

The Danger of Executive Action

We've come to a place in our political discourse when government action often is perceived as more important than respecting the traditions and institutions upon which that very government derives its authority. Many Americans are impatient with the process required by our system of checks and balances.

The recent announcement by President Obama regarding his "executive actions to reduce gun violence" certainly [reveals](#) this impatience:

"But we do have to feel a fierce sense of urgency about it. In Dr. King's words, we need to feel the fierce urgency of now. Because people are dying and the constant excuses for action no longer do, no longer suffice. That's why we're here today, not to debate the last mass shooting but to prevent the next one."

For some on the Right, the idea of executive action on guns is seen as a gross violation of the Constitution and a way for President Obama and his allies to enact laws that they couldn't through legislation. From the Left, there may be disagreements about the constitutionality of the executive action, but there would likely be an admittance that these actions are an attempt to achieve something which couldn't be achieved through the routes prescribed by the Constitution.

The U.S. Constitution is quite clear when it comes to which branch of government creates the federal laws for the country. Right after the Preamble of our founding document, the Constitution states:

"Article 1, Section 1: 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.”

Now the executive branch, which President Obama heads, can argue that sometimes executive orders are needed and perfectly constitutional when clarifying or working within existing laws. There certainly is a long history of their use in some form or another going back to our first president, George Washington.

That said, there have also been many examples of abusing executive orders. In these cases, the president initiating the executive order, such as President Franklin Roosevelt, was found to be overstepping his bounds and actually creating a new law, something that is the sole domain of Congress.

I’m not going to try to weigh in on whether or not President Obama’s current executive actions are constitutional. That’s something for the constitutional lawyers and the courts to come to a resolution on. Though, I do have a sneaky suspicion that enough laws are on the books that justifications for many executive orders, not just on guns, could be found.

And that’s what troubles me the most. It should trouble all of us, but I doubt it will trouble a lot of us so long as it’s “my guy” in office who is issuing the executive orders.

Right now, it’s the conservatives and libertarians who are literally and figuratively up in arms. Many on the Left are cheering the move as long overdue. But what if the roles were reversed? What if it was President Trump instead of President Obama issuing an executive order on immigration? Would those who now cheer President Obama still be cheering if a hypothetical President Trump takes action because Congress won’t make a decision?

Those who are supporting Trump in his run for the presidency have repeatedly cited the [Immigration and Nationality Act of 1952](#) to defend the legality of his position on executive

action regarding Muslim immigrants. For those on the Left who think the idea of citing that law for executive action is absurd, here's how Rush Limbaugh [describes](#) the justification:

“Here is number eight US Code 1182, inadmissible aliens. This law was written in 1952. It was passed by a Democrat-controlled Congress, House and Senate, and signed by a Democrat president.

‘Suspension of entry or imposition of restrictions by president. Whenever the president finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, the president may, by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants or impose on the entry of aliens any restrictions he may deem to be appropriate.’

Over here, everybody in the establishment in the political class, Republican, Democrat, media, you name it, is all claiming that what Trump said is dumb, stupid, reckless, dangerous, unconstitutional, while it is the law of the land. And it was utilized by Jimmy Carter, no less, in 1979 to keep Iranians out of the United States, but he actually did more. He made all Iranian students already here check in, and then he deported a ton of 'em.”

If you're on the Left, and you can imagine a President Trump, do you think he'd use this argument to justify an executive order banning Muslims from immigrating to the United States? Furthermore, what if it is “legal” in the same way President Obama's executive orders are “legal”? Does that trouble you?

The warning is real. While we may think that government action by executive order is superior to a long, drawn-out battle over legislation in Congress, it violates the very balance of power that was purposefully instituted in our Constitution for

those times when “your guy” isn’t occupying the White House. It is also reveals the dangers of having mountains of laws on the books.

If we as a society are increasingly willing to toss aside the traditions and rules put in place long ago in the name of expediency, then we may as well as give ourselves over to our desires to have a democratically elected Caesar. Or we can stand firm against abuses of power, even when it’s what we want or it’s “our guy” who is doing it.