congress.

Impossible in America? Not at all. According to authority granted by Congress, the President has the right and obligation to suspend much of the nation's Constitution in the event he and he alone deems it necessary. Until now these powers have been ignored or shrugged off by most Americans. But the times give them new meaning. An autocratic President, battered by adverse court and congressional decisions, could well become an American king.

Actually there is nothing new about the situation, only about its relevance. The day after Franklin Roosevelt took office in his first term, 1933, Congress began a process of handing over emergency controls to the Executive Office. Since then, says a Senate committee formed to investigate the matter, legislators have granted Presidents some 470 major emergency powers.

Some of the powers have in fact been continuously in force since FDR's era. U.S. citizens are not allowed to trade with the enemy or travel to restricted areas of the world. The Defense Department regularly (277 times in 1970) negotiates contracts without observing the laws of competitive bids. During one recent and confusing stretch, Americans were forced to suspend capitalism and live with price and wage controls. "No doubt about it," says an interested Representative, "in some ways we're already living under a dictatorship."

But it could get much worse if the President wished. No one of responsibility suggests that Richard Nixon contemplates the thought, but given the hard legal facts the scenario is unavoidable. Says a top democrat, a Nixon enemy: "Suppose a President decided impeachment was too close. All he'd have to do is take to the air and announce that the nation's government, thus its security, was coming unglued. For the reason, he would say, he was declaring state of martial law and that any citizen contributing to a breakdown of order, including congressmen, would be jailed without trial."

No doubt such a move would be decidedly unwelcome in the land. And probably defeated by mass insistence. Even if a President received cooperation from his military commanders, the Republic's individual soldiers would likely rebel. Vigilantism might result — a threat in itself — but the eventual outcome would be a suddenly impeached and convicted Executive as well as a badly wounded America.

Yet the prospects for a happy ending to such a predicament are not enough. Two years ago, the Senate named a Special Committee on the "Termination of National Emergency" to look into the ways of reform. William Miller, committee director, says the emergency powers are a threat to every citizen and a loathsome blot on the Constitution; he also says the committee work is almost complete and a bill of repeal is being prepared for hasty presentation to Congress.

Unfortunately, the repeal proposal may arrive on the Hill at just about the same time as the motion to impeach. Naturally, the latter would take precedence; all normal business in the House will cease for the impeachment question. Therefore, Miller says glumly, activity on emergency powers is still a few miles downroad.

So it is, ironically, many of the congressmen who will be debating the President's fate are the same followers who previously put their own fate in the province of his office. And theoretically at least, the President is still the man with the biceps. Fasten all seatbelts. America is facing an exceptionally hazardous journey.