

Sec. 2—Powers, Duties of the President

Cl. 1—Commander-in-Chiefship

the fact that Lincoln had asked Congress to ratify and confirm his acts, which Congress promptly had,¹²² with the exception of his suspension of *habeas corpus*, a power that many attributed to the President in the situation then existing, by virtue of his duty to take care that the laws be faithfully executed.¹²³ Nor was this the only respect in which war or the approach of war was deemed to operate to enlarge the scope of power claimable by the President as Commander-in-Chief in wartime.¹²⁴

**Presidential Theory of the Commander-in-Chiefship in
World War II—And Beyond**

In his message to Congress of September 7, 1942, in which he demanded that Congress forthwith repeal certain provisions of the Emergency Price Control Act of the previous January 30th,¹²⁵ President Roosevelt formulated his conception of his powers as “Commander in Chief in wartime” as follows:

“I ask the Congress to take this action by the first of October. Inaction on your part by that date will leave me with an inescapable responsibility to the people of this country to see to it that the war effort is no longer imperiled by threat of economic chaos.”

“In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility, and I will act.”

“At the same time that farm prices are stabilized, wages can and will be stabilized also. This I will do.”

“The President has the powers, under the Constitution and under Congressional acts, to take measures necessary to avert a disaster which would interfere with the winning of the war.”

¹²² 12 Stat. 326 (1861).

¹²³ J. RANDALL, CONSTITUTIONAL PROBLEMS UNDER LINCOLN 118–139 (rev. ed. 1951).

¹²⁴ *E.g.*, Attorney General Biddle’s justification of seizure of a plant during World War II: “As Chief Executive and as Commander-in-Chief of the Army and Navy, the President possesses an aggregate of powers that are derived from the Constitution and from various statutes enacted by the Congress for the purpose of carrying on the war. . . . In time of war when the existence of the nation is at stake, this aggregate of powers includes authority to take reasonable steps to prevent nation-wide labor disturbances that threaten to interfere seriously with the conduct of the war. The fact that the initial impact of these disturbances is on the production or distribution of essential civilian goods is not a reason for denying the Chief Executive and the Commander-in-Chief of the Army and Navy the power to take steps to protect the nation’s war effort.” 40 Ops. Att’y. Gen. 312, 319–320 (1944). Prior to the actual beginning of hostilities, Attorney General Jackson asserted the same justification upon seizure of an aviation plant. E. CORWIN, TOTAL WAR AND THE CONSTITUTION 47–48 (1946).

¹²⁵ 56 Stat. 23 (1942).