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Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am today signing H.R. 3884, the "National Emergencies Act."

The broad purpose of this bill is to reform the existing maze of statutes which has resulted from the states of emergency under which the country has been operating for over 40 years, and to provide appropriate procedures related to future declarations of national emergencies.

Accordingly, H.R. 3884 would generally terminate, two years after its enactment, all powers and authorities conferred on the President, any other government officer or employee, or any executive agency, which result because of the existence of any declaration of national emergency now in force. The two-year delay would provide time to enact permanent law, where needed, to replace the authorities that are to terminate. The bill would also authorize the President to proclaim the existence of future national emergencies, with provision for congressional review.

I support the purposes of the enrolled bill. One of its provisions, however, would purport to permit the Congress to terminate a national emergency by a concurrent resolution. This feature of the bill is unconstitutional.

As recently as August 13, 1976, in vetoing H.R. 12944, a bill "To extend the Federal Insecticide, Fungicide, and Rodenticide Act," I reiterated my position that provisions for disapproval of regulations and other action by concurrent resolution, or by resolutions of one House, are clearly unconstitutional. Such provisions are contrary to the general constitutional principle of separation of powers whereby Congress enacts laws but the President and the agencies of government execute them. In addition, they violate Article I, section 7 of the United States Constitution which requires that resolutions having the force of law be sent to the President for his signature or veto.

In recent years, the Congress has increasingly given consideration to these kinds of legislative encroachment measures. Accordingly, the Attorney General, at my direction, has become a party plaintiff in a lawsuit challenging the constitutionality of a comparable provision in the Federal Election Campaign Act. In the event that the court strikes down all legislative encroachment-type provisions now in law, I consider section 202(a)(1) of H.R. 3884 as separable from the rest of the bill, and would therefore expect the other provisions relating to emergency powers to remain in force.

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