

A National Emergency?

EXECUTIVE ORDERS
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PART III

THE PRESIDENT

Proclamation: Imposition of
Supplemental Duty for Bal-
ance of Payments Purposes

Executive Order: Providing for
Stabilization of Prices, Rents,
Wages, and Salaries

LIBERTY LOBBY

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THE FEDERAL REGISTER

The **Federal Register** is one of the most powerful documents printed in the United States today. Its notification of official Presidential actions assumes the **power of law**. No Congressional authorization is required. There is no review by the judiciary. All Executive Orders (EO's) are **laws** made by one man—the President of the United States.

Through **existing** EO's it is possible for **one man** to ignore the Constitution, the Congress, and the will of the people. A complete dictatorship can be imposed, under the veil of law, on the American people.

EXECUTIVE ORDER 11490

The most damaging of all the EO's is 11490, the so-called "omnibus" Emergency Preparedness order that consolidated 23 previous EO's, which President Nixon signed on Oct. 28, 1969.

By virtue of EO 11490 President Nixon declared a national emergency to exist on Aug. 15, 1971, in connection with the Nation's economy. At first glance, most of the EO's seem to be steps needed to enable the United States to prepare for and strike back in the event of a nuclear attack. This is not the **whole truth!**

The 32 pages and 200,000 words of EO 11490 blanket every conceivable facet of today's gigantic and complex American society and guarantee that regardless of events no part of it will ever be left without bureaucratic supervision from Washington.

More frightening than all its contents is the **omission** of a definition of the phrase "national emergency." The decision as to what constitutes a "national emergency" is left to the capricious whim of just one man: the President, whoever he might be.

EFFECT OF EXECUTIVE ORDERS

Although there are Presidential memorandums and previous EO's not specifically listed in this brochure, **LIBERTY LOBBY** feels those excerpts referred to are the essential orders that must be studied by all Americans if they are to acquaint themselves with this "sword of Damocles" hanging over all our heads. These orders established the machinery which authorizes the President and his advisers to take control of **every significant factor of the private sector of our society!**

The Office of Emergency Preparedness (OEP) is responsible for assisting the President in **all** emergency preparedness activities. Its director is a member of the subversive Council on Foreign Relations! The OEP has eight regional offices and is the final authority in all matters relating to national security during the state of emergency. Although Congress directed the development of the preparedness program **LIBERTY LOBBY**

feels our rapidly changing world and our shifting political bases can overnight transform a seemingly beneficial government edict into an absolute dictatorship. In this age of assassination the mantle of leadership could fall on any man at any time. The lure of total power contained in the Executive Orders might, in and of itself, invite a grab for power by radical elements within government.

THOMAS JEFFERSON ON TOTAL POWER IN THE HANDS OF A FEW:

"The way to have good and safe government is not to trust it all to one; but to divide it among the many. What has destroyed liberty and the rights of man in every government which has ever existed under the sun? The generalizing and concentrating all cares and powers into one body, no matter whether of the autocrats of Russia or France or of the aristocrats of a Venetian Senate."

DAN SMOOT'S UP TO DATE WARNING:

"When the range of choice of the American people is controlled and dictated by some central authority, however well-intentioned it may claim to be, the entire concept of freedom is in grave danger and cannot long survive. Freedom requires a limited government, because all government is dangerous to freedom. Our Constitution set up such a government, limited by checks and balances. The circumvention of these checks and balances, as represented by the Executive Orders, poses a distinct threat to liberty."

HISTORY OF EXECUTIVE ORDERS

Under the Constitution of the United States, the President is vested with the executive power of the Government (Article II, Section 1, Clause 1), the power to "preserve, protect and defend the Constitution" (Article II, Section E, Clause 7), and the power to see that the laws are faithfully executed (Article II, Section 3). From these powers is implied the authority to issue Executive Orders. **An Executive Order has never been defined by Congress** (emphasis ours). In use from the earliest days of the Republic, the Executive Order was at first employed mainly for the disposition of the public domain, the withdrawal of lands from federal reservations, and for other similar purposes. During World War I the use of the Executive Order was widened, as executive authority and power increased. In the early years Executive Orders were not numbered, and since there was no uniform system for recording them the total of the unnumbered orders is unknown. The validity of Executive Orders has been questioned many times, but **a ruling as to the extent or limit to which they may be used has never been determined by the Courts or by Congress** (emphasis ours) (Library of Congress, Legislative Research Service #398/117-9).

E.O.'s HAVE FORCE OF LAW

An Executive Order is not a law passed by Congress, nor a ruling promulgated by the Supreme Court or any other court. It is a decree issued by the President and entered in the Federal Register which becomes a law 15 days after its entry—a law just as valid as if passed by the Congress and approved by the Supreme Court. The expansion of the Executive Order into an action reflecting the growth of the power of the Chief Executive took place during the administration of Franklin D. Roosevelt. Roosevelt issued an Executive Order defining the outbreak of war in Europe as a "limited emergency" and was to remain in effect for the duration of the war, "and six months." At that time it became inoperative, although it remained on the books, available for the next "emergency."

In May of 1941 FDR declared a state of "unlimited national emergency" which was to remain in effect until declared ended. Another state of emergency was declared by President Truman in 1950 after Red China's intervention in the Korean War. Truman formally ended both the World War II emergencies in April of 1952, but expressly reaffirmed the 1950 declaration. Presidents Eisenhower, Kennedy, Johnson, and Nixon also reaffirmed it as each took office.

E.O.'s CAN MEAN MARTIAL LAW

A declaration by the President indicating a "national emergency" exists has always stopped short of martial law, although the President has that prerogative. Undoubtedly it would be exercised in the event of an attack on the United States. The last use of martial law was in Hawaii a few hours after the attack on Pearl Harbor in 1941. It is interesting to note that the tendency of martial law to perpetuate itself was demonstrated in that case. The military retained basic control of Hawaii until the Supreme Court in 1944 ruled that the continued use of martial law, long after the disaster conditions had ended, was unconstitutional.

E.O. 11490

Executive Order 11490 assigns emergency preparedness functions to federal departments and agencies:

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national emergency type situation that might conceivably confront the nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the

assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national emergency preparedness plans and has provided funds for the accomplishment thereof; and

WHEREAS this national emergency preparedness planning activity has been an established program of the United States Government for more than twenty years;

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States . . . it is hereby ordered as follows—

The next 32 pages outline the emergency functions to be performed by these departments and agencies:

1. Department of State
2. Department of Treasury
3. Department of Defense
4. Department of Justice
5. Post Office Department
6. Department of the Interior
7. Department of Agriculture
8. Department of Commerce
9. Department of Labor
10. Department of Health, Education, and Welfare
11. Department of Housing and Urban Development
12. Department of Transportation
13. Atomic Energy Commission
14. Civil Aeronautics Board
15. Export-Import Bank of the United States
16. Federal Bank Supervisory Agencies
17. Federal Communications Commission
18. Federal Power Commission
19. General Services Administration
20. Interstate Commerce Commission
21. National Aeronautics and Space Administration
22. National Science Foundation
23. Railroad Retirement Board
24. Securities and Exchange Commission
25. Small Business Administration
26. Tennessee Valley Authority
27. United States Civil Service Commission
28. Veterans Administration

Here are summaries of a few of the more significant sections:

Sec. 101. **Purpose.** This order consolidates the assignment of emergency preparedness functions to various departments and agencies heretofore contained in the 21 Executive orders and 2 Defense Mobilization orders listed in Sec. 3015 of this order. . . .

Sec. 3012. **Redelegation.** The head of each department and agency is hereby authorized to redelegate the functions assigned to him by this order, and to authorize successive redelegation to agencies or instrumentalities of the United States, and to officers and employees of the United States. . . .

Sec. 3013. **Transfer of Functions.** Any emergency preparedness function under this order, or parts thereof, may be transferred from one department or agency to another with the consent of the heads of the organizations involved and with the concurrence of the Director of the Office of Emergency Preparedness. . . .

Under the terms of EO 11490, the President of the United States can order that a national emergency exists and can then:

- Take over all communications media
- Seize all sources of power (electric, nuclear, petroleum, etc.)
- Control all food resources
- Seize all forms of transportation
- Control all highways and seaports
- Seize railroads, inland waterways, and storage facilities
- Commandeer all civilians to work under federal supervision
- Control all activities relating to health, education, and welfare
- Register every man, woman, and child in the United States
- Shift any segment of the population from one locality to another
- Control all devices capable of emitting electromagnetic radiation
- Institute **EXTRAORDINARY MEASURES** with respect to any facility, system, or service essential to national survival
- Take over farms, ranches, or timberland properties so as to protect, manage, and utilize them effectively
- Freeze all wages and prices
- Demand emergency welfare services, (food, clothing, and lodging) in private homes, for those in need
- Regulate the amount of your own money you can withdraw from your bank or savings and loan institution
- Close the stock exchanges and freeze stock and bond prices.

All of these items listed, plus many others clearly enumerated on 32 pages incorporating nearly 200,000 words pertain to every previous Executive Order ever issued unless specifically revoked.

E.O. 11615

Executive Order No. 11615 was issued by President Nixon on Aug. 15, 1971. It provides for stabilization of prices, rents, wages, and salaries. Although the wage-price "freeze" was to last only 90 days, the Order established another bureaucratic agency called the Cost of Living Council.

This Council is almost certain to be with us for a long time, growing in power and size, with concomitant restrictions on the average citizen.

The Secretary of the Treasury is the Chairman of the Council and the Chairman of the Federal Reserve System is an adviser to the Council.

Sec. 3 of E.O. 11615 delegates to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970. The working force of the Council is drawn from the Internal Revenue Service. As with tax matters, the Council is empowered by law to force any citizen to maintain appropriate records and produce these records on demand, under penalty of \$5,000 fine.

E.O.'s vs. CONGRESSIONAL POWER

Attempts have been made to repeal the Presidential prerogatives inherent in the Executive Orders. The latest known attempt was in May, 1971, when Sen. Charles McC. Mathias, Jr. (R-Md.) said, "We must reject the concept of national emergencies declarable by the President at his discretion in peace time without termination dates. It is up to the Congress to recover by legislation the constitutional role that it has allowed the executive to usurp. We must reassert the principle that emergency powers are available only for brief periods when Congress is unable to act for purposes directly related to the emergency at hand."

In the context of the unlimited power represented by the Executive Orders, it is interesting to note that in a speech before the Senate Banking and Currency Committee on Mar. 23, 1953, the unelected President of the United States, Bernard Baruch, made an impassioned plea for "Stand-by Mobilization Legislation." The majority of his recommendations appeared in subsequent Executive Orders.

It is also significant that Executive Order 10952, signed by President Kennedy in 1961, and still in effect today, transferred all civil defense functions to the Department of Defense while Adam Yarmolinsky served as its first director. In a speech opposing the transfer Senator Fulbright made a statement chilling in its implications: "Whereas civil defense can be considered as a purely national responsibility, **civil emergency planning** requires close cooperation between the NATO allies"

WHAT IS A NATIONAL EMERGENCY?

Only the President knows for sure and he has unlimited option. Crime on the streets would appear to be an area where the President could well declare not enough was being done to control anarchy. There would be ample justification today: Violent crime has increased 176% in the last decade. What is to prevent the President declaring a national emergency and confiscating all the guns in the hands of individual citizens?

Or supposing the problems implicit in desegregation stimulate a declaration of national emergency by the President? Under the terms of Executive Order 11490 the President could order the transfer of any segment of our population from one locality to another, thus effectively and legally integrating. If any citizen, or

group of citizens objected, the rest of the Nation would never know it because all communications and all mass media would be under the control and direction of government!

The Constitution of the United States ranks above the Executive, the Legislative, and the Judicial branches of government. It must remain that way.



President Truman, in 1950, signs the proclamation declaring a "NATIONAL EMERGENCY"

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