
(THE AUTHORITY OF THE US PRESIDENT IN TAKING CARE OF THE EXECUTION OF LAWS) - AN ANALYTICAL STUDY

JASIM MOHAMMED SHALAL^{1,2}

1DAMASCUS UNIVERSITY / FACULTY OF LAW / PUBLIC LAW DEPARTMENT

2 UNIVERSITY OF ANBAR / COLLEGE OF EDUCATION FOR HUMANITIES

HASSAN MUSTAFA AL-BAHRI

DAMASCUS UNIVERSITY / FACULTY OF LAW / PUBLIC LAW DEPARTMENT

Abstract

The task of executing laws, in various constitutions around the world whether parliamentary, presidential or mixed, is the primary function of the executive branch, from which this authority derives its name. It was natural, after the founding fathers of the United States Constitution entrusted executive power to the President of the United States, to stipulate the President's duty to **"take care that the laws be faithfully executed."** The oath taken by the American President before assuming office also requires him to preserve the Constitution of the United States, which is the supreme law of the state. The President's mission in this regard is not limited to executing federal laws only, but obviously includes safeguarding the rights and conditions guaranteed by them and protecting the social order against any aggression or breach. American jurisprudence and legal scholarship have established recognition of the President of the United States' authority to use various means to fulfill his duty of taking care of law execution, including issuing executive regulations, exercising presidential authority, and using force when necessary. This research analyzes the authority of the American President in taking care of law execution through two main sections: the first explains the content of this authority, and the second reviews the means available to the President to fulfill this duty.

Keywords: Executive Authority, President of the United States, Law Enforcement, Executive Regulations, Presidential Power.

INTRODUCTION

According to the United States Constitution issued in 1787, Congress makes laws, courts interpret them, and the President executes them. The task of executing laws is the primary function of the executive branch in various constitutions of countries in our contemporary world, from which this authority derives its name, and even its reason for existence based on the principle of separation of powers. **The first paragraph of Article Two of the American Federal Constitution states: "The executive Power shall be vested in a President of the United States of America"**(1). It was natural, after the Constitution assigned federal executive power to the President of the United States, to stipulate in the third paragraph of Article Two the President's duty to **"take care that the Laws be faithfully executed, and commission all Officers of the United States"**(2). The American Constitution emphasized the President's commitment to this duty, requiring the President of the United States, before assuming office, to **"swear to do his utmost to preserve, protect and defend the Constitution"**(3), as it is the supreme law of the land according to Article Six of the Constitution(4).

Shortly after the United States Constitution came into effect, one of the founding fathers, "James Madison" - the fourth President of the United States - described the President's duty to take care that laws be faithfully executed as the **"essence"** of the presidential office(5).

Constitutional jurisprudence in the United States addresses the American President's authority or duty to take care of the faithful execution of United States laws under the title: "Take Care Clause." Although its precise meaning is unclear, this clause has been used to justify extensive executive power practices. Indeed, among the many powers granted to the President, nothing is more important or controversial than the American President's power to execute

laws. Constitutional battles have been fought over the extent to which the right to execute laws includes authority beyond the laws enacted by Congress.

RESEARCH OBJECTIVE

This research aims to shed light on one of the most important powers of the American President stipulated in the United States Constitution issued in 1787, which is "**taking care of the faithful execution of laws.**" The content and limits of this authority will be explained, then the means available to the American President to fulfill this task.

RESEARCH PROBLEM AND QUESTIONS

The main research problem is understanding the entity responsible for executing laws in the United States Constitution issued in 1787 and the nature of its powers. This problem branches into several sub-questions:

- Who can fulfill the duty of taking care of law execution?
- What is meant by "laws" here? Is it limited to federal laws?
- What is the relationship between the take care clause and the President's power to remove officials?
- Is removal power a primary supervisory tool for the American President?
- What means does the American President have to fulfill his duty in law execution?

RESEARCH METHODOLOGY

To answer the main research problem and its sub-questions and achieve research objectives, we followed the analytical methodology, which will show its role in analyzing the nature of the American President's authority or duty to take care of faithful execution of United States laws, and the limits of discretionary authority he possesses in this regard. This is done through analyzing federal constitutional texts, discussions from the 1787 Philadelphia Constitutional Convention, the Federalist Papers (considered the best explanation of the US Constitution), and Supreme Court decisions.

RESEARCH DIVISION

The study topic will be divided into two main sections: the first explains the content of the American President's authority in taking care of law execution, and the second reviews the means available to the President to fulfill this duty. We conclude with a focused conclusion showing study results.

First Section: Content of the American President's Authority in Taking Care of Law Execution

Among the established principles in the British parliamentary system is that "**The king cannot act alone.**"

Applying this principle, it was decided that the King's signature on state affairs is only binding if signed by the Prime Minister and the competent Minister. Hence it is said that "**The King reigns, but does not rule,**" meaning he is merely a symbol without real effective powers in managing state affairs(6). However, the situation is completely different under the American presidential system, where the head of state - who simultaneously holds the position of head of government or executive head of the federal government - exercises executive branch functions in a real, effective capacity, being the only actual head of it. Hence it is said: "**He reigns, but he also rules**"(7).

The President of the United States enjoys numerous jurisdictions, some explicitly stated in the federal Constitution, and others contained in laws issued implementing explicit or implicit constitutional provisions(8). Examples explicitly stated by the Constitution include: "**the President's power to appoint senior federal officials**"(9), and "**conclude treaties with Senate approval**"(10). Examples from laws include: "**the American President's power to conclude reciprocal trade agreements**" **The Reciprocal Trade Agreements Act** unilaterally (without Congressional approval) under the 1934 law, and his authority to **reorganize government services** under **The Reorganization Act** of 1939(11).

What has been disputed, even among American Presidents themselves, is whether the jurisdictions contained in the federal Constitution are exhaustive or whether the President has other inherent **Inherent Powers**(12) that belong to him as chief executive(13). "Hamilton," "Jackson," and "Theodore Roosevelt" supported the idea of inherent powers.

The Federal Supreme Court took this approach in the "**Neagle Case,**" declaring in its famous 1890 ruling that "the President of the Republic, as head of the executive branch, and without need for explicit text, can protect all rights and obligations arising from the Constitution"(14). President "William Howard Taft" denied this opinion, arguing that the correct view in defining executive function "... is that the President cannot exercise any power not based

originally on explicit or implicit authorization. This authorization must be contained in the Constitution or a law enacted by Congress implementing it. There are no unlimited inherent powers he can rightfully use under the pretext of public good"(15).

The Supreme Court in the United States appears to have recently adopted the second opinion. Despite exceptional circumstances during World War II requiring expansion of presidential powers, it declared in **Ex parte Quirin** in 1942 that **"neither Congress, nor the President, nor the judiciary possesses any power not derived from the Constitution"**(16).

This opinion seems more appropriate for adoption because it aligns with the nature of the American Constitution and the goals its drafters sought. The Constitution is based on the nation being the source of powers and defines for each authority the scope within which it must operate. There is no room then to say that the President, Congress, or judiciary has a distinct autonomous existence separate from the Constitution, or that it can exercise power not explicitly or implicitly granted by the nation(17).

Accordingly, the President's authority to take care of law execution is not limited only to overseeing execution of legislative texts enacted by Congress and treaty texts the United States is bound by, but extends to include execution of all legal rules establishing various individual rights and freedoms, and establishing various powers, duties, and immunities related to government whether domestically or in foreign relations(18).

FIRST - WHO CAN FULFILL THE DUTY OF TAKING CARE OF LAW EXECUTION?

The Federal Supreme Court has acknowledged in numerous rulings that the law does not require the President to personally perform his duty of taking care of law execution. The Court said such practice would result in "absorbing the duties of various government departments in the personal acts of a single executive," which would be not only impractical but "impossible." While "the President's duty generally requires his supervision of administration," the Court held that "the President cannot be required to become the administrative officer of every department and office, or personally perform the numerous details associated with services" required of him under the Constitution and applicable laws. In fact, as a matter of administrative practice, most orders and instructions are attributed to department heads, although these orders and instructions are based on authority granted by law to the American President(19).

Therefore, when the American President exercises his executive powers under the Constitution, he speaks and acts through heads of various government departments regarding matters related to each of their duties. Department heads are the President's authorized assistants in performing his executive duties, and their official actions, issued in the course of usual work, are presumed to be acts issued by the President(20).

SECOND - THE RELATIONSHIP BETWEEN THE TAKE CARE CLAUSE AND THE PRESIDENT'S POWER TO REMOVE AND SUPERVISE OFFICIALS

Since the American Constitution entrusts, under the first paragraph of Article Two, all executive power to the President of the United States, who must, under the third paragraph of Article Two of the Constitution, ensure "faithful execution of laws," and since it would be impossible for one person to perform this responsibility alone, the Supreme Court has indicated that **the founding fathers expected the President to rely on subordinate officers for assistance** The Framers expected that the President would rely on subordinate officers for assistance. Consequently, the Supreme Court held that **the President's power to remove - and thus supervise - those who exercise executive power on his behalf stems from the text of Article Two of the Constitution**(21). The President's power to remove - and thus supervise - those who wield executive power on his behalf follows from the text of Article II.

Some early opinions on the American President's removal power are largely based on the **"Take Care Clause."** In the 1789 discussion in the First Congress about whether the Constitution empowers the President to unilaterally remove executive branch officials, Representative "James Madison" expressed his opinion that heads of some executive departments should be removable by the President alone. According to his opinion, the Constitution's intent, expressed particularly in the faithful execution clause, was for the chief executive (President) to be responsible for executive power, and this responsibility entails the power to "inspect and monitor" the conduct of senior executive officials under him(22).

Second Section: Means of the American President for Taking Care of Law Execution

American jurisprudence and legal scholarship have established recognition of the President of the United States' authority to use various means to fulfill his duty of taking care of law execution. These means include issuing executive regulations, exercising presidential authority, and using force, as discussed below:

FIRST - ISSUING EXECUTIVE REGULATIONS

Executive regulations are regulatory decisions issued by the executive authority to clarify detailed rules necessary for implementing legislation issued by the legislative authority. Executive regulations in this sense represent the original form of regulatory power, where the wisdom of granting the executive authority the right to issue regulations is realized, because the legislative authority usually lacks the time and expertise in implementation and application matters needed to determine partial and detailed provisions for the general principles it establishes. The executive authority, by the nature of its function and continuous contact with the public, is better able to know the details necessary to put these general principles into effect. Therefore, we find that the power to issue executive regulations is acknowledged for administration in all countries(23).

Despite the American Constitution lacking any text permitting the executive authority represented by the President to exercise the power to issue executive regulations, the situation in the United States has stabilized - in jurisprudence and law - on recognizing the American President's right to issue this type of regulation based on the third paragraph of Article Two of the American Constitution, which provides that "the President shall take care that the laws be faithfully executed"(24), considering that these regulations constitute something necessary and essential to enable the President to exercise the power assigned to him by the Constitution in executing laws enacted by Congress(25). In other words, the American President's exercise of his power to issue executive regulations finds its basis and justification in what is called the "**Presidential Implied Powers**" theory Presidential Implied Powers, which is a recognized theory in American constitutional jurisprudence and law. Its meaning is that the American President's jurisdictions and duties are not limited to those explicitly stated in the Constitution, but also include those that can be implicitly derived from explicit constitutional texts individually or collectively(26).

The President of the United States possesses a wide range of tools that can be used to achieve his policy objectives, foremost among them executive regulations. The President exercises his power to issue these regulations through what are called "Executive Orders" Executive Orders and "Presidential Proclamations" Presidential Proclamations. These two forms are very similar to the regulatory system established for executive authority in countries that adopt the parliamentary system(27). However, no tool is more controversial than executive orders. They allow the President to act without Congressional approval and issue a decision with the force of law simply by the President's signature(28).

Since the President enjoys the power to issue this type of regulation based on the Constitution, he can issue them implementing various legislation enacted by Congress, whether this legislation provides or does not provide for granting him the power to issue regulations enabling him to implement this legislation. However, some legislation may include explicit text assigning the power to issue its executive regulations to some other executive bodies besides the President. In this case, the President is prohibited from exercising the power to issue executive regulations for this legislation in compliance with the constraint that limits all his powers generally: the obligation to submit to legislation issued by Congress. In this case, the entity designated by the legislation issues its executive regulation, called Rules(29).

It should be noted that the authority to issue executive regulations is not limited to the American President alone, but is also shared by heads of federal government departments and agencies, based on delegation from the President himself. The task of **Presidential Delegation of powers** Presidential Delegation of powers was facilitated by Congress issuing general legislation in 1950 (called the McCormack Act No. 673 of 1950) through which it regulated the presidential delegation process. This empowered the American President to delegate to the chief executive of any department or agency under the executive authority, such as the minister and those at his level, such as the federal attorney general [Minister of Justice], and the federal postmaster general [Minister of Communications], or any government employee under the federal executive authority appointed by the President based on the advice and consent of the Senate implementing Article Two of the American Constitution(30) (such as ambassadors and other diplomatic personnel and senior military officers...), any function granted to the President by law or requiring law to be exercised by any of the mentioned persons after the President's approval(31). Executive regulations, whether issued by the President himself or by federal administrative bodies Federal administrative bodies, are - in terms of their nature - ranked lower than legislation and must comply with its provisions without modification or addition of provisions not intended by Congress. In this regard, the American Federal Supreme Court states that "**Presidential regulations and orders** Presidential regulations and orders **issued based on legislation authorizing him to do so or based on his constitutional powers have "force of law"** Force

of law, **provided they do not violate** Transgress the Court's reading or understanding of this legislation or the **Constitution**"(32). This ruling means only that these regulations enjoy binding force making them mandatory for implementation like law, but this does not mean these regulations enjoy the same rank as legislation issued by Congress. It is clear that the Supreme Court has required that for regulations to have the force of law - i.e., legal binding force - they must not violate the law, which would not be required if we said that regulations have the rank of legislation itself, where they could contradict legislation and even repeal it(33).

SECOND - EXERCISING PRESIDENTIAL AUTHORITY OVER THOSE RESPONSIBLE FOR LAW EXECUTION(34)

In cases where the President does not execute the law himself, which happens in most cases, where execution is carried out by his subordinates either as delegated authority from the President to perform tasks assigned to him under the Constitution or law, or as original authority directly assigned certain powers by law not assigned to the President through the Constitution or law.

The President fulfills his duty to take care of law execution in both cases by exercising presidential authority over his subordinates from ministers and office heads and their subordinate employees, by issuing orders to them to act in a certain way, and his right to review their decisions, and taking the decision himself in case subordinates exercise delegated authority, or dismissing the subordinate in case this subordinate exercises original authority, if this subordinate insists on not submitting to the President's orders regarding how to exercise his original jurisdiction(35).

American Presidents have based their exercise of this presidential authority over their subordinates from executive branch members on the American Constitution text stating: "**Executive power shall be vested in the President of the United States,**" and on the constitutional text stating that "**the President shall take care that the laws be faithfully executed,**" considering that this presidential authority is necessary for the President to exercise what is stated in these two constitutional texts.

This presidential authority is also based on what the American Constitution establishes in the third paragraph of Article Two that "**the President is the one who grants authorization to exercise office powers to all United States officers upon their appointment**"(36), in addition to what the second paragraph of the same article establishes that "**the President may require the principal Officer in each of the executive Departments to provide his opinion in writing on any subject relating to the duties of their respective offices**"(37).

This presidential authority has been supported by American judicial recognition of the President's power to remove all members of the executive authority in whose appointment he participated, and the inadmissibility of Senate participation in this power. Even if the law assigns the power to remove some executive branch workers to one of the President's subordinates, he can, under his presidential authority, order this subordinate to remove any of these workers, and even remove the subordinate in case of non-compliance with this order(38).

The fact is that the American Constitution did not organize presidential authority exercised by the President toward his subordinates, nor did American judiciary address this authority except regarding the President's power to remove these subordinates. However, there was an incident that occurred during the seventh President of the United States "Andrew Jackson (1829-1837)" Andrew Jackson, addressed in various American publications as the incident that clarified various features of the American President's presidential authority toward his subordinates(39).

The mentioned incident is summarized as follows(40): A law was issued in 1789 containing text authorizing the establishment of the Bank of United States Bank of United States, stating that the Secretary of the Treasury Secretary of the Treasury had jurisdiction over withdrawing federal deposits of money Federal deposits of money from this bank. These deposits represented the greatest portion of deposits in the mentioned bank, and the government's massive deposits enabled it to control the country's credit policy in a way that was not satisfactory to President "Andrew Jackson" Andrew Jackson, who wanted, upon his re-election in 1832, to withdraw state deposits from this bank to break its control over credit policy. The Treasury Secretary at the time - called "Louis McLane" Louis McLane - was known for opposing the idea of withdrawing the mentioned deposits. The President did not have the power under the mentioned law to withdraw government deposits from the mentioned bank, and thus the presence of this minister was an obstacle to achieving the President's goals. President Jackson transferred the minister to the State Department and appointed another called "William John Duane" William J. Duane in his place on June 1, 1833. However, this minister in turn showed reluctance about withdrawing deposits and expressed his desire to present the matter to Congress for its opinion. The President refused this and sent a letter to "Duane" explaining his viewpoint on this matter. "Duane" conducted research on the matter while expressing his reservation that even if his research concluded the correctness of the idea of withdrawing deposits, he would not find himself able to make such a decision. President Jackson drew "Duane's" attention to the President's right to guide the

minister on the course of action the President sees as necessary from his viewpoint. "Duane" responded that he would resign from his position after finishing his research on the matter if he continued feeling unable to implement the President's will(41). In a cabinet meeting on September 18, 1833, the President reaffirmed his determination to withdraw government deposits from the mentioned bank, but Minister "Duane" informed the President three days after this meeting that he would not withdraw the deposits and was not determined to submit his resignation. Faced with this, the President dismissed this minister (after only four months of his appointment) and appointed "Roger Brook Taney" Roger B. Taney as Treasury Secretary on September 23, 1833. He immediately withdrew federal deposits from the mentioned bank(42). Faced with the above, Senator "Henry Clay" Henry Clay (representing Kentucky) convinced the Senate to pass a censure resolution against the President and include it in the Senate Journal because he ordered withdrawal of federal deposits from the Bank of the United States, and by this action he assumed authority and power not granted to him under the Constitution or laws, but in violation of both "assuming upon himself authority and power not conferred by the Constitution and laws, but in derogation of both."(43). President "Jackson" faced the Senate's challenge with a written "**Protest**" submitted on April 15, 1834, in which he clearly declared his belief that **"the President is the direct representative of the American people"** the President is the direct representative of the American people, not the Senate, which he described as "a body not directly representative of the people" because its members are elected by state legislatures. "Jackson" also declared that the censure resolution issued by the Senate was "unauthorized by the Constitution, contrary to its spirit and several of its express provisions," and violated the principle of checks and balances drawn by the Constitution between the three branches of federal government(44). President Jackson included in the protest message sent to the Senate his opinion on the President's presidential authority over his subordinates, stating: "It is established under the Constitution and laws and all government practice that the entire executive power is vested in the President. As a result of this power, he has the right to appoint and remove those officers who assist him in executing laws within the constraints placed by the Constitution. The Treasury Secretary is only one of these officers, and his duty in caring for public money is an executive duty related to money. It is not the case that the Treasury Secretary's performance of this function himself or through his subordinates should not be subject to presidential oversight or freed from procedures related to consulting the President and obtaining his approval. The bank establishment law does not change the relationship between the President and the minister. This law does not relieve the President of his duty to take care of faithful law execution, nor does it relieve the minister from submitting to the President's supervisory or monitoring authority(45). Although the Senate refused to accept the President's objection to the Resolution of Censure Resolution of Censure at that time, it later (on January 16, 1837) decided to expunge this resolution from the Senate record, which was interpreted as Congressional recognition of the President's presidential authority toward his subordinates from executive branch members as exercised by President Jackson, even regarding jurisdictions exercised by these subordinates as original authority rather than delegated authority. This means recognition a fortiori of this authority in case these subordinates exercise powers delegated to them by the President. It is noted here that the President's actual exercise of presidential authority over all executive branch members regarding their implementation of various laws in the same manner that appeared in the matter of President Jackson and his Treasury secretaries is practically impossible, given the enormity of the executive apparatus and its containment of hundreds of agencies and hundreds of thousands of workers in addition to the ramification and continuous increase of its jurisdictions. Add to this the American President's preoccupation with many other tasks that consume the vast majority of his time, leaving only a very small amount of time for supervising his subordinates(46).

We conclude: The American President is tasked with overseeing law execution after their issuance, so that laws issued by Congress are executable(47). The President must also preserve and defend the Constitution as the supreme law of the state. His function in this regard includes protecting rights and freedoms and protecting the social public order against any aggression or breach, assisted by federal employees.

The President of the United States' authority to execute federal laws requires two things: First, that he interpret the law, which relates to legislative and judicial aspects. **Second**, after interpretation, the President decides the method of applying laws(48).

For the President to execute federal laws, he has the right to issue Executive Orders and decisions and Proclamations, because legislation enacted by Congress is characterized by generality and therefore needs details and clarification of particulars. This is done through decisions and executive orders issued by the President(49). The President is obligated to execute laws even if they do not agree with his personal opinions, but he can practically be lax in executing laws that do not agree with his personal opinions, or interpret them narrowly. However, the President is subject in his interpretation of laws to oversight by the Federal Supreme Court, which usually makes him rush to execute federal laws and also prevents him from interpreting laws in a way that suits his opinions(50).

THIRD - THE PRESIDENT'S USE OF FORCE TO TAKE CARE OF LAW EXECUTION

It has become established in the American constitutional system that if the President determines that there is material action such as gatherings, disturbances, rebellions, strikes, or other actions that would make the government unable to execute any federal laws in any state by following usual judicial methods, he has the power to call the National Guard of any state to federal service or use army forces as he deems necessary to execute these laws by force and suppress these unlawful actions(51).

Therefore, the American President can use force based on his assessment alone to fulfill his duty of taking care of law execution, based on two basic conditions:

- 1 - The existence of material actions that lead to the impossibility of executing federal laws in any state. It is not sufficient for there to be mere disturbances, strikes, or any acts of violence in a state for the President to use force against them, as long as these actions have not led to obstruction of federal law execution or any state laws protecting rights or freedoms established in the Constitution or federal laws(52). The federal Constitution requires (under the fourth paragraph of Article Four) for the American President to use force in case any of these actions occur in a state without resulting in obstruction of the mentioned laws execution, that this intervention be requested by the state's legislative assembly, or its executive authority in case the legislative assembly cannot convene(53).
- 2 - That the United States government cannot execute federal laws because of the mentioned actions by following usual judicial methods. If the federal government can, despite these actions, execute the law by obtaining an order or ruling from the judiciary or by arresting participants in these actions based on judicial orders for committing acts criminalized by law, then the President does not have the power to use force against these actions.

If the President determines that the two aforementioned conditions are met, he can use American army forces or call the National Guard of any state to join federal service, by his decision alone, without needing Congressional approval or any judicial authority, to execute the law by force. He can of course use less force than the army or state National Guards if he determines that is sufficient, such as using U.S. Marshal "David Neagle" U.S. Marshal David Neagle as a personal guard for "Stephen J. Field" Stephen J. Field, whom President "Lincoln" appointed as an associate justice of the Supreme Court, especially after "David Terry" David Terry announced he would shoot Judge "Field" if he returned to California to attend the next court session(54).

The "Neagle" case was followed by the occurrence of a transportation workers' strike supported by railway workers called the "Pullman Strike"(55) in 1894, accompanied by massive violence that led to paralysis of ground transportation outside Chicago (the largest city in Illinois). The Attorney General (Minister of Justice) obtained a court order to union leaders responsible for the strike not to obstruct mail or disrupt interstate commerce, but the order was not respected, and it appeared that controlling violence in the area had become impossible. The federal marshal informed Washington that the matter had reached a point he could not confront. Faced with this, President Cleveland ordered - without waiting for any request from the legislative assembly or executive authority of Illinois, as the Constitution requires when internal violence occurs, and despite strong protests from Illinois Governor "John Altgeld" John P. Altgeld - sending federal troops to Chicago to restore order and enable resumption of transportation. The President's action was based on these strikes having led to interruption of postal communications and commercial exchange between the United States(56).

In 1895, the Supreme Court issued a ruling recognizing the President's authority to take the aforementioned action. The Court based its decision directly on the "Neagle" ruling, determining that there is security for the United States, and that the President has an original obligation to preserve this security through all means available to the executive authority. He can of course request issuance of an order from federal judiciary to eliminate attacks on this security, but he is not limited to that only. The full force of executive authority can be used for this purpose(57). The use of force to execute federal laws was repeated during President "**Dwight Eisenhower**" Dwight Eisenhower in 1952 and 1957(58), and President "**John Kennedy**" John Kennedy in 1962 and 1963 regarding execution of laws against racial discrimination in some southern states, as well as in 1992 following riots in Los Angeles and destructive storms in Florida. American President "**George Bush Sr.**" George Bush sent American forces to these two states(59).

Since the American President is the commander of the federal administration, he enjoys complete control over affairs during crises such as disturbances, strikes, and rebellion against the government(60), because these are emergency circumstances requiring quick and urgent measures that cannot tolerate delay resulting from taking them by the legislative authority. The President has the **power to declare a state of emergency** that the **Founding Fathers** Founding Fathers recognized should be left to the President's good judgment to protect United States security(61). The President can declare a state of emergency to preserve the American nation's entity and ward off what threatens the country's safety, the most important circumstances being: **External dangers** such as war or foreign invasion, and **Internal dangers** such as armed disturbances, serious unrest, or dangerous incidents that ordinary measures and procedures are insufficient for, actual threat to security safety or public order sovereignty

and their exposure to danger, and finally threat to economic life, and all exceptional circumstances to which the criterion established by American judiciary applies that applies to natural disaster cases such as earthquakes, volcanoes, destructive floods and other cases that threaten serious dangers. The American Constitution did not establish organization for facing emergency situations or clarify the President's powers toward them. It contained only one text permitting suspension of the arrested person's right to appear before court to examine the legality of his arrest if public security requires it in cases of rebellion and invasion. Due to the Constitution's silence on organizing the President's powers to face emergency situations, Congress issued some legislation, and some American judicial rulings were issued to address emergency situations(62).

It is worth mentioning that American President "**Barack Obama**" Barack Obama declared on August 27, 2011, a state of emergency in six American states including New York, Virginia, Maryland, and Massachusetts, and some East Coast states, in anticipation of Hurricane "**Irene**" Hurricane_Irene that was to hit the East Coast there(63). As for the **National Emergency** Proclaiming the existence of a National Emergency, it was declared in the United States during the Korean War on December 16, 1950, when President "**Harry Truman**" Harry S. Truman declared it. President "**Franklin Roosevelt**" Franklin D. Roosevelt had previously declared a limited state of emergency by Decision No. 2353 on September 8, 1939, immediately upon declaration of World War II, then declared a comprehensive state of emergency when the United States participated in that war by Decision No. 3487 in May 1941(64).

When a state of emergency is declared, the President's powers expand greatly. He can call National Guard forces (militia) quickly to ensure execution of federal laws and suppress revolutions and repel attack and invasion. He can take all measures required for protecting states against invasion and resisting internal violence. He may prohibit dealing in foreign currency and gold and freeze foreign state assets in the United States(65). During the first global economic crisis, President **Franklin Roosevelt** issued several decisions after his election in 1933, the most important being temporary suspension of banks, prohibition of dealing in foreign currency, prohibition of gold export and its exit from the United States(66). There is an extreme emergency situation, which is the actual occurrence of dangerous incidents leading to the inability of civilian agencies, requiring the President to impose military rule and the consequent replacement of civilian administration, courts, and laws with military ones in the area stricken by these dangerous incidents(67).

CONCLUSION

After completing, by God's grace and guidance, the presentation of the study topic "**The Authority of the US President in Taking Care of Law Execution - An Analytical Study**" through modest effort made in this research, we present below the most important results reached:

- The effective United States Constitution of 1787 entrusted executive power to the President of the United States and obligated him to take care of faithful law execution. Constitutional jurisprudence in the United States has addressed the American President's authority or duty to take care of faithful execution of United States laws under the title: "Take Care Clause."
- The President's authority to take care of law execution is not limited only to overseeing execution of legislative texts enacted by Congress and treaty texts the United States is bound by, but extends to include execution of all legal rules establishing various individual rights and freedoms and establishing various government powers, duties, and immunities whether domestically or in foreign relations.
- The United States Constitution does not state that the American President must execute laws, but he "must take care that laws be faithfully executed," i.e., by others, who are generally called his "subordinates." Naturally, if the American President exercises his duty through his subordinates, he must appoint them or appoint the officials who appoint them, and he must have the authority to relieve these officials of their duties in the executive branch of federal government.
- The American President's exercise of his power to issue executive regulations finds its basis and justification in what is called the "Presidential Implied Powers" theory, meaning that the American President's jurisdictions and duties are not limited to those explicitly stated in the Constitution, but also include those that can be implicitly derived from explicit constitutional texts individually or collectively.
- The President cannot refuse to execute a law; saying that the obligation imposed on the President to take care of faithful law execution means the power to prevent their execution is a new and completely unacceptable interpretation of the Constitution.
- The President uses all federal employees in various services including armed forces if necessary to fulfill his duty of taking care of law execution. Supreme Court jurisprudence states that all the nation's forces can be used in any part of the state to ensure execution of federal laws and protection of rights guaranteed

by the Constitution. When necessary, the nation's army forces and special forces (militia) must be mobilized to serve it and ensure respect for its laws.

REFERENCES

1. Dr. Ahmed Shawqi, The President in the Constitutional System of the United States of America (Cairo, Cairo University, Faculty of Law, Doctoral Dissertation, 1980).
2. Dr. Edmond Rabat, The Mediator in General Constitutional Law, Part One (Lebanon, Beirut, Dar Al-Ilm LilMalayin, First Edition, no date).
3. Dr. Hassan Mustafa Al-Bahri, Mutual Oversight between Legislative and Executive Powers as a Guarantee for Constitutional Rule Implementation "Comparative Study" (Cairo, Ain Shams University, Faculty of Law, Doctoral Dissertation 2006).
4. Dr. Hassan Mustafa Al-Bahri, Comparative Political Systems (Damascus, Al-Sham Private University, Faculty of International Relations and Diplomacy, Academic Year 2020/2021).
5. Dr. Hassan Mustafa Al-Bahri, The American President's Power to Veto Laws "Analytical Study" (Damascus University, Damascus University Journal for Economic and Legal Sciences, Volume 28, Issue 1/2012).
6. Dr. Sami Jamal Al-Din, Administrative Judiciary and Oversight of Administrative Actions - Principle of Legality, Organization of Administrative Judiciary (Alexandria; New University Publishing House, no date).
7. Dr. Saad Asfour, The American President (Alexandria University, Faculty of Law, Journal of Law for Legal and Economic Research, Fourth Year, Issues 3 and 4, July-December 1950).
8. Dr. Said Al-Sayed Ali; The Reality of Separation of Powers in the United States of America (Cairo, Ain Shams University, Faculty of Law, Doctoral Dissertation, 1999).
9. Dr. Suleiman Mohamed Al-Tamawi, General Theory of Administrative Decisions "Comparative Study" (Cairo; Arab Thought House, Fifth Edition, 1984).
10. Dr. Adel Abdul Rahman Khalil, Non-Legislative Delegation in American and Egyptian Law (Cairo; Arab Renaissance House, 1995 Edition).
11. Dr. Faisal Kalthoum, Studies in Constitutional Law and Political Systems (Damascus University Publications, Faculty of Law, First Edition, 2004).
12. Lowi Theodore and Ginsberg Benjamin; American Government (Freedom and Authority), First Book, First Edition, Translation: Abdul Samee Omar Zain Al-Din and Rabab Abdul Samee Zain Al-Din, Al-Shorouk International Library, Cairo, 2006.
13. Dr. Mohsen Al-Aboudi; Head of State in Contemporary Systems and Islamic Political Thought (Cairo, Arab Renaissance House, First Edition 1990).
14. Dr. Mohsen Khalil, Administrative Judiciary and Its Oversight of Administrative Actions (Alexandria; Knowledge Establishment, 1968 Edition).
15. Dr. Mohsen Khalil, Political Systems and Constitutional Law (Alexandria; Knowledge Establishment, 1971 Edition).
16. Dr. Mohamed Fath Allah Al-Khatib, Studies in Comparative Governments (Cairo, Arab Renaissance House, First Edition 1966).
17. Dr. Mohamed Fatouh Mohamed Othman; Head of State in the Federal System (Cairo, Egyptian General Book Authority, First Edition 1977).
18. Dr. Marwan Mohamed Mahrous Al-Modares, Responsibility of Head of State in Presidential System and Islamic Jurisprudence (Jordan, Amman, Dar Al-Ilam Publications, First Edition 2002).
19. Dr. Yahya Al-Sayed Al-Sabahi, Presidential System and Islamic Caliphate "Comparative Study" (Cairo; Arab Thought House, First Edition 1993).
20. **Second - In Foreign Languages:**
21. Ardant, Philippe; Institutions politiques de droit constitutionnel (Paris; L.G.D.J., 8e édition 1996).
22. Bruff, Harold H.; The President's Faithful Execution Duty (University of Colorado Law Review, Volume 87, Issue 4, Fall 2016).
23. Calabresi, Steven G. and Prakash, Saikrishna; The President's Power to Execute the Laws (Yale Law Journal, Volume. 104, No. 541, 1994).
24. Cooper, Phillip J.; By Order of the President: The Use & Abuse of Executive Direct Action (Lawrence: University of Kansas Press 2nd Eds 2014).
25. David Ray Papke; The Pullman Case: The Clash of Labor and Capital in Industrial America (Kansas: University Press of Kansas, 1999).

26. Dickinson, Matthew J. *Bitter Harvest: FDR, Presidential Power and the Growth of the Presidential Branch* (New York: Cambridge University Press, 1999).
27. Edward S. Corwin; *The President Office and Powers 1787-1957, History and Analysis of Practice and Opinion* (New York: New York University Press, Fourth Revised Edition, 1957).
28. Edward S. Corwin's *Constitution and What It Means Today*. revised by Harold W. Chase and Craig R. Ducat (Princeton: Princeton University Press, 14th Edition 1978).
29. Fincher, E. B.; *The President of the United States* (New York, Abelard-Schuman, 1960)
30. James D. Richardson; *A Compilation of the Messages and Papers of the Presidents, Volume 3* (New York: Bureau Of National Literature, 1927).
31. John A. Dearborn; *Power Shifts, Congress and Presidential Representation* (Chicago: The University of Chicago Press, 2021).
32. Louis Fisher, Katy J. Harriger; *American Constitutional Law* (Carolina Academic Press, Year: 2019).
33. Louis Fisher; *Invoking Inherent Powers: A Primer*, *Presidential Studies Quarterly* 37, no. 1 (March 2007), available at: <http://loufisher.org/docs/pip/440.pdf>
34. Louis Fisher; *Military Tribunals and Presidential Power: American Revolution to the War on Terrorism* (University of Kansas Press, 2005).
35. Ralph A. Rossum, G. Alan Tarr, Vincent Phillip Muñoz; *American Constitutional Law, Volume II_ The Bill of Rights and Subsequent Amendments* (New York: Routledge, Eleventh Edition 2020).
36. Rossiter, Clinton; *The American Presidency "The Powers and Practices, the personalities and problems of the most important office on earth"* (New York , Second Edition, 1960).
37. Sidney M. Milkis, Michael Nelson; *The American Presidency: Origins and Development, 1776-2014* (University of Virginia: Sage, Seventh Edition 2015).
38. U.S Library of Congress, Congressional Research Service: *The Constitution of the United States of America; Analysis and Interpretation, with annotations of Cases Decided by the Supreme Court of the United States to June 30, 2022* (Washington, DC, U.S. Government Publishing Office, Edition 2023).
39. Wilfred E. Binkley; *The Man in the White House - His Powers and Duties* (Baltimore: The Johns Hopkins University Press, 2009).

Footnotes:

- (1) **US. Constitution, Article 2, Section 1:** « The executive Power shall be vested in a President of the United States of America ... ».
- (2) **US. Constitution, Article 2, Section 3 :** «... He [The President] shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States ».
- (3) **US. Constitution, Article 2, Section 1, Close 8:** « Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:---"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States" ».
- (4) The second paragraph of Article Six of the United States Constitution issued in 1787 states: « This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, **shall be the supreme Law of the Land;** and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding ». **US. Constitution, Article 6, Section 2:** « This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, **shall be the supreme Law of the Land;** and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding ». For more details see: Dr. Hassan Mustafa Al-Bahri, *Comparative Political Systems* (Damascus, Al-Sham Private University, Faculty of International Relations and Diplomacy, Academic Year 2020/2021), p.151.
- (5) See: Bruff, Harold H.; *The President's Faithful Execution Duty* (*University of Colorado Law Review*, Volume 87, Issue 4, Fall 2016), p.1107.