

Sec. 2—Powers, Duties of the President

Cl. 1—Commander-In-Chiefship

between the source of limited supplies and the consumers. From the viewpoint of a rationing system a middleman who distributes the product in violation and disregard of the prescribed quotas is an inefficient and wasteful conduit. . . . Certainly we could not say that the President would lack the power under this Act to take away from a wasteful factory and route to an efficient one a precious supply of material needed for the manufacture of articles of war. . . . From the point of view of the factory owner from whom the materials were diverted the action would be harsh. . . . But in times of war the national interest cannot wait on individual claims to preference. . . . Yet if the President has the power to channel raw materials into the most efficient industrial units and thus save scarce materials from wastage it is difficult to see why the same principle is not applicable to the distribution of fuel oil.”¹⁴³ Sanctions were, therefore, constitutional when the deprivations they wrought were a reasonably implied amplification of the substantive power which they supported and were directly conservative of the interests which this power was created to protect and advance. It is certain, however, that sanctions not uncommonly exceeded this pattern.¹⁴⁴

The Postwar Period.—The end of active hostilities did not terminate either the emergency or the Federal Government’s response to it. President Truman proclaimed the termination of hostilities on December 31, 1946,¹⁴⁵ and, in July 1947, Congress enacted a joint resolution that repealed a great variety of wartime statutes and set termination dates for others.¹⁴⁶ Signing the resolution, the President said that the emergencies declared in 1939 and 1940 continued to exist and that it was “not possible at this time to provide for terminating all war and emergency powers.”¹⁴⁷ The hot war was giving way to the Cold War.

Congress thereafter enacted a new Housing and Rent Act to continue the controls begun in 1942¹⁴⁸ and continued the military draft.¹⁴⁹ With the outbreak of the Korean War, legislation was enacted establishing general presidential control over the economy again,¹⁵⁰ and by executive order the President created agencies to exercise the power.¹⁵¹ The Court continued to assume the existence of a state of wartime emergency prior to Korea, but with misgivings. In *Woods*

¹⁴³ 322 U.S. at 405–06.

¹⁴⁴ E. Corwin, *supra*, at 249–250.

¹⁴⁵ Proc. 2714, 12 Fed. Reg. 1 (1947).

¹⁴⁶ S.J. Res. 123, 61 Stat. 449 (1947).

¹⁴⁷ *Woods v. Cloyd W. Miller Co.*, 333 U.S. 138, 140 n.3 (1948).

¹⁴⁸ 61 Stat. 193 (1947).

¹⁴⁹ 62 Stat. 604 (1948).

¹⁵⁰ Defense Production Act of 1950, 64 Stat. 798.

¹⁵¹ E.O. 10161, 15 Fed. Reg. 6105 (1950).