Journal of Public Finance and Public Choice • vol XX • no XX • 1–25 • © AESP 2025
Online ISSN 2515-6926 • https://doi.org/10.1332/25156918Y2025D000000023
Accepted for publication 02 May 2025 • First published online 02 June 2025

RESEARCH ARTICLE

The Defense Production Act: an enduring legacy of crises

Axel Weber, *aweber20@gmu.edu*
Christopher J. Coyne, *ccoyne3@gmu.edu*
George Mason University, USA

The Defense Production Act of 1950 (DPA) is a federal law that gives the president discretionary authority over domestic economic activity in the name of national defense. This article examines the evolution of the DPA through the lens of the ratchet effect, which explains how crises can lead to the growth of government. One prediction of the ratchet effect model is that government responses to past crises will create a precedent that sets the stage for future government growth. We trace the origins of the DPA from World War I to the War Powers Acts of 1941 and 1942 and examine how its use has evolved through time. In doing so, we offer insight into the history of the DPA, provide an illustration of the ratchet effect, and highlight how crises like war can lay the groundwork for future expansions of government in unforeseen ways.

Keywords Defense Production Act • growth of government • ratchet effect • World War I • World War II

JEL codes H11 • H12 • H56

To cite this article: Weber, A. and Coyne, C.J. (2025) The Defense Production Act: an enduring legacy of crises, *Journal of Public Finance and Public Choice*, Early View, DOI: 10.1332/25156918Y2025D000000023

Introduction

The Defense Production Act (DPA) is a US federal law passed in 1950 to dramatically expand executive power over domestic economic activity. This included the power to require private people to prioritize and accept contracts, seize private property, authorize loans to private producers, impose wage and price controls, prevent mergers, and extend antitrust provisions (for a complete listing of the powers granted to the

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

executive by the initial act, see Appendix 1). The impetus behind the law was the desire to increase government control of economic production for the Korean War.

Through time, these government powers extended beyond war-related production. As the US Department of Defense recently noted, "[i]nitially designed to address wartime emergencies, the DPA has evolved into a powerful tool for long-term industrial planning" (Shinego, 2024). Beyond industrial planning, the DPA has been invoked for one-off uses that have nothing to do with war or national security. In May 2022, for instance, President Biden invoked the DPA to mandate private manufacturers to prioritize the production of baby-formula ingredients.

How did the DPA—an act meant to help the US government combat foreign threats—end up being used for baby formula? This article answers this question by analyzing the evolution of the DPA from its origins to the present. We frame our analysis in terms of the ratchet effect model of crises developed by Higgs (1987). The ratchet effect explains how the government's response to a crisis can result in long-lasting expansions in the overall size (scale and scope) of government that extend well beyond the initial justification and intention.

The underlying logic of the ratchet effect is as follows. A government response to a crisis results in an increase in the scale (expenditures) and scope (breadth) of government activities. Once the crisis subsides, the expansion partially recedes, but it may not return to pre-crisis levels for three reasons. First, the crisis-led expansion in government results in vested interests that have an incentive to perpetuate the expansion. Second, people's ideology regarding the citizen–state relationship shifts. People come to accept expansions in the overall size of the government as the "new normal" rather than as an extraordinary outlier. Third, government responses to past crises can create "institutional residue" that may serve as precedents for future government growth.

Using this framework, we trace the origins and evolution of the DPA. Although the DPA was formally passed in 1950, the law was based on precedent established during World War I, the Great Depression, and World War II. We provide evidence that the measures taken during World War I were reintroduced during the Great Depression and World War II, before finally being institutionalized in the DPA.

Our contribution finds its grounding in Buchanan's (1949) call for the economic analysis of the operation of government, which includes the analysis of the growth of government through time. In this vein, we analyze the origins and evolution of the DPA in terms of the ratchet effect as a source of government growth. The DPA and its precursors have been discussed by historians studying war mobilization in the US, by scholars focused on changes in the constitutional powers of the executive branch, and by scholars discussing the connection between war and industrial policy (see Field, 1950; Frey, 1951; Kottke, 1952; Katayama, 1969; Melman, 1985; Pierpaoli, 1994; 1999; 2000). To date, a detailed analysis of the connection between the DPA and the growth of government power over domestic economic activity has not been conducted.

Our analysis also contributes to the scholarship on the ratchet effect (Peacock and Wiseman, 1961; Higgs, 1987; O'Reilly and Powell, 2015; Hall, 2024), providing an illustration of the relevance of this framework for understanding the crisis-induced growth of government. In this regard, our analysis is closest to Higgs (1987), who discusses the DPA as part of his broader analysis of crises and government growth. He does not, however, offer a detailed analysis of the DPA, and our article fills this gap.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Given that the DPA remains an extremely important policy tool for the federal government to influence domestic economic activity, understanding its origins and evolution is important in itself. Beyond that, our analysis uses the DPA to illustrate the enduring effects of state war making. As the DPA suggests, government actions related to war making have long-term consequences well beyond their initial intentions.

We proceed as follows. The next section presents the ratchet effect framework, which serves as our theoretical lens to understand the origins and evolution of the DPA. The third section focuses on the precursors to the DPA: World War I, the Great Depression, and World War II. These crises set the stage for the passage of the DPA, which is the focus of the fourth section. This section also discusses the evolution of the DPA to the present. The fifth section concludes. The appendices include supporting details on the original titles of the DPA (see Appendix 1), a table summarizing the various precedents for the DPA (see Table A1 in Appendix 2), and a list of abbreviations used throughout the article (see Appendix 3).

The ratchet effect

Theories of government growth generally fall into two categories: those in which citizens demand greater services (citizen-over-state theories) and those in which political actors expand the state to serve their own interests (state-over-citizen theories) (see Hall, 2024). The former views government growth as a response to voter preferences, while the latter attributes it to institutional structure and political and bureaucratic incentives.

The account of government growth offered by Higgs (1987) does not fit neatly into either of the aforementioned categories. His ratchet effect framework includes both elements of citizen demand and political supply. Importantly, it also incorporates the central role of ideology and the impact of crises on government growth.

The ratchet phenomenon was originally identified by Peacock and Wiseman (1961), who found that public spending in the UK permanently increased following a crisis. The concept was generalized beyond government spending to the overall size of government (scale and scope) by Higgs (1987), who used the concept to explain the growth of government in the US. He identifies five stages associated with the ratchet effect, as depicted in Figure 1.

The first stage is the pre-crisis period (line segment AB), where the government is growing at a positive, stable rate due to non-crisis factors. The second stage, expansion (line segment BC), occurs with the onset of a crisis, represented by t_1. The demand from the populace for the government to respond to the crisis leads to expansions in its scale (expenditure) and scope (the range of actions undertaken) (Higgs, 1987: 67).

Policymakers have two avenues to address the crisis: the market-based, "cost-revealing" resource allocation system or the command-and-control, "cost-hiding" method (Higgs, 1987: 73). Consider the decision to fight a war. The government could directly tax citizens to pay for the costs of the war, including offering enough compensation to attract volunteers. However, war demands immense sacrifice—risking life and limb, and leaving behind family, friends, and careers—driving the cost of recruitment far beyond what taxpayers are usually willing to bear. Even if the government succeeds in raising an army, it must then secure food, clothing, equipment, and training by outbidding alternative uses of these resources, causing prices to rise. The cost-revealing market method results in observable higher taxes

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

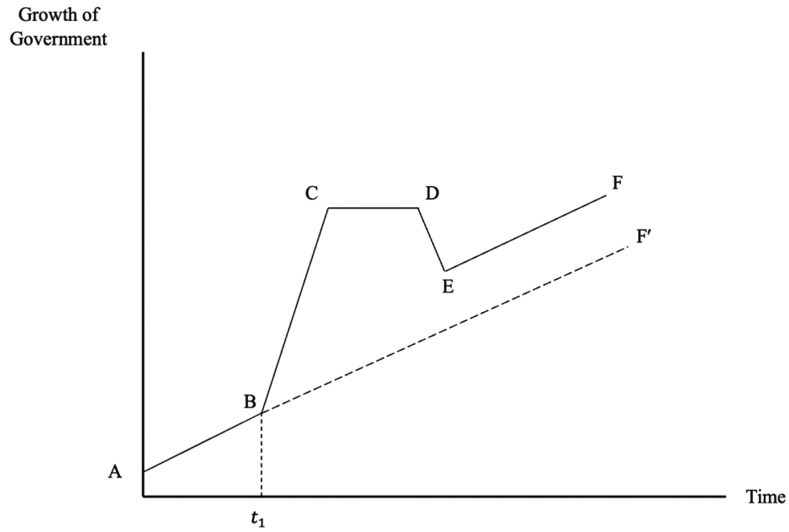
and consumer prices as resources are shifted toward war production. If these costs become too great, from the perspective of the citizenry, "their resistance jeopardizes not only the policy but, in a normally operating representative democracy, the government itself" (Higgs, 1987: 73).

Recognizing this, policymakers may obscure the costs of belligerency by drafting soldiers, increasing the scope of their power over private citizens. This command-and-control method conceals the true burden of war, making it appear less costly to the public than it truly is. The costs are still real, but the connection to war-related policies is not as evident, as they fall on those subjected to cost-hiding measures. For example, instead of paying draftees the necessary wage to attract them, the government shifts a portion of the burden of war onto them without full compensation. Thus, in the second stage of the ratchet effect, we see how government expands in scale (expenditure) and scope (newfound powers) as the public insists the state "do something," driving up expenditures while minimizing immediate fiscal burdens through cost-concealment measures.

The third stage is maturity (line segment CD), which represents the slowing of the growth of government. The expansions that have taken place remain in place for the duration of the crisis, though in a steady state without further increases.[1] The fourth stage, retrenchment (line segment DE), occurs once the crisis has subsided. The public's demand for state actions, which enabled prior growth, abates. Some programs and policies are ended, while others have their funding cut; the result is a decrease in the overall size of government relative to its peak during the "maturity" stage.

This leads to the fifth and final stage, post-crisis normality (line segment EF), which reflects the post-crisis situation. In this stage, the growth rate of government follows a similar trend as it did in the first stage (pre-crisis normality), though at a higher level than it would have been absent the crisis-induced expansion. In other words,

Figure 1: The ratchet effect



Source: Based on Higgs (1987: 60).

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

the crisis has caused the overall size of government to ratchet upward relative to the counterfactual—what it would have been absent the crisis.

There are three reasons why the growth rate of government does not return to its pre-crisis level. First, the crisis-led expansion in government results in vested interests that have an incentive to perpetuate the expansion. Bureaucrats, politicians, and firms receiving benefits from the government expansion have an incentive to maintain their newfound powers and privileges. Public officials and other benefactors may have the noblest of intentions, but it would be naive to "not recognize that some form of self-interest enters their calculations" and, additionally, that "some governmental officials may act in pursuit of their ideology's conception of the public interest" (Higgs, 1987: 63).

Second, people's ideology regarding the citizen–state relationship shifts. Discussing ideological change through time, Higgs (2008) highlights the role of ongoing ideological competition, whereby public intellectuals and activists spend the calm years "softening up" the large pool of loosely committed citizens, stocking alternative policy scripts that can be rushed into service once a crisis shatters the prevailing order. Thus, when the status quo is overturned, the cumulative influence of long-run social-structural shifts and the ready-made narratives supplied by leading thinkers (and the "second-hand dealers in ideas" who popularize them) predisposes the public to view new command-and-control measures as sensible rather than invasive, enabling the government to implement and refine them while they appear less intrusive than they truly are (Higgs, 1987: 73; Higgs, 2008). For instance, price controls normally cause shortages, frustrating consumers. However, if shortages already exist, price controls appear relatively less objectionable.

Also important is that government intrusions into the market discredit the domino theory: that a mixed economy inevitably leads to the loss of all civil and political liberties (Higgs, 1987: 71–3). Another factor influencing citizen ideology regarding the role of the state is that government intervention creates "opportunities for many people within and without the government to do well for themselves and hence to look more favorably on the new order" (Higgs, 1987: 73). As a result, people come to accept a larger government as the "new normal" rather than as a temporary anomaly. Before the crisis, barriers to rapid social change upheld the status quo. After the crisis, those barriers are reinstated, but now they serve to entrench the new status quo rather than restore the old one (see, especially, Wilson, 1980: 51–2).

Third, government responses to past crises create "institutional residue": policies enacted to handle one crisis that are quickly resurrected (whether revoked, dormant, or scaled down) to address the next. During World War I, for instance, Congress passed the War Finance Corporation Act 1918 (WFC) to assist industries and banks supporting the war effort. In 1932, amid the Great Depression, Congress passed the Reconstruction Finance Corporation Act (RFC) to help the struggling domestic industries. Section 6 of the RFC explicitly states: "section 5202 of the Revised Statutes of the United States, as amended, is hereby amended by striking out the words 'War Finance Corporation Act' and inserting in lieu thereof the words 'Reconstruction Finance Corporation Act'" (US Congress, 1932).

In general, the ratchet effect model suggests that government responses to crises immediately expand government powers, which lays the institutional foundations for future expansions. This framework illuminates the evolution of the DPA and its use today.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Crises and institutional residue: precursors to the DPA

World War I

The precedent for the DPA pre-dates 1950, stretching back to World War I. After the Germans sank unarmed British and French ships, causing American casualties, President Wilson moved to plan for rapid war mobilization (Higgs, 1987: 128). The resulting legislation was the National Defense Act (NDA), passed on June 3, 1916, followed by the Army Appropriations Act, passed on August 29, 1916.

In times of war or when it was imminent, the NDA authorized the president to place orders on the market that would "take precedence over all other orders and contracts" (US Congress, 1916a). Furthermore, if the supplier refused to fulfill the order at a "reasonable price," not only was the supplier guilty of committing a felony, but the president was also then "authorized to take immediate possession of any such plant" for the purpose of manufacturing as much of the product or resource as deemed necessary (US Congress, 1916a).

Similarly, the Army Appropriations Act 1916 authorized the president to "take possession and assume control of any system or systems of transportation … as may be necessary … for the transfer or transportation of troops, war material and equipment, or for such other purposes connected with the emergency as may be needful or desirable" (US Congress, 1916b). Just 16 months later, this power was invoked to nationalize the country's privately owned railroads under the new United States Railroad Administration (Higgs, 1987: 129; Hughes, 1991: 133). These two acts established a precedent for invoking priorities (Title I of the DPA) and requisitioning (Title II of the DPA) during peacetime, much utilized in future crises.

Shortly after Germany announced unrestricted submarine warfare, President Wilson asked Congress for a declaration of war (Wilson, 1917). Four days later, on April 6, 1917, the US declared war on Germany. Several additional acts were quickly passed, which further expanded the overall size of government, as suggested by the second stage of the ratchet effect framework.

On July 2, 1917, Congress passed "An Act to Authorize Condemnation Proceedings of Lands for Military Purposes" (US Congress, 1917a). This act enabled the Secretary of War to appropriate land for fortification, coastal defense, and military training camps, subject to the approval of the attorney general and the state legislature (US Congress, 1917a).

The Allies' large food purchases from the US, combined with a bad harvest, led to a 46 percent rise in food prices between July 1916 and April 1917, followed by another 45 percent increase by December (Hall, 1973: 25). This surge in prices fueled public outcry for government intervention, exemplifying the second stage of the ratchet effect, where crises subdue ideological resistance to government expansion.

During deliberations over the Lever Food and Fuel Control Act, Representative Isaac Siegel read newspaper articles into the Congressional Record, citing them as evidence that the public demanded food price controls (US Congress, House, 1917: 4082). On June 11, 1917, *The New York Times* argued:

> National safety demands the immediate acceptance by Congress of the Lever bill with all its essential features. This is a war emergency measure, and its enactment is imperative. Theorists who oppose the increase of the powers of the Federal Government must lay their theories aside for the time being.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

> The safety of this country will not be imperiled by granting extraordinary power in this matter to President Wilson. On the other hand, its safety will be imperiled by any further delay in the passage of the food-administration bill. (US Congress, House, 1917: 4082)

The next day, on June 12, 1917, *The Washington Post* argued that food control was essential to winning the war and dismissed concerns over government overreach as irrelevant in wartime (US Congress, House, 1917: 4082).

Others in Congress took an even stronger stance. Representative Ellsworth Bathrick insisted that in wartime, "we must have in a large degree autocratic government" (US Congress, House, 1917: 4080). He dismissed concerns about granting too much power to the president, calling for "a little kingly power" to expose profiteers and punish the "avaricous [sic] animals" responsible for high food prices, insisting that this was what the people demanded (US Congress, House, 1917: 4080).

In response to the public outcry, Congress passed the Lever Food and Fuel Control Act on August 10, 1917, which "gave the president sweeping powers: to take over factories and operate them, to fix a maximum price for wheat, and to license businesses in necessaries" (Leuchtenburg, 1995: 38). This act also authorized the president to requisition food, fuel, and other supplies necessary for national defense (US Congress, 1917b: sec. 10), while prohibiting the hoarding of essentials and establishing the US Food Administration, which introduced meatless and wheatless days for US citizens (Hughes, 1991: 131). The same act also created the US Fuel Administration, which controlled coal prices, implemented "heatless" days, and encouraged gasless Sundays (Hughes, 1991: 132). These acts granted the president broad powers to prevent hoarding and enact price controls, both of which would become prominent features in the DPA.

To prevent Germany from utilizing US resources and to seize and repurpose German property for the war effort, Congress passed the Trading with the Enemy Act (TWEA) on October 6, 1917 (Coates, 2018: 156). Politician Mitchell Palmer, tasked with overseeing seized enemy assets, initially assured the public that these confiscations were only temporary (Coates, 2018: 158). However, once granted the authority to sell the assets, he shifted his position, arguing that German investments posed a national security threat (Coates, 2018: 158). He claimed that "great German-owned industrial establishments were spy centres filled with the agents of Germany long plotting against the safety of the United States" (Coates, 2018: 158).

Beyond its immediate effects, the TWEA signaled a shift in the nature of economic warfare. As Coates (2018: 159–60) notes, World War I demonstrated that private property was no longer secure in international conflicts and that the success of the Allied blockade had proven the power of the "economic weapon." This mindset became institutionalized in the postwar order, where economic sanctions replaced military interventions as the preferred tool for handling foreign aggression. The DPA's powers reflect this evolution, focusing less on direct military mobilization and more on economic control and resource management as instruments of national security.

The wartime expansion of government authority was not limited to foreign assets; domestic financial intervention also grew. The WFC was established on April 5, 1918, to counteract the effects of massive government borrowing, which had crowded out private investment and left industries essential to the war effort struggling to secure loans. The WFC provided financing to lumber, coal, public utilities, and

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

manufacturing plants (Higgs, 1987: 142). The precedent set by the WFC would resurface in later crises, eventually becoming a core feature of the DPA's authority to subsidize industries deemed critical to national security.

Similarly, the federal government's control over industrial production deepened with the Departmental Reorganization Act (DRA)—also known as the "Overman Act"—passed on May 20, 1918. This law gave President Wilson the power to restructure executive agencies. He issued Executive Order 2868, which separated the War Industries Board (WIB) from the weaker Council of National Defense. Now backed by presidential authority, the WIB was empowered to set production priorities and enforce price controls (Wilson, 1918). The WIB's model of command-and-control economic planning would become a blueprint for future crisis responses.

The US government's response to World War I also led to a series of legislative measures that expanded the state's discretionary power over a wide range of economic activities. The executive branch of the government and a growing network of government agencies gained new authorities over price controls, production, labor, financing, trade, and transportation, establishing a precedent for handling future crises.

Additionally, these institutional changes profoundly influenced the public intellectuals, many of whom came to see wartime economic planning as a model for peacetime governance. As Leuchtenburg (1995: 40) indicates:

> Economists who viewed the War Industries Board as "a notable demonstration of the power of war to force concert of effort and collective planning" anticipated that lessons from the war could be applied in times of peace. When Wesley C. Mitchell closed his lectures at Columbia University in May 1918, he remarked that peace would bring new problems, but "it seems impossible that the countries concerned will attempt to solve them without utilizing the same sort of centralized directing now employed to kill their enemies abroad for the new purpose of reconstructing their own life at home." "What we have learned in war we shall hardly forget in peace," commented Walter Weyl. "The new economic solidarity, once gained, can never again be surrendered."

For many, World War I had proven the effectiveness of centralized economic control, creating a lasting intellectual and bureaucratic legacy. Economist Rexford Tugwell, writing in 1927, lamented that the Armistice had disrupted what he saw as a near-realized opportunity for an international industrial system—one that could have experimented with controlling production, prices, and consumption (Leuchtenburg, 1995: 40). Without the war to justify the bureaucratic intervention and direction of the economy, much of it was dismantled (reflecting the fourth stage of the ratchet effect).

However, while government authority decreased, it did not return to its pre-crisis level. The government maintained its newfound powers of requisitioning, prioritizing orders, and controlling international trade, which would reappear in future crises (the fifth stage of the ratchet effect framework). Indeed, with the onset of the Great Depression, policymakers revived and expanded wartime economic measures, drawing directly from World War I precedents. As Clower (1979: 28) observed, "most of the machinery that would later be used by the New Deal was already in place before 1929."

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

The Great Depression

Compared to World War I, the Great Depression was a crisis of a different sort. Instead of mobilizing the economy for war, the government sought to revive it. To do so, policymakers drew heavily on the precedent set during World War I. As Leuchtenburg (1995: 53) notes, "almost every New Deal act or agency derived, to some extent, from the experience of World War I."

Public intellectuals drew parallels to the wartime economy as a model to manage the Great Depression. For instance, economist Edward Seligman, argued that if "it is permissible for government to expend billions in war-time in the organization of production, it is no less legitimate for government in a great emergency of peacetime to do what it is also impossible for private individuals to accomplish" (quoted in Leuchtenburg, 1995: 43–4; for another example, see also Foster, 1932: 10). These arguments captured the ideological sentiment among many intellectuals: if the government could effectively centralize the economy for war, why should it not do the same to address other national emergencies?

This mindset influenced how policymakers responded to the economic collapse. Wilson (1980) notes how postwar demobilization led to extensive government planning for national reconstruction, continued mobilization, and national security planning. While these early planning attempts were imperfect, they "provided experience for much more detailed efforts before, during, and after World War II" (Wilson, 1980: 27). Moreover, "the general success of the massive American wartime administrative effort suggested to many American observers the great potential available to organize, mobilize, and coordinate American resources and knowledge to cooperatively achieve national goals" (Wilson, 1980: 27).

The Great War's influence on the response to the Great Depression is evident in the RFC, signed by President Hoover on January 22, 1932. Section 6 of the act explicitly linked the RFC to the WFC: "section 5202 of the Revised Statutes of the United States, as amended, is hereby amended by striking out the words 'War Finance Corporation Act' and inserting in lieu thereof the words 'Reconstruction Finance Corporation Act'" (US Congress, 1932). According to Leuchtenburg (1995: 45):

> The proposal [for the RFC] appeared to originate at about the same time in the minds of several different men: Hoover; Federal Reserve Governor Eugene Meyer, who had been managing director of the WFC; Louis Wehle, who had been the WFC's general counsel; and Senator Joseph T. Robinson of Arkansas. All drew their inspiration from the WFC. "The RFC was a revival of the War Finance Corporation, that's all, but with expanded powers," Meyer recalled. When the RFC began operations, it employed many of the WFC's old staff, followed its pattern and that of the wartime Treasury in financing, and even took over, with slight modifications, the old WFC forms for loan applications.

These dynamics are captured in the logic of the ratchet effect. The WFC, originally a temporary measure during World War I, became the foundation for the RFC during the Great Depression. However, while the WFC was limited to offsetting government-induced credit shortages for war-essential industries, the RFC had more extensive powers, increasing the discretion to fund state and local governments, banks, and private businesses. This expansion of state intervention in financial markets set

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

an even broader precedent regarding government control over investment and credit allocation—a power that would later be absorbed into the DPA.

A similar pattern emerged with the WIB—also a product of the Great War. The WIB's ability to set production priorities and control prices held great appeal in an era of deflation and stagnating production. To alleviate the economic crisis, Meyer Jacobstein, a banker, and H.G. Moulton, President of the Brookings Institution, recommended the creation of "a National Board for Industrial Recovery, with powers similar to those so effectively utilized during the World War by the War Industries Board" (quoted in Leuchtenburg, 1995: 56). The resulting legislation created the National Industrial Recovery Act 1933 (NIRA), which established the National Recovery Administration (NRA). In serving as a precursor to the NRA, the WIB illustrates how responses to crises leave behind institutional residue that can be recalled and expanded upon in future crises.

The NRA, however, extended far beyond the WIB, as it was not limited to wartime industries. It set wage and price controls (rebranded as "codes") and established labor and workplace regulations (US Congress, 1933: Section 7[c]). Although it was declared unconstitutional in 1935, much of its labor powers were moved to the National Labor Relations Act 1935, while its economic controls reemerged in the War Production Board (WPB) during World War II.

The Great Depression illustrates the ratchet effect in action. World War I showed policymakers and intellectuals that large-scale government intervention was possible and provided the policy and ideological foundations. The Great Depression reinforced this belief, further entrenching the idea that the state should manage industrial production, labor disputes, financial stability, and price controls. This shift in government expectations expanded the federal bureaucracy, and by the time World War II arrived, government administrators had managerial experience, while businesses had grown accustomed to navigating government oversight. As Higgs (1987: 197) put it, this meant that when World War II began, "the development of economic controls could proceed much faster than it had before."

World War II

World War II began in 1939, but the US did not enter the conflict until December 8, 1941. In anticipation of joining the war, the US government passed several laws. On June 28, 1940, Congress enacted "An Act to Expedite National Defense, and for Other Purposes." This act granted priority to all naval and army orders over private contracts and authorized the secretary of the navy, in cases where voluntary agreement could not be reached, to take over and operate any plant or facility they deemed necessary for the national defense, provided the owner was compensated (US Congress, 1940a: 676, 680).

Building on the earlier NDA of 1916, Congress passed the Selective Training and Service Act (STSA) on September 16, 1940. The STSA authorized the president to place orders with precedence and to mandate that plants be repurposed to produce necessary supplies (US Congress, 1940b: 892). If manufacturers refused or failed to supply at a "reasonable price," the president could take "immediate possession" of the plant (US Congress, 1940b: 892). Unlike the NDA of 1916, however, the president's ability to place such orders was no longer contingent on being at war or war being imminent.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Importantly, the STSA also introduced the first peacetime conscription in US history. Congress justified the peacetime draft by claiming it was "in accordance with our traditional military policy as expressed in the National Defense Act of 1916" (US Congress, 1940b: 885). Notably, the NDA of 1916 did not authorize a peacetime draft. Thus, the institutional response to an earlier crisis both justified and expanded the scope of government powers in subsequent emergencies.

President Roosevelt observed that "liberal terms" for consumer credit were fueling demand for durable goods, which directly competed for the "materials, skills, and equipment needed for national defense" (Roosevelt, 1941). This competition drove up the cost of producing defense goods as resources became increasingly scarce. To address this issue, on August 9, 1941, Roosevelt issued Executive Order 8843, invoking the authority of the TWEA—a product of World War I—to regulate economic activity during a national emergency (Roosevelt, 1941). Through this order, he granted the Federal Reserve the authority to regulate consumer credit to curb excessive demand for consumer durables and prioritize defense production. While TWEA was passed during World War I, it was not used to control consumer credit. This broadening of government power following the onset of a new crisis demonstrates the second stage of the ratchet effect.

On October 16, 1941, Congress passed "An Act to Authorize the President of the United States to Requisition Property Required for the Defense of the United States." This act granted the president the authority to requisition any property deemed necessary for national defense, provided that all other acquisition methods had been exhausted and the owner was compensated (US Congress, 1941a). In doing so, it expanded the powers already conferred by the STSA, extending the president's authority from requisitioning noncompliant manufacturing plants to securing anything necessary for national defense.

After the attack on Pearl Harbor, the US joined the war on December 8, 1941. Following the precedent set by World War I and further entrenched during the Great Depression, Congress passed the First War Powers Act (FWPA) on December 18, 1941. The FWPA granted powers similar to the earlier DRA (from World War I), which enabled the president to reorganize and redistribute functions among executive agencies (Higgs, 1987: 205). The act also amended the TWEA, authorizing the president to investigate, regulate, or prohibit foreign transactions (US Congress, 1941b: 839–41). These and the already existing powers were deemed insufficient, for merely three months later, the Second War Powers Act (SWPA) would greatly expand on the president's wartime powers.

Reviving the old War Labor Board of World War I, Roosevelt signed Executive Order 9017 on January 12, 1942, creating the National War Labor Board (NWLB). To avoid supply issues with labor strikes, the NWLB resolved disputes through mediation, arbitration, or seizure (Roosevelt, 1942b; Higgs, 1987: 216). Four days later, Roosevelt signed Executive Order 9024, resurrecting the WIB of World War I, rebranded as the WPB. Just as its predecessor had done, the WPB allocated resources, established priorities, and prohibited unnecessary production (Roosevelt, 1942c).

Having just entered the war and predicting massive expenditures, Congress looked to the precedent set by the Great War for guidance. During deliberations on the Emergency Price Control Act (EPCA), Senator Brown argued that price controls under Hoover—who had overseen food pricing—and the WIB had been highly effective in curbing inflation (US Congress, Senate, 1942: 43), justifying similar

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

powers. Senator Taft noted that the EPCA was far broader than the Lever Act of World War I (US Congress, Senate, 1942: 63).

Congress passed the act on January 30, 1942. Its stated purpose was "to stabilize prices and to prevent speculative, unwarranted, and abnormal increases in prices and rents," ensuring that "defense appropriations are not dissipated by excessive prices" (US Congress, 1942a: 23–4). Consistent with the ratchet effect, the EPCA demonstrates how the scope of the state's reach grows to conceal the full costs of its actions (Higgs, 1987: 73).

Broadening the powers of the earlier FWPA, Congress passed the SWPA (US Congress, 1942b) on March 27, 1942. Title II of the SWPA amended "An Act to Authorize Condemnation Proceedings of Lands for Military Purposes," originally passed during World War I. The amendment expanded the power to acquire private property and granted it to additional personnel (US Congress, 1942b: 177). Additionally, where the original 1917 act required specific justification for requisitioning property, the 1942 amendment changed it to anything "deemed necessary" for military purposes (US Congress, 1942b: 177).

Title III of the SWPA amended "An Act to Expedite National Defense, and for Other Purposes," originally passed on June 28, 1940. It expanded the scope of the president's allocation powers to "such an extent as he shall deem necessary or appropriate in the public interest and to promote the national defense" (US Congress, 1942b: 178). Effectively, this meant that the president had unrestrained resource allocation powers; it should be recalled that the earlier 1940 act had only prioritized orders for the army and the navy.

On September 7, 1942, Roosevelt pushed Congress to amend the EPCA, which he criticized for exempting farm commodities and wages, allowing prices to rise "far beyond" parity and undermining the broader effort to stabilize the cost of living (Roosevelt, 1942a). He warned that these exemptions had become a "rallying point" for groups resisting economic controls and requested an expansion in his authority to set prices across all goods, including farm commodities and wages (Roosevelt, 1942a). If Congress failed to act, he vowed to "accept the responsibility" and act unilaterally, invoking his authority to "take measures necessary to avert a disaster which would interfere with the winning of the war" (Roosevelt, 1942a).

Preferring to avoid a fight over his constitutional authority, he reminded Congress of their cooperation in helping him handle the crisis in 1933, demonstrating the importance of the institutional residue from previous crises in justifying expanded powers in later crisis situations. Congress granted his request a day after his deadline with the passage of the Stabilization Act on October 2, 1942. The act required the president to set prices, wages, and salaries at levels close to those of September 15, 1942, by November 1, 1942 (US Congress, 1942c). Under the act, the president was granted sweeping powers to set prices and wages "to aid in the effective prosecution of the war or to correct gross inequities" (US Congress, 1942c). In other words, the president had been given a blank check on the power to set prices and wages.

The response to World War II built on and greatly expanded the precedents established during World War I. Price and wage controls went from the exception to the rule, and consumer credit also experienced controls it had never faced before. As Reich (1983: 93) wrote:

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

> World War I shaped the superstructures of industrial management. In the war America found a singleness of public purpose perfectly compatible with large-scale industrial efficiency. Ideas and institutions which were born then lived on, in various guises, through World War II and on into the cold war…. Perhaps most fundamentally, the experience of war and of the federal government's role in managing the nation for war legitimized in many people's eyes the role of the government (and, in particular, of the President) as general manager of the economy, responsible for the overall health of American business.

The government powers introduced during the two world wars and the Great Depression normalized the use of these powers during wars and economic crises. These crises helped legitimize the government as an active player in shaping the economy. This process of normalization set the stage for these powers to become permanently institutionalized in the next crisis.

The DPA and its evolution

The Korean War

Although often referred to as the "forgotten war," the Korean War marked a watershed moment in US foreign policy, shaping the nation's strategic posture for the remainder of the Cold War. In doing so, it also altered the role of government in domestic life. The war militarized and globalized President Truman's containment policy (which had previously been primarily economic in nature), permanently institutionalized the national security apparatus, significantly expanded presidential authority in both domestic and foreign affairs, and fundamentally reshaped fiscal policymaking (see Pierpaoli, 1999; Roberts, 2000; Matray, 2002; Dudziak, 2023).[2] In short, the Korean War not only redefined US foreign policy but also transformed the constitutional and institutional landscape of US governance.

By the middle of the 20th century, emergency government powers over domestic economic activity had become a normalized part of American life, setting the stage for the formalization of the DPA during the Korean War. The DPA was not a novel measure but, rather, an extension and codification of wartime economic controls from World War I, the Great Depression, and World War II, repackaged for a new crisis. During its deliberations, Congress explicitly referenced the Lever Act (World War I), the RFC (Great Depression), and the War Powers Acts (World War II) as precedents for the powers granted within the DPA (US Congress, 1950a: 11759, 11859, 12133; US Congress, 1950b: 14028, 14129). Hughes (1991: 164) captures the cumulative process of expansions of government power through time:

> In many respects NRA, including its fire-eating director, General Hugh Johnson, represented knowledge gained about such matters in World War I; he was a liaison officer between the War Industries Board and the army. Men like Donald Nelson and Leon Henderson went from their NRA and New Deal experience into the federal bureaucracy of World War II—Nelson ran the War Production Board and Henderson headed the Office of Price

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

> Administration. During the Korean War the Defense Production Act (1950) revived government–business planning, using the techniques of World War II. This experience was lodged in the vast industrial and continuing procurement programs of the modern Pentagon. Moreover, under the Defense Production Act of 1950, the President was granted authority to suspend antitrust regulation in cases involving national defense—a feature strongly reminiscent of NRA, with the words national defense substituted for economic emergency.

As the war in Korea escalated, President Truman pushed for the swift passage of the DPA, stressing in a letter to the chairman of the Defense Production Act Committee on August 1, 1950, that the act's priorities and allocation powers were necessary to meet the crisis (Truman, 1950). He did not see Congress's addition of wage and price controls as necessary, but he would take them as a standby measure for future use, provided their addition did not delay the passage of the act (Truman, 1950).

In a clear display of how the recurring crises of the 20th century had transformed the public's ideology, Truman, who had been reluctant to impose wage and price controls, was instead pushed by Congress and the public to implement them. As Pierpaoli (1999: 36) notes:

> [H]e [Truman] had little choice but to accept them on a standby basis in the face of strong public demand and a bipartisan call for action in Congress. In fact, during late July and August, the White House was inundated with telegrams and letters urging the president to invoke or at least accept standby controls. These messages came from all sectors of society; even organized labor called on the president to control prices and profiteering.

The onset of the Korean War amplified the perceived need for industrial reorganization and government control. Congress granted Truman similar powers to those exercised by his predecessors with an even broader scope and demanded[3] that he use them (Pierpaoli, 1999; Lawson and Rhee, 2020; Neenan and Nicastro, 2023). At this point, the prior crisis-related powers, tracing back to World War I, were codified in a single, unified law (see Appendix 2, which shows the legal precedents of the constituent titles constituting the original DPA).

The evolution and growth of DPA powers

The first major change to the DPA—consistent with the fourth stage of the ratchet effect (retrenchment)—occurred with the 1953 amendment, in which Titles II, IV, V, and VI were allowed to expire (Neenan and Nicastro, 2023: 2). This expiration reflected a broader policy shift under President Eisenhower, who removed price controls almost immediately upon taking office, leading the Senate and House to agree only on renewing Titles I, III, and VII (Eisenhower, 1953; US Congress, House, 1953: 6254). However, until the 2009 amendment formally removed the expired titles, Congress could have retroactively reauthorized them at any time, meaning the expiration was a formality in codified powers rather than the underlying precedent (Neenan and Nicastro, 2023: 3, including fn 14).

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

The next significant change came during the "Space Race" with the Soviet Union, when, in 1970, space was added to the definition of national defense in an amendment to the DPA (US Congress, 1970). Next, in response to the oil crisis of the 1970s, Congress passed the Energy Security Act on June 30, 1980, declaring that "the achievement of energy security" was essential to the nation's economic health and security (US Congress, 1980: 616). In the name of security, the act further expanded the DPA's authority to include addressing external actions that could disrupt domestic energy supplies (US Congress, 1980: 617). These events, which were certainly not of the magnitude of the world wars and Great Depression, illustrate how centralized government control can expand through time over more and more elements of domestic economic life.

The executive branch's powers were further expanded eight years later, when, on August 23, 1988, Congress granted the president authority to review corporate mergers, acquisitions, and takeovers that could impact national security (Neenan and Nicastro, 2023: 17). If the president found credible national security risks, they were given the power to block foreign investments. This amendment was "due in large part to concerns over acquisitions of U.S. defense-related firms by Japanese investors" (Neenan and Nicastro, 2023: 17). Notably, this authority was made permanent (not subject to renewal) by Congress.

The most dramatic change to the DPA came on October 28, 1992, when the Declaration of Policy (DoP) was completely rewritten. While the DPA's DoP had been rewritten in 1953 and 1955, with modest expansions in 1956 and 1980, these changes remained focused primarily on national defense and mobilization preparedness (US Congress, 1953; 1955; 1956: 408–9; US Congress, 1980). The 1992 rewrite, however, marked a significant shift in US national defense policy. In the wake of the dissolution of the Soviet Union, the new declaration addressed the use of the DPA in peacetime for the first time in its history (US Congress, 1992: 4199–201).

Rather than allowing the DPA to expire after the Cold War, Congress now argued in the new DoP that the powers conferred by the act were essential to both the economy and to national defense (US Congress, 1992: 4199–201). In doing so, Congress tied national defense directly to the economy, stating that "the domestic defense industrial base is a component part of the core industrial capacity of the Nation" (US Congress, 1992: 4200). Much of the industrial capacity relied upon for military and defense purposes, they explained, was "deeply and directly influenced by … the overall competitiveness of the United States industrial economy" and its ability to "produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future" (US Congress, 1992: 4200). If national defense is tied to the health of the economy, then the government must ensure that the economy remains healthy by influencing economic activity via the DPA.

Moreover, members of Congress now argued that the economy provided the capabilities necessary "to meet national defense requirements, in peacetime and in time of national emergency," and contributed to the technological superiority of the US military, "which is a cornerstone of the national security strategy" (US Congress, 1992: 4199). Importantly, Congress did not specify what national defense requirements during peacetime entailed, leaving this vague clause to justify almost any peacetime action by the executive branch. This expansion in the DPA's goals reveals how emergency

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

institutions can become normalized, persisting well past the crisis that created them and taking on new meanings to expand political power over private life.

The 1992 expansion of the DPA's scope set the stage for its further use in nontraditional defense scenarios. On October 5, 1994, the National Defense Authorization Act for Fiscal Year 1995 broadened the DPA's definition of national defense to include emergency preparedness, encompassing activities to prepare for, respond to, and recover from natural disasters or man-made hazards (US Congress, 1994: 3101–2). This came four months after President Clinton had already used the DPA to respond to natural disasters in the summer of 1994 (Clinton, 1994). Clinton justified this use of the DPA by invoking the new peacetime clause from the 1992 amendment, stating, "[t]he United States must have an industrial and technology base capable of meeting national defense requirements … in peacetime and in times of national emergency" (Clinton, 1994).

On December 19, 2003, the DPA was amended to authorize the president to require industries to provide information for industry studies assessing the capabilities of the US industrial base to support national defense (US Congress, 2003). Additionally, the definition of national defense was expanded to include "critical infrastructure protection and restoration," covering any systems or assets, whether physical or cyber-based, whose degradation or destruction could have a debilitating impact on national security, including but not limited to the nation's economic security and public health or safety (US Congress, 2003).

Another rewrite of the DPA's DoP occurred on September 30, 2009. The new DoP allowed for the president's DPA authorities to reduce the vulnerability of terrorist attacks, minimize damage, and assist with recovery (US Congress, 2009: 2007–8). Overall, the 2009 amendment expanded the DPA's powers, including critical infrastructure aid to foreign nations, introducing homeland security, and granting the president the power to designate critical technologies essential to the national defense under the DPA's authority (US Congress, 2009: 2017–18).

Recent uses and expansions of the DPA

Over the years, presidents have delegated DPA authority to multiple agencies, making it difficult to track its full use (see Lawson and Rhee, 2020; Stern, 2022: 343; Tucker, 2022: 24). It is estimated that the Department of Defense (DoD), the largest user of the DPA's priority powers, invokes the act around 300,000 times per year (Federal Emergency Management Agency, 2021). Beyond the DoD, priority and allocation powers have been granted to the Department of Agriculture, Department of Energy, Department of Health and Human Services, Department of Transportation, and Department of Commerce (Obama, 2012). Numerous government agencies invoked DPA powers during the COVID-19 pandemic (Lawson and Rhee, 2020; Stern, 2022: 333–6; Tucker, 2022). The powers granted by the DPA have been used in new and novel ways, as illustrated by the following examples.

On January 19, 2001, during California's 2001 energy crisis, President Clinton delegated DPA authority to Secretary of Energy Bill Richardson to address energy shortages in California (Clinton, 2001). He declared natural gas supplies to be "scarce, critical, and essential within the meaning of the Defense Production Act of 1950," arguing that maintaining these supplies required invoking the DPA's authorities to maximize domestic energy supplies, including electricity, and promote the national defense (Clinton, 2001).

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Importantly, the energy crisis stemmed from a credit breakdown and not a supply disruption (Fygi, 2001: 5). Eric Fygi, Deputy General Counsel for the Department of Energy, later acknowledged that the DPA was used in an unprecedented way to resolve a financial shortage rather than a material scarcity (Fygi, 2001: 5). This marked a novel expansion of the DPA's intended purpose for two reasons: first, it involved the national government intervening in a state-level credit crisis; and, second, the DPA was invoked not to secure or protect physical resources from some threat to national defense but to intervene in the operation of markets.

In light of President Clinton's actions, Senate Banking Committee Chairman Phil Gramm (2001: 1) called the DPA "the most powerful and potentially dangerous American law." His concern was the breadth of the law, which now covered almost all domestic economic activity, and the fact that the law granted discretionary power "for the government to be taking people's property and dictating prices"[4] (Gramm, 2001: 20–1).

As another example, consider the use of DPA powers during the COVID-19 pandemic. On April 28, 2020, President Trump invoked the DPA to classify beef, pork, and poultry as scarce and critical resources essential to the national defense, citing Section 101(b) of the act to justify federal intervention in meatpacking production (Federal Emergency Management Agency, 2020: 3–4; Trump, 2020; Tucker, 2022: 14). Two years later, on May 18, 2022, in response to the baby-formula shortage, President Biden invoked the DPA, declaring baby formula a scarce and critical resource essential for national defense (Biden, 2022e). Both cases represented new applications of the DPA, illustrating how the elastic definition of "national defense" allows the executive branch to intervene in private economic affairs at its discretion.

Given the near-unlimited breadth of its applicability, the DPA's ability to bypass Congress has made it attractive to presidents looking to implement policies without legislative approval. In 2022, President Biden invoked Section 303 of the DPA four times, declaring the production of transformers and electric power grid components, solar panels, insulation, and electric heat pumps to be critical and essential to the national defense (Biden, 2022a; 2022b; 2022c; 2022d). In order to waive the standard requirements, President Biden declared that action was necessary to "avert an industrial resource or critical technology item shortfall that would severely impair national defense capability" (Federal Emergency Management Agency, 2020: 14–15). Illustrating the broad discretion the DPA grants to the executive, Biden's memorandums asserted that private industry could not be expected to produce these goods in a timely manner. This is relevant because the same logic could be applied to any good or service at the executive's discretion.

Conclusion

The DPA conferred expansive centralized power in the hands of the US president to shape and influence domestic economic activity. Given the breadth of these powers, understanding the origins and evolution of the act is important in itself. The powers of the DPA were forged through emergency responses to World War I, the Great Depression, and World War II. This created a series of precedents regarding the scope of government power over economic activity, which was codified in the DPA in 1950. Through time, the scope of DPA-associated activities has expanded well beyond its original intention, affecting a significant portion of US domestic economic activity.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

One implication is that increases in the scope of government power in response to crises tend to remain and often further expand once implemented. The ratchet effect illuminates the underlying mechanisms at work and explains the evolution of the DPA through time. Laws that were originally passed by Congress in response to specific crises have evolved into a permanent and nearly unlimited tool for presidents and federal agencies to respond to emergencies. Importantly, what qualifies as an "emergency" is ultimately decided by the parties wielding the discretionary power granted by the law.

A related implication deals with the broader emergency powers of government. Responding to crises is typically viewed as a core function of government. The ratchet effect framework, with the DPA as one illustration, suggests that these powers, once granted, are not analogous to a light switch that can be turned on and off at will. Expansions in the scale and scope of government have long-lasting and "sticky" effects that cannot be fully known at the time of the initial expansion or simply undone at will. The potential increases in government power are important to recognize when considering government responses to crises.

The challenge for constitutional political economy is whether the emergency powers of the state can be delineated and constrained to avoid constitutional erosion (Buchanan, 1973; Brennan and Buchanan, 1985). The DPA exemplifies this challenge, as its continued expansion demonstrates how emergency justifications create institutional precedents that shape and constrain future policy responses. Once a particular intervention is employed in a crisis, it becomes part of the government's policy toolkit, increasing the likelihood of its use in the future in both crisis and non-crisis situations. This not only influences policy choices at a moment in time but also weakens constitutional constraints by normalizing discretionary executive power.

History demonstrates that such accumulated authority rarely disappears. As Hayek (1981: 124) noted, "'[e]mergencies' have always been the pretext on which the safeguards of individual liberty have been eroded—and once they are suspended it is not difficult for anyone who has assumed such emergency powers to see to it that the emergency persists." The DPA illuminates this dilemma (Havens, 2023) and remains an enduring legacy of past crises.

ORCiD ID

Axel Weber https://orcid.org/0009-0002-4830-6108

Notes

[1] The zero growth rate is a simplifying assumption; the key point is that growth has slowed, whether negative or positive, but stays above the non-crisis baseline.

[2] As Pierpaoli (1999: 9) writes: 'instead of determining the aggregate budget and adjusting program spending (like national security) accordingly, the opposite became the rule after 1950: policymakers determined national security requirements first and then adjusted aggregate fiscal policy to meet security demands. This change marked the end of the nation's long-standing dedication to balanced budgets and minimal military expenditures'.

[3] The DPA's declaration of policy states that "It is the intention of the Congress that the President shall use the powers conferred by this Act to" prevent the "undue strains and dislocations upon wages, prices, and production or distribution of materials for civilian use, within the framework, as far as practicable, of the American system of competitive enterprise" (US Congress, 1950c: 799).

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

[4] The federal government required natural gas to be sold to Pacific Gas and Electric Company (PG&E) at the commercial price, without adjustments for credit risk. This is what Senator Gramm meant when he said the government was dictating prices.

Funding

The authors received no financial support for the research, authorship, and/or publication of this article.

Acknowledgments

An earlier version of this article was presented at the 94th Annual Meeting of the Southern Economic Association (November 23–25, 2024, Washington, DC). We thank the participants, Giampaolo Garzarelli (the editor-in-chief of this journal), and two anonymous reviewers for very helpful feedback. All remaining errors are our own.

Conflicts of interest

The authors declare that there is no conflict of interest.

References

Biden, J. (2022a) Joseph Biden to the Secretary of Energy, memorandum, "Presidential determination pursuant to Section 303 of the Defense Production Act of 1950, as amended, on electric heat pumps," June 6, www.govinfo.gov/content/pkg/FR-2022-06-09/pdf/2022-12586.pdf.

Biden, J. (2022b) Joseph Biden to the Secretary of Energy, memorandum, "Presidential determination pursuant to Section 303 of the Defense Production Act of 1950, as amended, on insulation," June 6, www.govinfo.gov/content/pkg/FR-2022-06-09/pdf/2022-12584.pdf.

Biden, J. (2022c) Joseph Biden to the Secretary of Energy, memorandum, "Presidential determination pursuant to Section 303 of the Defense Production Act of 1950, as amended, on solar photovoltaic modules and module components," June 6, www.govinfo.gov/content/pkg/FR-2022-06-09/pdf/2022-12583.pdf.

Biden, J. (2022d) Joseph Biden to the Secretary of Energy, memorandum, "Presidential determination pursuant to Section 303 of the Defense Production Act of 1950, as amended, on transformers and electric power grid components," June 6, www.govinfo.gov/content/pkg/FR-2022-06-09/pdf/2022-12587.pdf.

Biden, J. (2022e) Joseph Biden to the Secretary of Health and Human Services, memorandum, "Delegating authority under the Defense Production Act to ensure an adequate supply of infant formula," May 18, www.govinfo.gov/content/pkg/FR-2022-05-24/pdf/2022-11273.pdf.

Brennan, G. and Buchanan, J.M. (1985) *The Reason of Rules: Constitutional Political Economy*, Cambridge University Press.

Buchanan, J.M. (1949) The pure theory of government finance: a suggested approach, *Journal of Political Economy*, 57(6): 496–510, doi: 10.1086/256880

Buchanan, J.M. (1973) *The Limits of Liberty: Between Anarchy and Leviathan*, University of Chicago Press.

Clinton, W.J. (1994) Executive Order 12919: national defense industrial resources preparedness, *Federal Register*, 59(108): 29525–34, www.federalregister.gov/d/94-14027.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Clinton, W.J. (2001) William Clinton to the Secretary of Energy, memorandum, "Electric energy shortage in California," January 19, https://energymarketers.com/Documents/Temp_Emergency_Nat_Gas_Purchase_&_Sale_Order.pdf.
Clower, R.W. (1979) Discussion, in G.M. Walton (ed) *Regulatory Change in an Atmosphere of Crisis: Current Implications of the Roosevelt Years*, Academic Press, p 28.
Coates, B.A. (2018) The secret life of statutes: a century of the Trading with the Enemy Act, *Modern American History*, 1(2): 151–72, doi: 10.1017/mah.2018.12
Dudziak, M.L. (2023) The gloss of war: revisiting the Korean War's legacy, *Michigan Law Review*, 122(2): 149–205, doi: 10.36644/mlr.122.2.gloss
Eisenhower, D.D. (1953) The president's news conference, 17 Feb, The American Presidency Project, www.presidency.ucsb.edu/node/231672.
Federal Emergency Management Agency (2020) Defense Production Act of 1950, as amended: current through P.L. 115-232, enacted August 13, 2018, www.fema.gov/sites/default/files/2020-03/Defense_Production_Act_2018.pdf.
Federal Emergency Management Agency (2021) *The Defense Production Act Committee Calendar Year 2020 Report to Congress*, Washington, DC, www.fema.gov/sites/default/files/documents/fema_DPAC-report-Defense-production-act-committee_2020.pdf.
Field, R.H. (1950) Economic stabilization under the Defense Production Act of 1950, *Harvard Law Review*, 64(1): 1–26, doi: 10.2307/1335879
Foster, W.T. (1932) When a horse balks, *The North American Review*, 234(1): 4–10.
Frey, D.S. (1951) Maintaining economic freedom under the Defense Act of 1950, *The University of Chicago Law Review*, 18(2): 218–63, doi: 10.2307/1597679
Fygi, E. (2001) Testimony, in United States, Congress, House, Committee on Financial Services. Reauthorization of the Defense Production Act of 1950, U.S. Government Printing Office, June 13, www.govinfo.gov/app/details/CHRG-107hhrg73241/CHRG-107hhrg73241.
Gramm, P. (2001) Opening statement, in United States, Congress, Senate, Committee on Banking, Housing, and Urban Affairs. The California energy crisis and use of the Defense Production Act, U.S. Government Printing Office, February 9, www.govinfo.gov/app/details/CHRG-107shrg76811/CHRG-107shrg76811.
Hall, A.R. (2024) Ideology, crisis, and the ratchet effect: retrospect and prospects, in C.J. Coyne (ed) *The Legacy of Robert Higgs*, Mercatus Center, pp 107–27.
Hall, T.G. (1973) Wilson and the food crisis: agricultural price control during World War I, *Agricultural History*, 47(1): 25–46.
Havens, B. (2023) The DPA: does the president have authority?, *National Security Law Journal*, 11(1): 130–55.
Hayek, F.A. (1981) *Law, Legislation, and Liberty, Volume 3: The Political Order of a Free People*, University of Chicago Press.
Higgs, R. (1987) *Crisis and Leviathan: Critical Episodes in the Growth of American Government*, Oxford University Press.
Higgs, R. (2008) The complex course of ideological change, *The American Journal of Economics and Sociology*, 67(4): 547–66, doi: 10.1111/j.1536-7150.2008.00592.x
Hughes, J. (1991) *The Governmental Habit Redux: Economic Controls from Colonial Times to the Present*, Princeton University Press.
Katayama, R.N. (1969) Emergency procurement powers, *Public Contract Law Journal*, 2(2): 236–64.
Kottke, F.J. (1952) Monopoly and mobilization for defense, *Southern Economic Journal*, 18(4): 516–25, doi: 10.2307/1054042

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Lawson, A. and Rhee, J. (2020) Usage of the Defense Production Act throughout history and to combat COVID-19, Yale School of Management, June 3, https://som.yale.edu/blog/usage-of-the-defense-production-act-throughout-history-and-to-combat-covid-19.
Leuchtenburg, W.E. (1995) *The FDR Years: On Roosevelt & His Legacy*, Columbia University Press.
Matray, J.I. (2002) Revisiting Korea—exposing myths of the forgotten war, *Prologue Magazine*, 34(2): 106–15.
Melman, S. (1985) *The Permanent War Economy: American Capitalism in Decline*, Simon & Schuster.
Neenan, A.G. and Nicastro, L.A. (2023) The Defense Production Act of 1950: history, authorities, and considerations for Congress, Congressional Research Service, https://sgp.fas.org/crs/natsec/R43767.pdf.
Obama, B. (2012) Executive Order 13603: national defense resources preparedness, *Federal Register*, 77(56): 16651–60, www.govinfo.gov/content/pkg/FR-2012-03-22/pdf/2012-7019.pdf.
O'Reilly, C. and Powell, B. (2015) War and the growth of government, *European Journal of Political Economy*, 40(Part A): 31–41.
Peacock, A.T. and Wiseman, J. (1961) *The Growth of Public Expenditure in the United Kingdom*, Princeton University Press.
Pierpaoli, P.G., Jr (1994) Mobilizing for the Cold War: the Korean conflict and the birth of the national security state, June–December 1950, *Essays in Economic & Business History*, 12(March): 106–17.
Pierpaoli, P.G., Jr (1999) *Truman and Korea: The Political Culture of the Early Cold War*, University of Missouri Press.
Pierpaoli, P.G., Jr (2000) Truman's other war: the battle for the American homefront, 1950–1953, *OAH Magazine of History*, 14(3): 15–19, doi: 10.1093/maghis/14.3.15
Reich, R.B. (1983) *The Next American Frontier*, Times Books.
Roberts, P. (2000) New light on a "forgotten war": the diplomacy of the Korean conflict, *OAH Magazine of History*, 14(3): 10–14, doi: 10.1093/maghis/14.3.10
Roosevelt, F.D. (1941) Executive Order 8843: regulation of consumer credit, *Federal Register*, 6(157): 4035–38, https://archives.federalregister.gov/issue_slice/1941/8/13/4035-4038.pdf.
Roosevelt, F.D. (1942a) Message to Congress on stabilizing the economy, The American Presidency Project, September 7, www.presidency.ucsb.edu/documents/message-congress-stabilizing-the-economy.
Roosevelt, F.D. (1942b) Executive Order 9017: establishing the National War Labor Board, *Federal Register*, 7(9): 237–38, https://archives.federalregister.gov/issue_slice/1942/1/14/237-238.pdf.
Roosevelt, F.D. (1942c) Executive Order 9024: establishing the War Production Board in the Executive Office of the President and defining its functions and duties, *Federal Register*, 7(12): 329–30, https://archives.federalregister.gov/issue_slice/1942/1/17/329-330.pdf.
Shinego, W. (2024) DOD leverages Defense Production Act to galvanize critical supply chains, U.S. Department of Defense, December 4, www.defense.gov/News/News-Stories/Article/Article/3985393/dod-leverages-defense-production-act-to-galvanize-critical-supply-chains/.
Stern, J. (2022) The COVID-19 pandemic and the defense production act: government misuse and failures, *Public Contract Law Journal*, 51(2): 323–44.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Truman, H.S. (1950) Letter to committee chairmen on the Defense Production Bill, The American Presidency Project, August 1, www.presidency.ucsb.edu/documents/letter-committee-chairmen-the-defense-production-bill.

Trump, D. (2020) Executive Order 13917: delegating authority under the Defense Production Act with respect to food supply chain resources during the national emergency caused by the outbreak of COVID-19, *Federal Register*, 85(85): 26313–14, www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-09536.pdf.

Tucker, T. (2022) Priorities and allocations: how the Defense Production Act allows government to mobilize industry to ensure popular well-being, Roosevelt Institute, https://rooseveltinstitute.org/wp-content/uploads/2022/01/RI_PrioritiesandAllocations_IssueBrief_202201.pdf.

US Congress (1916a) National Defense Act of 1916. Public Law 64-85, June 3, 39 Stat. 213, www.govinfo.gov/app/details/STATUTE-39/STATUTE-39-Pg166.

US Congress (1916b) Army Appropriations Act of 1916. Public Law 64-242, August 29, 39 Stat. 645, www.govinfo.gov/app/details/STATUTE-39/STATUTE-39-Pg619.

US Congress (1917a) An Act to Authorize Condemnation Proceedings of Lands for Military Purposes. Public Law 65-26, July 2, 40 Stat. 241, https://www.govinfo.gov/app/details/STATUTE-40/STATUTE-40-Pg241-2.

US Congress (1917b) An Act to Provide Further for the National Security and Defense by Encouraging the Production, Conserving the Supply, and Controlling the Distribution of Food Products and Fuel. Public Law 65-41, August 10, 40 Stat. 279, www.govinfo.gov/app/details/STATUTE-40/STATUTE-40-Pg276.

US Congress (1932) Reconstruction Finance Corporation Act. Public Law 72-2, January 22, 47 Stat. 8, www.govinfo.gov/app/details/STATUTE-47/STATUTE-47-Pg5.

US Congress (1933) National Industrial Recovery Act. Public Law 73-67, June 16, 48 Stat. 199, www.govinfo.gov/app/details/STATUTE-48/STATUTE-48-Pg195.

US Congress (1940a) An Act to Expedite National Defense, and for Other Purposes. Public Law 76 671, June 28, 54 Stat. 676-80, www.govinfo.gov/app/details/STATUTE-54/STATUTE-54-Pg676.

US Congress (1940b) Selective Training and Service Act. Public Law 76-783, September 16, 54 Stat. 885-92, www.govinfo.gov/app/details/STATUTE-54/STATUTE-54-Pg885-2.

US Congress (1941a) An Act to Authorize the President of the United States to Requisition Property Required for the Defense of the United States. Public Law 77-274, October 16, 55 Stat. 742, www.govinfo.gov/app/details/STATUTE-55/STATUTE-55-Pg742.

US Congress (1941b) First War Powers Act, 1941. Public Law 77-354, December 18, 55 Stat. 839-41, www.govinfo.gov/app/details/STATUTE-55/STATUTE-55-Pg838.

US Congress (1942a) Emergency Price Control Act of 1942. Public Law 77-421, January 30, 56 Stat. 23-4, www.govinfo.gov/app/details/STATUTE-56/STATUTE-56-Pg23-2.

US Congress (1942b) Second War Powers Act, 1942. Public Law 77-507, March 27, 56 Stat. 176, www.govinfo.gov/app/details/STATUTE-56/STATUTE-56-Pg176.

US Congress (1942c) An Act to Amend the Emergency Price Control Act of 1942, to Aid in Preventing Inflation, and for Other Purposes. Public Law 77-729, October 2, 56 Stat. 765, www.govinfo.gov/app/details/STATUTE-56/STATUTE-56-Pg765-3.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

US Congress (1950a) *Congressional Record: Proceedings and Debates of the 81st Congress, 2nd Session*, vol 96, Part 9, US Government Printing Office.
US Congress (1950b) *Congressional Record: Proceedings and Debates of the 81st Congress, 2nd Session*, vol 96, Part 10, US Government Printing Office.
US Congress (1950c) Defense Production Act of 1950. Public Law 81-774, September 8, 64 Stat. 798, www.govinfo.gov/app/details/STATUTE-64/STATUTE-64-Pg798-3.
US Congress (1953) Defense Production Act Amendment of 1953. Public Law 83-95, June 30, 67 Stat. 129, www.govinfo.gov/app/details/STATUTE-67/STATUTE-67-Pg129.
US Congress (1955) Defense Production Act Amendment of 1955. Public Law 84-295, August 9, 69 Stat. 580, www.govinfo.gov/app/details/STATUTE-69/STATUTE-69-Pg580.
US Congress (1956) Defense Production Act Amendment of 1956. Public Law 84-632, June 29, 70 Stat. 408-9, www.govinfo.gov/app/details/STATUTE-70/STATUTE-70-Pg408.
US Congress (1970) An Act to Amend the Defense Production Act of 1950, and for Other Purposes. Public Law 91-379, August 15, 84 Stat. 796, www.govinfo.gov/app/details/STATUTE-84/STATUTE-84-Pg796.
US Congress (1980) Defense Production Act Amendments of 1980. Public Law 96-294, June 30, 94 Stat. 616-17, www.govinfo.gov/app/details/STATUTE-94/STATUTE-94-Pg611.
US Congress (1992) Defense Production Act Amendments of 1992. Public Law 102-558, October 28, 106 Stat. 4198-4201, www.govinfo.gov/app/details/STATUTE-106/STATUTE-106-Pg4198.
US Congress (1994) National Defense Authorization Act for Fiscal Year 1995. Public Law 103-337, October 5, 108 Stat. 3101-3102, www.congress.gov/bill/103rd-congress/senate-bill/2182/text.
US Congress (2003) Defense Production Act Reauthorization of 2003. Public Law 108-195, December 19, 117 Stat. 2893, www.govinfo.gov/app/details/STATUTE-117/STATUTE-117-Pg2892.
US Congress (2009) Defense Production Act Reauthorization of 2009. Public Law 111-67, September 30, 123 Stat. 2006-2018, www.govinfo.gov/app/details/PLAW-111publ67.
US Congress, House (1917) *Congressional Record: Proceedings and Debates of the 65th Congress, 1st Session*, vol 55, Part 4, June 22, US Government Printing Office.
US Congress, House (1953) *Congressional Record: Proceedings and Debates of the 83rd Congress, 1st Session*, vol 99, Part 5, June 9, US Government Printing Office.
US Congress, Senate (1942) *Congressional Record: Proceedings and Debates of the 77th Congress, 2nd Session*, vol 88, Part 1, January 7, US Government Printing Office.
Wilson, D.E. (1980) *The National Planning Idea in U.S. Public Policy: Five Alternative Approaches*, Westview Press.
Wilson, W. (1917) Joint address to Congress leading to a declaration of war against Germany, National Archives, April 2, www.archives.gov/milestone-documents/address-to-congress-declaration-of-war-against-germany.
Wilson, W. (1918) Executive Order 2868: establishment of War Industries Board, May 28, The American Presidency Project, www.presidency.ucsb.edu/node/353054.

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Appendix 1: The DPA

- *Title I—Priorities and Allocations* empowered the president to prioritize contracts critical to national defense and allocate resources and facilities as needed.
- *Title II—Authority to Requisition* allowed the president to seize property deemed essential for national defense if all other means of acquisition were exhausted, with compensation at a "just price."
- *Title III—Expansion of Productive Capacity and Supply* authorized loans to private businesses to expand capacity, develop technologies, and produce essential materials. The president could also build government facilities and provide equipment for private facilities.
- *Title IV—Price and Wage Stabilization* permitted the president to encourage voluntary agreements between businesses and labor, with the authority to impose price and wage controls if needed.
- *Title V—Settlement of Labor Disputes* enabled the president to mediate labor disputes affecting national defense and, if needed, force settlements of the disputes.
- *Title VI—Control of Consumer and Real Estate Credit* gave the president authority to regulate consumer credit to prevent excessive borrowing and economic instability.
- *Title VII—General Provisions* allowed the establishment of voluntary agreements with private industry, which are then granted antitrust protection.

Source: US Congress (1950c).

Appendix 2

Table A1: Legal precedents for the DPA

DPA component	Precedent
Title I—Priorities and allocations	National Defense Act 1916, War Industries Board (1917), Selective Training and Service Act 1940, War Production Board (1942), and the Second War Powers Act 1942
Title II—Authority to requisition	National Defense Act 1916, Army Appropriations Act 1916, Lever Food and Fuel Control Act 1917, Selective Training and Service Act 1940, and the Second War Powers Act 1942
Title III—Expansion of productive capacity and supply	War Finance Corporation (1918) and the Reconstruction Finance Corporation (1932)
Title IV—Price and wage stabilization	Lever Food and Fuel Control Act 1917, War Industries Board (1917), National Recovery Administration (1933), Emergency Price Control Act 1942, and the Stabilization Act 1942
Title V—Settlement of labor disputes	War Labor Board (1918) and the National War Labor Board (1942)
Title VI—Control of consumer and real estate credit	Executive Order 8843 (1941)
Title VII—General provisions	Trading With the Enemy Act 1917

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC

Appendix 3: Abbreviations list

DoD—Department of Defense
DoP—Declaration of Policy
DPA—Defense Production Act
DRA—Departmental Reorganization Act
EPCA—Emergency Price Control Act
FWPA—First War Powers Act
NDA—National Defense Act 1916
NIRA—National Industrial Recovery Act
NRA—National Recovery Administration
NWLB—National War Labor Board
RFC—Reconstruction Finance Corporation
STSA—Selective Training and Service Act
SWPA—Second War Powers Act
TWEA—Trading with the Enemy Act
WFC—War Finance Corporation
WIB—War Industries Board
WPB—War Production Board

Authenticated aweber20@gmu.edu/ Author's copy | Downloaded 06/01/25 02:16 AM UTC