

Sec. 2—Powers, Duties of the President

Cl. 1—Commander-In-Chiefship

Congress intervened by means of the War Labor Disputes Act of June 25, 1943,¹³⁸ which, however, still left ample basis for presidential activity of a legislative character.¹³⁹

Sanctions Implementing Presidential Directives.—To implement his directives as Commander-in-Chief in wartime, and especially those which he issued in governing labor disputes, President Roosevelt often resorted to “sanctions,” which may be described as penalties lacking statutory authorization. Ultimately, the President sought to put sanctions in this field on a systematic basis. The order empowered the Director of Economic Stabilization, on receiving a report from the National War Labor Board that someone was not complying with its orders, to issue “directives” to the appropriate department or agency requiring that privileges, benefits, rights, or preferences enjoyed by the noncomplying party be withdrawn.¹⁴⁰

Sanctions were also occasionally employed by statutory agencies, such as OPA, to supplement the penal provisions of the Emergency Price Control Act of January 30, 1942.¹⁴¹ In *Steuart & Bro. v. Bowles*,¹⁴² the Supreme Court had the opportunity to regularize this type of executive emergency legislation. Here, a retail dealer in fuel oil was charged with having violated a rationing order of OPA by obtaining large quantities of oil from its supplier without surrendering ration coupons, by delivering many thousands of gallons of fuel oil without requiring ration coupons, and so on, and was prohibited by the agency from receiving oil for resale or transfer for the ensuing year. The offender conceded the validity of the rationing order in support of which the suspension order was issued but challenged the validity of the latter as imposing a penalty that Congress had not enacted and asked the district court to enjoin it.

The court refused to do so and was sustained by the Supreme Court in its position. Justice Douglas wrote for the Court: “[W]ithout rationing, the fuel tanks of a few would be full; the fuel tanks of many would be empty. Some localities would have plenty; communities less favorably situated would suffer. Allocation or rationing is designed to eliminate such inequalities and to treat all alike who are similarly situated. . . . But middlemen—wholesalers and retailers—bent on defying the rationing system could raise havoc with it. . . . These middlemen are the chief if not the only conduits

¹³⁸ 57 Stat. 163 (1943).

¹³⁹ See Vanderbilt, *War Powers and their Administration*, in 1945 ANNUAL SURVEY OF AMERICAN LAW 254, 271–273 (N.Y. Univ.).

¹⁴⁰ E.O. 9370, 8 Fed. Reg. 11463 (1943).

¹⁴¹ 56 Stat. 23 (1942).

¹⁴² 322 U.S. 398 (1944).