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Executive Orders

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Where in the Constitution is the President given the authority to issue Executive Orders? And if not, how and when did this practice begin and become acceptable? It seems that Executive Orders are very similar to Proclamations by kings and dictators and are not in keeping with the ideals of the Constitution.

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[David E. Johnson](#) · 3 days ago 🔒

Washington was the first to issue an Executive Order. *"The very first presidential executive order was a proclamation signed by George Washington on April 22, 1793, giving instruction to federal officers to prosecute any citizens interfering with the war between England and France. In this case, Washington made the decree by executive order because Congress was out of session "*

[There is a long list of Executive Orders.](#)

"Since the enactment of Executive Order 11490, the only thing standing between us and dictatorship is the good character of the President, and the lack of a crisis severe enough that the public would stand still for it." Howard J. Ruff.

↑ 1 ↓ · flag

[+ Comment](#)[Albert Strong](#) · 17 hours ago 🔒

I posted this on another thread and will repost here. I hope it is helpful:

This is part of the debate over the vesting clause of the Constitution. The President is vested with the Executive power vs Congress is granted powers enumerated in Article I. Also note that authority for some Executive Orders (actually a lot of EO) is granted by Congress through statute.

The Question is what does the vague phrase vested with executive power mean? Every President since George Washington issued EOs. Washington, Adams, Jefferson, Madison etc. Note 2 of those persons were key players in the Framing and Ratification processes (the other two out of the Country).

If Washington and Madison believed EOs are Constitutional as demonstrated by their practice and performance, I would defer to them.

Executive Orders carrying the force of law are reviewable by the courts and can be legislatively over-ridden by Congress so all the hand-wringing over them is unnecessary given that there is a remedy both in Court and in Congress.

Hamilton and Madison, Framers, Founders and partners in the writings of the Federalist Papers disagreed over what vested powers meant and discussed them at length in a series of pamphlets and newspaper articles precipitated by Washington's Neutrality Proclamations. (Note normally Proclamations do not carry the force of law, this one did repealing several sections of the Anglo-French Treaty signed before the Revolutionary government took over). My point here is that if these two premier Founders disagreed over the scope of the vesting clause, it is probably undiscoverable to us on these discussion boards. Their Debate can be read here:

The Pacificus-Helvidius Debates of 1793-1794: Toward the Completion of the American Founding
http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=1910&Itemid=27

Since we have agreed on another thread that wiki is an acceptable source for citations on the discussion threads I offer this short statement from the ASK search engine which offers a much fuller discussion than I am pasting here:

Constitutional Authority for Executive Orders

[Article II, section 1](#) of the [U.S. Constitution](#) reads, in part, "The executive power shall be vested in a president of the United States of America." And, Article II, section 3 asserts that, "The President shall take care that the laws be faithfully executed..." Since the Constitution does not specifically define executive power, critics of executive orders argue that these two passages do not imply constitutional authority. But, Presidents of the United States since George Washington have argued that they do and have used them accordingly.

<http://usgovinfo.about.com/od/thepresidentandcabinet/a/Presidential-Executive-Orders.htm>

Hope that helps as a start.

↑ 2 ↓ · flag

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Alec D. Rogers · 16 hours ago

Executive Orders are nothing more than a "memo to staff" explaining how the President wants a certain executive authority handled. The vast majority fall into the "housekeeping" category of please

purchase environmentally friendly products, please conduct a study on patent trolls, etc. Every now and then one actually undercuts a statute and then the courts sort it out.

In short, though, there's nothing worrying about the concept itself. Like all exercises of government power, it is of course subject to abuse. But it's more instructive to identify and discuss particular orders than debate the concept of them.

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[Joel Kovarsky](#) · 15 hours ago 🔗

I do not see anything making presidential executive orders comparable to proclamations by "kings and dictators," although that fear has been stated. They do have a long history, and have been used for varied purposes. They have also been constrained by prior SCOTUS decisions and can be overturned by Congress (does not happen often), but that does not mean they do not generate controversy.

<https://www.votetocracy.com/blog/79/understanding-executive-orders-and-the-powers-they-grant>

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