

PREP

EXECUTIVE LIMITS SOUGHT IN SENATE

Repeal of Emergency Power and Establishment of New Standards Is Proposed

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Seeking to restrict the long expansion of Presidential power, a special Senate committee is expected to introduce next week legislation to repeal wide-ranging Presidential emergency authority and establish new standards of public accountability by the President.

Under emergency proclamations dating as far back as 1933 and still in force, the President has the legal power to censor the air waves, institute martial law, take over office buildings, seize commodities and control ships, planes and trains.

Under existing law, the President is not required to inform Congress or otherwise publish his decisions and orders unless he alone designates these decisions as either "Executive orders" or "Presidential proclamations."

In the words of the report of the Senate Special Committee on National Emergencies and Delegated Emergency Powers: "There is no formal accountability for the most crucial executive decisions affecting the lives of citizens and the freedom of individuals and institutions."

Ford's Support Sought

The co-chairmen of this panel, Senator Charles McC. Mathias Jr., Republican of Maryland, and Senator Frank Church, Democrat of Idaho, are expected to meet with President Ford next week. They are seeking White House support for the new legislation.

They already have the unanimous backing of their counterparts of the Democratic and Republican leadership in the Senate. They have worked closely with and expect the support of Attorney General William B. Saxbe and other executive branch legal officers.

Mr. Mathias predicted in an interview that the bill would "sail through the House, even before the next Congress, unless there is active opposition from the White House."

Mr. Church said in a telephone interview that the bill

would "re-establish a working relationship between Congress and the White House of the kind the Constitution anticipated and put an end to executive dominance to the point where the President could run the country as a one-man-operation."

Mr. Mathias attributed the need for new legislation in large part to "the negligence of Congress in not doing its job," to the granting of emergency powers to the President without a time limit and to the lack of a requirement of public accountability for Presidential orders.

An End to Emergencies

The first part of the proposed bill would terminate, after a period of grace to work out new permanent legislation in certain areas, the four existing states of emergency. These result from the Emergency Banking Act of 1933, President Truman's Korean War proclamation of 1950, executive directives relating to the Post Office strike of 1970 and President Nixon's new economic policy proclamation of Aug. 15, 1971.

It would also make dormant the 470 statutes that are put into effect Presidential proclamation of the states of emergency. These statutes cover many areas, including civil liberties, trade and commerce, and national defense.

Another section of the bill would establish regular and consistent procedures for dealing with future emergencies. Congress would have to approve future emergency proclamation for six-month periods and no extension would be longer than six months.

Of equal importance to the framers of the bill, it would require the President to record every significant executive action, "by whatever name called," that was related to a state of emergency.

The Federal Register Act of 1935 made it mandatory for the President to publish documents that he labeled as either an "executive order" or a "Presidential proclamation." Over the years, the committee's report notes, Presidents used various means to circumvent this reporting requirement.

In the field of national security, for example, Presidents Kennedy and Johnson titled their decisions "national security action memorandum," and President Nixon later termed them "national security decision memorandum."

By this means or by military orders, letters, notices, and the like, it was not necessary for the President to inform Congress either of the fact that he had acted or of the legal basis for his action. The proposed bill would require the President to list classified decisions in a classified register only if authority for those decisions was based on legislation.