

## Executive Order - Limited or Unlimited Power?

What is an executive order (eo) you ask? An eo is a formal written communication or directive, issued by the President, the boss of the Executive Branch of the U.S. federal government. An eo is issued to members of the Executive Branch directing a federal official or administrative agency to engage in or refrain from a specific course of action. Thus, the true purpose of an eo was and still is to control the workings of the Executive Branch by communicating with and directing the agencies that make up the Executive Branch. In other words, an eo can ONLY be used to execute a power the president, already has in directing the Executive Branch. That's it.

One quick side note. There is also something called a presidential proclamation. A presidential proclamation is celebratory in nature and in essence announces oval office support of a cultural event, a charity drive, a special day or week, etc. More on this at the end of the article.

Now, let's begin at the beginning, the Constitution. Article 1, Section 1 of the U.S. Constitution informs the reader that, "*All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*" For me, this means, All legislative Powers were granted or given only to a Congress, and not to any other part of the federal government. Not judicial and not executive. Which means, only Congress has the power to create laws. This concept, this idea, this demand, this condition, was deemed so very important, that it was written as the very first statement in the U.S. Constitution.

How about a short eo history? George Washington (#1) was the first President elected and the first President to issue an eo. It is recorded that he issued a total of 8. Andrew Jackson (#7) was the first to get to double digits, 12. Ulysses S. Grant (#18) was the first to get to 3 digits, 217. Teddy Roosevelt (#26) was the first to get 4 digits, 1081. While Woodrow Wilson (#28) had 1803 and Calvin Coolidge (#30) had 1203, the big daddy of them all, fdr (#32) had 3721. Clinton (#42) had 364, GW (#43) had 291, Obama (#44) had 276, Trump (#45) had 55 and Biden (#46), so far, 111.

Question - Had the Executive Branch become so dumb during the reign of fdr that they all needed so many instructions, OR, did fdr just decide to become a monarch?

According to some reports, executive orders were mostly unannounced and undocumented, and only properly seen by the agencies to which they were directed to until the early 1900's. Beginning when Herbert Hoover (#31) became president on March 4, 1929, did an eo become officially numbered. Speaking of an eo's number, what about 6102?

On March 4, 1933, fdr became President of the U.S. On April 5, 1933, he issued eo 6102. The title of eo 6102 is "Requiring Gold Coin, Gold Bullion and Gold Certificates to Be Delivered to the Government". This eo forbade the ownership of quantities of gold coin, gold bullion and gold certificates worth in excess of \$100. There were a few exemptions for specific uses and collections. The eo required all persons to deliver, by May 1, 1933, what were now considered excess quantities of the above to a Federal Reserve Bank or a branch or agency thereof or to any member bank of the Federal Reserve System, in exchange for \$20.67 per troy ounce. The term "person" included any individual, partnership, association or corporation. By 1934, gold was revalued to \$34.84 per troy ounce. Yep, the dollar just got a huge devaluation. Thank you fdr.

Oh yeah, I almost forgot. If you were silly enough to not comply with eo 6102, you could be subject to criminal penalties for violating this eo that included an up to \$10,000 fine and up to 10 years imprisonment, or both. Though the eo is not Law, it somehow is able to unconstitutionally give the federal government the power and authority to subject a person to massive criminal penalties for not complying.

Statements that are Wrong and or Dangerous.

"An executive order is a signed, written, and published directive from the President of the United States that manages operations of the federal government." I say No. The above is correct until the writer goes past the last the. An eo is issued only to manage the operations of the Executive Branch, not the Legislative Branch or Judicial Branch.

"Under our system of government, the president's authority to issue such orders (or to engage in any other form of unilateral executive action) must come from the Constitution or federal law." I say No. The above is correct until the writer goes past Constitution. Federal law cannot change the Constitution nor give a president the power to act unconstitutionally. The only proper legal way to change the Constitution is to have an Amendment to the Constitution ratified. Period.

"An executive order is defined as a declaration by the president which has the force of law, usually based on existing statutory powers. Executive orders do not require any action by the Congress or state legislature to take effect, and the legislature cannot overturn it." I say this is the definition of dumb. The Legislative or Law-Making power is vested only in the Congress, therefore, a president CAN NOT create law or write something that now, miraculously, has the "force of law". The president also was not granted the power to tell any American Citizen who is not an employee of the Executive Branch what to do. If a president attempts this, then we all need to say, Bite Me.

"Executive Orders can have the force of law, even if they do not follow the same procedure as bills passed." I say No Way. An eo is not Law, it is only a communication intended for and directed to the Executive Branch of the federal government. Laws affect all the people, while an eo can only properly affect the Executive Branch.

"A president, without congressional approval, can interpret laws." So absolutely very wrong. Laws, just like their source, the Constitution, are not to be interpreted. Laws,

like the Constitution, you know, the Contract, are to be read, understood, and then followed.

“Executive Orders are official documents through which the President of the United States manages the operations of the Federal Government. The directives cite the President’s authority under the Constitution and statute (sometimes specified).” Oh My, Oh My!! The president can only Constitutionally manage the Executive Branch, not the Legislative Branch or Judicial Branch. The Constitution does not give any authority to the president to issue an eo.

In closing, there is no specific provision in the U.S. Constitution for the issuance of an eo. Therefore, an eo can never be a Law, just a communication between the president and the Executive Branch. That’s it.

A presidential proclamation is an announcement of policy, not Law, from the President. The vast majority of proclamations are issued to announce oval office support of a national thing. The thing maybe a public works project, a ceremonial event, or maybe special consideration for something like National Hurricane Awareness Week. Either way, it is just an announcement.

On Thursday, November 26, 1789, President George Washington issued the first ever presidential proclamation for “a day of public thanksgiving and prayer.” Note the day, Thursday. In 1863, President Abraham Lincoln encouraged Americans to recognize the last Thursday of November as “a day of Thanksgiving.”

But is a presidential proclamation legally binding? The short answer is NO. Proclamations, as stated above, typically deal with the activities that are ceremonial in nature and do not have the force and or effect of law. The Constitution does not give a president any authority over private individuals.

Regardless of why a president issues an eo, the eo is NOT LAW. It is not to the American People. Which begs the question, why don’t our elected employees in DC speak out and say an eo is NOT LAW and the American People are not to be treated as subjects? I guess because they don’t know better. They swear an Oath to Protect and Defend the Constitution but actually may not be able to pass a simple test on the subject. If they could, perhaps they would have spoken out by now.

If you want to study any eo, check out the National Archives, it maintains a list of all the eos and are indexed by Presidents, by Order number, and by subject.