

From: user@enron.com on behalf of "user@enron.com"
Sent: Mon, 01 Jan 2001 10:00:00 -0800
To: recipient@enron.com
Subject: Enron Sample Thread

Message-ID: <5752244.1075848246668.JavaMail.evans@thyme>
Date: Thu, 24 May 2001 00:51:00 -0700 (PDT)
From: steven.kean@enron.com
To: sarah.novosel@enron.com
Subject: Re: Presidential Power Question
Mime-Version: 1.0
Content-Type: text/plain; charset=us-ascii
Content-Transfer-Encoding: 7bit
X-From: Steven J Kean
X-To: Sarah Novosel
X-cc:
X-bcc:
X-Folder: \Steven_Kean_June2001_5\Notes Folders\Sent
X-Origin: KEAN-S
X-FileName: skean.nsf

thanks

From: Sarah Novosel on 05/23/2001 02:54 PM
To: Richard Shapiro/NA/Enron@Enron, Steven J Kean/NA/Enron@Enron, James D Steffes/NA/Enron@Enron
cc: Linda Robertson/NA/Enron@ENRON

Subject: Presidential Power Question

I spoke with Donna Bobbish this morning about Steve's question -- does the President have broader authority to take action during times of crisis. Donna sent me this quick write up about what she has looked into so far. Because these questions go beyond a FERC practitioner's expertise, we asked Donna to work with a Constitutional Law expert at V&E to determine whether, and under what circumstances, the President's authority may be extended beyond the authorities discussed in the memo.

We will let you know what we learn from that further research.

Sarah

----- Forwarded by Sarah Novosel/Corp/Enron on 05/23/2001 03:48 PM -----

"Bobbish, Donna J." <dbobbish@velaw.com>
05/23/2001 12:16 PM

To: "snovose@enron.com" <snovose@enron.com>
cc:
Subject: Presidential Power Question

Sarah: In response to Steve's inquiry, I did look into this question briefly when you first gave me the assignment. I read an interesting law review article on "The Imposition of Martial Law in the United States," for a discussion of presidential powers. There is no general emergency authority granted the President in the U.S. Constitution. Also, the article discussed the famous "Truman steel mills case," *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), in which the Supreme Court declared unconstitutional President Truman's seizure of the steel mills during the Korean War. In that case, in light of a threatened national-wide strike in the national steel industry, President Truman, concerned about the national defense, issued an Executive Order directing the Secretary of Commerce to take possession of most of the steel mills and keep them running. The Supreme Court said that if the President had authority to take such an action, he had to derive it either from an act of Congress or the Constitution itself. Since the Supreme Court could not find any seizure authority, it invalidated the President's action. The Supreme Court also rejected the argument that the President had any powers that could be implied from the aggregate of his powers under the Constitution.

Based on the Truman steel mills case, I thought it the wiser course of action to look for specific authorities given to the President by statute which might prove useful.

I could look into this question further, if you would like, but we would be entering "martial law-type" legal territory, where the President would be acting outside of specific Constitutional or congressional authority (which has been described a "zone of twilight"), and in light of the Truman steel mills case, I don't know how fruitful that might be.

Please let me know if you would like me to do anything more. Thank you.
Donna

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