Power Grab by Executive Order

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The President who got by with issuing Presidential Decision Directive 25 asserting his authority to assign U.S. troops to serve under foreign commanders — without any uproar from Congress or the public — apparently now thinks he can get by with an even bigger grab for power. On May 14, Bill Clinton quietly issued Executive Order (EO) 13083 called "Federalism."

It's unclear why he issued this EO in Birmingham, England, unless he did it to minimize media coverage. Clinton has been issuing what the press has variously called a "blizzard" or a "blitz" of executive orders.

When you cut through the reassuring window dressing restating the obvious (e.g., "the Constitution is premised upon a system of checks and balances"), it becomes clear that this Executive Order's real purpose is to grab large new federal executive-branch powers at the expense of the states. Clinton's Executive Order reminds us that "There should be strict adherence to constitutional principles," but (in Shakespeare's words) he "doth protest too much, methinks."

The real key to this Clinton Executive Order is that it revokes President Ronald Reagan's 1987 Executive Order 12612 on Federalism. Reagan had a healthy respect for our unique American system of federalism, under which many powers are reserved to the states.

Reagan's EO required a federalism assessment for new regulations or agency action. Clinton's EO has no such requirement and leaves it to federal agencies to develop "an effective process" for state and local officials to provide "input" to the federal overlords.

Written in broad and ambiguous language, Clinton's EO amounts to a bold and overreaching attempt to rewrite the U.S. Constitution, especially the Tenth Amendment, and sets up a framework under which federal bureaucrats can meddle whenever they think they have more "expertise" than the states. Here are some of the matters that Clinton's EO asserts "justify Federal action":

"When there is a need for uniform national standards." The meddling bureaucrats, of course, will decide when the "need" exists.

The Clinton Administration is already claiming a "need" for uniform federal computerization of all personal medical records. What's next? A "need" for uniform gun control laws?

"When decentralization increases the costs of government thus imposing additional burdens on the taxpayer." It's hypocritical to feign concern about the burden of state taxes when Clinton has never shown concern about the far more oppressive burden of federal taxes.

"When States have not adequately protected individual rights and liberties." The Clintonistas have often manifested their creative ideas about the kinds of "rights" that government should defend.

"When States would be reluctant to impose necessary regulations because of fears that regulated business activity will relocate to other States." Clinton has never expressed any fears about the federal regulations that have induced businesses to relocate to Mexico, Asia or other Third World countries.

"When placing regulatory authority at the State or local level would undermine regulatory goals because high costs or demands for specialized expertise will effectively place the regulatory matter beyond the resources of State authorities." The Clinton mindset is that the feds have more expertise than the states!

"When the matter relates to Federally owned or managed property or natural resources, trust obligations, or international obligations." In addition to the vast tracts of land already owned by the Federal Government, Clinton has repeatedly demanded federal regulations and taxes to fulfill what he has unilaterally decided are our international "obligations," even when they originated in treaties that the Senate refused to ratify.

Will this authorize the feds to implement the Global Warming Treaty that Al Gore agreed to in Kyoto, even though it has never been ratified by the Senate, and probably can't be ratified?

The Executive Order has long been recognized as a presidential prerogative. But it certainly is not a blank check to rewrite the Constitution or to assume powers that belong to other branches of government or to the states.

Clinton is using Executive Orders not only to press the envelope of his regulatory authority, but also to bypass Congress's legislative powers and the Senate's treaty power. As Paul Begala, one of the few who is willing to say he believes Clinton's statements about his sex scandals, says, "The President has a very strong sense of powers of the presidency, and is willing to use all of them."

Clinton's greatest skill is with words. The words of Executive Order 13083 were artfully chosen to sound harmless but, when interpreted by his activist judges and bureaucrats, can rationalize the exercise by the President of open-ended, high-handed regulatory powers.

If Y2K causes crucial computers to crash and precipitate a national emergency, Clinton will be ready with Executive Order 13083 to assume emergency dictatorial powers that no American President has ever had before. Indeed, Senator Robert Bennett (R-UT) is already asking the U.S. military to be ready to respond if Clinton declares martial law on or about January 1, 2000.

Congress should immediately repudiate Clinton's impudent grab for power.