

THE SENATE last week voted to end the state of national emergency that has been in effect for 41 years. That may sound odd, since so many crises have come and gone since 1933. But the fact is that the national emergency proclaimed by President Roosevelt during the banking crisis that year is formally still in existence, along with the emergency proclaimed by President Truman at the start of the Korean War and the two declared by President Nixon during the postal strike of 1970 and in response to the economic strains of 1971.

These things are not just curiosities or heirlooms. Nor are they merely theoretical in nature. The existence of a state of emergency, no matter how ancient the cause, allows the President to use a vast accumulation of discretionary powers. These include authority to: declare martial law; call up the reserves; take over property, communications and transportation; regulate industry and otherwise control the life of every citizen without regard to ordinary constitutional constraints. It all adds up to the potential for lawful dictatorship under the banner of national need.

A special Senate panel chaired by Sens. Frank Church (D-Idaho) and Charles McC. Mathias Jr. (R-Md.) has spent two years analyzing this situation. Many of the 470 emergency laws, the committee learned, are antiquated and unused. Others have been invoked at the executive's convenience; two years ago, for instance, the Defense Department dusted off the Feed and Forage Act of 1861 to finance some operations in Southeast Asia. And a few of the emergency laws have become everyday tools of modern government. The most important of these is the Trading with the Enemy Act of 1917, which now provides authority for controlling trade and foreign investment.

Obviously any President should have some excep-

tional powers for immediate action in a genuine emergency. The scope and uses of those powers, however, should be determined and overseen by a contemporary Congress. The Church-Mathias bill passed by the Senate last week is the first step toward restoring a prudent legislative-executive balance in this regard. The bill would end the old states of emergency in one year and establish regular procedures for future presidential proclamations, including full reports on how emergency powers are used. Congress would have to review the President's policies every six months and could terminate any emergency at any time by concurrent resolution—which a President cannot veto.

The Church-Mathias bill thus provides the framework for a periodic review of the nation's means of coping with crises. The special committee did not attempt to define all of the emergency powers a future government might legitimately need. The panel's extensive studies do, however, document the existing dangers and the legal disarray and should encourage other committees to review and modernize the laws involved.

Thus the Congress is moving to recapture the authority which past Congresses have given away haphazardly to the executive. The most impressive aspect of this important effort is that it has received full cooperation from the executive branch. President Ford in particular seems to understand the value of redefining in contemporary terms the boundaries of the chief executive's contingency powers. Given the administration's support and the work which the Church-Mathias panel has already done, it should be easy for the House to approve this legislation after the recess. Like the war powers and budget control laws, the emergency powers bill is a necessary part of restoring the system of checks and balances contemplated by the Constitution.