

Q43 – Who signs bills to become laws?

DOUGLAS GINSBURG, Federal Judge, U.S. Court of Appeals, D.C. Circuit:

The president signs a bill to make it a law. That's in Article I of the Constitution. No bill can become law without first being sent to the president. This is the separation of powers at work. Congress writes laws. But the president may sign or veto them.

Article II gives the president only executive power. Under that authority, every president has issued commands called executive orders. Sometime those orders are grounded in the Constitution. Sometimes not.

During the Civil War, President Lincoln issued an executive order to suspend the writ of habeas corpus – meaning you could be arrested and imprisoned without being charged and tried. Lincoln pointed to the provision in the Constitution, that permits the president to suspend the writ of habeas corpus during an insurrection. Under his power as commander in chief, Lincoln also issued his Emancipation Proclamation – a wartime measure freeing slaves but only in areas rebelling against the Union. After the war, it took a constitutional amendment – the Thirteenth – to abolish slavery throughout the nation.

In 1948, President Truman issued an executive order integrating the armed forces. He issued another order – this one seizing steel mills to stop a labor strike during the Korean War. But the Supreme Court held that order unconstitutional. The president did not have that authority, and the Congress had not passed a law giving it to him.

President Obama entered into an executive agreement with Iran to curb its development of nuclear weapons. President Trump signed an executive order revoking that agreement. Presidents can't revoke laws, of course, but the agreement wasn't law because it wasn't a treaty ratified by the Senate.

That shows the danger of president skirting the Congress. Without the force of law behind it, an executive order may not be worth the paper it's written on.