

Sec. 2—Powers, Duties of the President

Cl. 1—Commander-In-Chiefship

“I have given the most thoughtful consideration to meeting this issue without further reference to the Congress. I have determined, however, on this vital matter to consult with the Congress. . . .”

“The American people can be sure that I will use my powers with a full sense of my responsibility to the Constitution and to my country. The American people can also be sure that I shall not hesitate to use every power vested in me to accomplish the defeat of our enemies in any part of the world where our own safety demands such defeat.”

“When the war is won, the powers under which I act automatically revert to the people—to whom they belong.”¹²⁶

Presidential War Agencies.—While congressional compliance with the President’s demand rendered unnecessary an effort on his part to amend the Price Control Act, there were other matters as to which he repeatedly took action within the normal field of congressional powers, not only during the war, but in some instances prior to it. Thus, in exercising both the powers which he claimed as Commander-in-Chief and those which Congress conferred upon him to meet the emergency, Mr. Roosevelt employed new emergency agencies, created by himself and responsible directly to him, rather than the established departments or existing independent regulatory agencies.¹²⁷

Constitutional Status of Presidential Agencies.—The question of the legal status of the presidential agencies was dealt with judicially but once. This was in the decision of the United States Court of Appeals for the District of Columbia in *Employers Group v. National War Labor Board*,¹²⁸ which was a suit to annul and enjoin a “directive order” of the War Labor Board. The Court refused the injunction on the ground that the time when the directive was issued any action of the Board was “informatory,” “at most advisory.” In support of this view the Court quoted approvingly a statement by the chairman of the Board itself: “These orders are in reality mere declarations of the equities of each industrial dispute, as determined by a tripartite body in which industry, labor, and the public share equal responsibility; and the appeal of the Board is to the moral obligation of employers and workers to abide by the

¹²⁶ 88 CONG. REC. 7044 (1942). Congress promptly complied, 56 Stat. 765 (1942), so that the President was not required to act on his own. *But see* E. Corwin, *supra*, 65–66.

¹²⁷ For a listing of the agencies and an account of their creation to the close of 1942, *see* Vanderbilt, *War Powers and Their Administration*, in 1942 ANNUAL SURVEY OF AMERICAN LAW 106 (New York Univ.).

¹²⁸ 143 F.2d 145 (D.C. Cir. 1944).