



Written by [Joe Wolverton, II, J.D.](#) on March 22, 2012

## Martial Law Executive Order: History Should Cause Concern, Not Comfort

The article was [reprinted around the country](#) and became the subject of debate among those who saw the edict as a pathway toward peacetime martial law and those who reckoned it was “no big deal.”

Some of those dismissing the content of the order as unimportant were pundits typically found criticizing the President. Ed Morrissey of Hotair.com, for example, told readers that the [“the general impact of it is negligible”](#) and that it was nothing more frightening than a regular restatement of previously promulgated emergency preparedness plans.



For those unfamiliar with the story, here is a brief summary of [the Executive Order](#) and its contents.

On March 16, the White House posted an Executive Order entitled the National Defense Resources Preparedness Order. In it, the President granted to himself the authority to approve the dispensing of all domestic energy, production, transportation, food, and water supplies as he deems necessary to protect national security.

Despite the national defense hurdle that ostensibly must be jumped in order for the order to take effect, the text of the document itself does not limit implementation to a time of war. In fact, the specific sections of the order make it clear that the President may take complete command and control of the country’s natural resources in peacetime, as well.

In fact, the President may invoke the powers of this order to “meet national defense requirements” in “the full spectrum of emergencies.” The relevant sections read:

Sec. 102. Policy. The United States must have an industrial and technological base capable of meeting national defense requirements and capable of contributing to the technological superiority of its national defense equipment in peacetime and in times of national emergency. The domestic industrial and technological base is the foundation for national defense preparedness. The authorities provided in the Act shall be used to strengthen this base and to ensure it is capable of responding to the national defense needs of the United States.

Sec. 103. General Functions. Executive departments and agencies (agencies) responsible for plans and programs relating to national defense (as defined in section 801(j) of this order), or for resources and services needed to support such plans and programs, shall:

- (a) identify requirements for the full spectrum of emergencies, including essential military and civilian demand;
- (b) assess on an ongoing basis the capability of the domestic industrial and technological base to satisfy requirements in peacetime and times of national emergency, specifically



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evaluating the availability of the most critical resource and production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

The underlying legal authority for the execution of such a radical order is found in the Defense Production Act of 1950, the President claims. That law combined with the rights vested in him as Commander-in-Chief of the U.S. Armed Forces supposedly empowers the President to endow himself with these expansive powers.

In fact, it is the existence of this earlier law, passed at the start of the Korean War, that naysayers point to as proof that there is nothing to be afraid of in President Obama's executive embrace of many of the tenets thereof.

Let's assume, in arguendo, that there is no expansion of power contained in the March 16 Executive Order and that Presidents since 1950 have been able to exercise control over the full spectrum of domestic food, water, and energy supplies. There would yet be something legitimately fearful in this latest presidential pronouncement.

As stated above, most of the powers afforded the President in Section 201 of the Executive Order were originally included in the Defense Production Act of 1950. These were not inert powers, however, as President Truman indeed justified his imposition of wage and price controls, as well as his regulating of the steel and mining industries during the Korean War.

Given the President's proclivity for not letting grass grow once he believes (regardless of law and reason to the contrary) that he has the power to do something, we are right to worry. Consider, for example, the killing of American citizens by Hellfire missiles after their names were added to the President's kill list. Anwar al-Awlaki and his 16-year-old son are both dead because President Obama ordered Predator Drone hits on them. Neither of them was accused of any crime; neither of them was given an opportunity to defend himself; and neither of them was given a fair and impartial hearing on the accusations made against them.

When pressed for an explanation, Attorney General Holder was [trotted out to parrot the party](#) line and point to "existing law" as evidence that the assassinations were well within the President's authority. The President found them and their messages offensive and a threat to the homeland, so he ordered the CIA to kill them.

It is this attitude that causes constitutionalists to shudder. This executive order is but the latest document in President Obama's ever-expanding dossier of dictatorship. The National Defense Authorization Act permits the President to deploy the military to arrest and indefinitely detain American citizens without charge and without due process. [The Federal Restricted Buildings and Ground Improvement Act](#) revokes the rights of speech and assembly protected by the First Amendment.

Again, when he deigns to provide some sort of pretext, President Obama orders one of his agents to take the fire. It was just days ago, for example, that [Secretary of Defense Leon Panetta was sent to Congress](#) to inform the people's elected representatives that his boss would no longer need their permission to wage war around the globe. No, President Obama would get his authority from international treaties and the United Nations. The Constitution would be ignored.

Readers are encouraged to study the history of tyranny. Demagogues are always crowned by the people with autocratic authority in response to the need for safety, particularly when faced with the exigencies of national emergencies. Although its mention is nearly cliché, consider the example of Germany in the



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1930s.

In 1933, the German people were bent under the crushing weight of inflation and international opprobrium. In response, the Reichstag passed the Enabling Act. Through the enactment of this law, Adolf Hitler was given the expansive powers that effectively established his dictatorship. And as is the case with this latest Executive Order (and the NDAA for that matter), the most oppressive provisions of the Enabling Act authorized Hitler to act without the interference of the people's elected leaders in the Reichstag.

There is something to be learned from the formal name of the Enabling Act. It was "Gesetz zur Behebung der Not von Volk und Reich," which translated means "Law to Remedy the Distress of the People and Reich." President Obama, in the name of emergency preparedness, has now granted himself powers eerily similar to those granted by the German Reichstag to Adolf Hitler and for much the same stated reason: the protection of the people.

The question remains: Assuming that the control over our natural resources as outlined in the Executive Order is nothing new, why are so many influential conservatives content to trust a President so demonstrably dismissive of the Constitution to reclaim these powers?

It is the fact that there is historical precedent for the grant and exercise of these powers that cause us concern, not give us comfort.



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