

ROGERS OPPOSES WAR-POWER CURB

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Tells Critical Senators Any
Restriction on President
Would Be Impractical

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WASHINGTON, May 14 — Secretary of State William P. Rogers told the Senate Foreign Relations Committee today that proposed legislation to restrict the President's war powers was impractical, probably unconstitutional and would weaken the President's ability to act in a crisis.

Rather than attempting to impose what he called "arbitrary limits" on Presidential powers, Mr. Rogers suggested that Congress and the executive branch should deal with the issue in a spirit of cooperation and mutual trust.

His argument drew a critical response from both Democrats and Republicans on the committee, who protested that cooperation and consultation had not worked and had only led to usurpation of powers by the President.

In one of his infrequent public appearances before the committee, Mr. Rogers testified for more than three hours in op-

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position to various bills that have been introduced by Senators Jacob K. Javits, Republican of New York, Thomas F. Eagleton, Democrat of Missouri and, most recently, by John C. Stennis, Democrat of Mississippi, who is chairman of the Armed Services Committee.

Basically, these bills would authorize the President to undertake military action in certain emergency situations, such as an attack on American troops, but not for more than 30 days without Congressional authorization.

The effect of Mr. Rogers's testimony, as Senator Clifford P. Case, Republican of New Jersey, put it at the conclusion of the hearing in the Senate Caucus Room, was to turn the issue into another Constitutional confrontation.

As Mr. Rogers finished reading a 41-page statement that amounted to a legal brief against any war-powers legislation, Senator J. W. Fulbright, Chairman of the committee, peered over his glasses and said:

"I cannot remember when I have been more disappointed at the negative response of the executive branch.

Rejects Katzenbach View

"The more I observe this Administration, the more it appears that you are following exactly the course of your predecessors. You have gone almost as far as Mr. Katzenbach."

Bristling at the suggestion that he endorsed the position of Nicholas deB. Katzenbach, former Under Secretary of State, that the power of Congress to declare war was outmoded in the nuclear age, Mr. Rogers said he specifically and emphatically rejected this contention. "Can I say it any more clearly?" he snapped, glaring at the committee chairman.

Senator Fulbright retorted, "The message of your testimony is that Congress has no role to play and we should be good boys and receive your briefings."

Suggests Postponement

In his opening statement, Senator Fulbright said "the pendulum has begun to swing away from the dangerous practice of Presidentially initiated warfare."

"If," he warned, "the executive undertakes to thwart the current effort to restore Constitutional balance by all of the considerable means at its disposal, it is entirely possible that Congress will be driven to employ some of unused means at its disposal, and that, as a result, the pendulum will swing too far, carrying us toward the kind of overbearing Congressional role which resulted in the rejection of the League of Nations in 1919."

Mr. Rogers said that the Administration was prepared to cooperate with Congress and suggested that the issue be laid aside until "Vietnam has faded into the past."

Both in his prepared statement and under questioning, t-



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however, Mr. Rogers made clear that he did not think Congress could constitutionally impose any restraints on the President's war powers.

One of the few concessions made by Rogers was that it was within Congress's power to refuse appropriations to force a withdrawal from Vietnam, as proposed in the McGovern-Hatfield amendment. In the past, the Administration has contended that such amendments were an intrusion upon the President's powers as commander in chief.

Mr. Rogers said the proposed bills would "freeze the allocation of the war power between the President and Congress—a step which the framers in their wisdom quite deliberately decided against"—and would "narrow the power given the President by the Constitution."

At one point, he conceded that the Constitution intended that decisions to initiate hostilities should be made jointly by Congress and the President "except in emergency situations."

"Our Constitutional system is founded on an assumption of cooperation rather than conflict, and this is vitally necessary in matters of war and peace," he said.

Senator Case objected that rather than cooperation, the Constitution provided for a division of the powers, "precisely to make it more difficult to get into war."

In this context, the Senator protested, "flexibility" for the President is "an evil word."