

**Justice Talking Listening Guide**  
**Presidential Signing Statements**  
 12/4/06

**SHOW SUMMARY**

Presidents have long used signing statements to add their views on legislation. President Nixon used them to point out excessive expenditures in spending bills. President Carter used them to make sure that Congress did not encroach on executive duties established by the Constitution. But President George W. Bush has used them more frequently than any other President, over 700 times since taking office. On this edition of Justice Talking we look at the use and abuse of presidential signing statements.



Charlie Savage

- Part 1: Margot asks Boston Globe Reporter **Charlie Savage**, who was the first journalist to write about signing statements, about how the current administration is using these statements differently than past administrations.



Mickey Edwards

- Part 2: Former Republican congressman **Mickey Edwards**, who is a member of the American Bar Association (ABA) task force that is critical of President Bush's use of signing statements, and Duke law professor **Christopher Schroeder**, who disagrees with portions of the ABA's position, debate the constitutional implications of signing statements.



Christopher Schroeder

- Part 3: Margot speaks with **Senator Arlen Specter (R-PA)**, about a bill he wrote intended to limit the power of presidential signing statements.



Arlen Specter

- Part 4: Margot talks to Harvard legal scholar **Laurence Tribe** about signing statements, the Constitution, and what the future holds.



Laurence Tribe



**CONSTITUTIONAL CONNECTION**

**Article I, Section 7** When proposed laws are approved by the House and Senate, they go to the president. If the president signs the bill, it becomes law at the time of the signature, unless the bill provides for a different start date. If the president does not like the legislation, he or she can veto the bill, list objections, and send it back for reconsideration to the chamber where it originated.

**Article II, Section 1** This section establishes that the president has the power to run the executive branch of the government. Before assuming office, the president must take the following oath: "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."



**Host Margot Adler**

Margot Adler is a National Public Radio correspondent in NPR's New York bureau. She has thirty years of experience as a radio host and reporter and lives in New York City with her husband and son.

## DEFINITION OF TERMS

**Signing Statements** – Signing statements have traditionally been used rhetorically, to impress political constituents, or politically, to define vague terms in the bill to help executive agencies carry out the law. But recently, under the presidency of George W. Bush, they have been used to try to change the meaning of particular pieces of legislation. The number of signing statements used by presidents has dramatically increased in the past few decades.

**Unitary Executive Theory** – This theory holds that Congress cannot limit the president’s control of the executive branch because the Constitution sets up a hierarchical system whereby the president has the most power. Supporters argue that Congress can’t set up independent executive agencies and counsels that aren’t controlled by the president. Moreover, different parts of the executive branch can’t sue each other because it would be a violation of separation of powers for the courts to intervene in such disputes.

## DISCUSSION QUESTIONS

1. At what point, if ever, do you think use of presidential signing statements violates the separation of powers?
2. Do you think it’s appropriate to give the executive branch more power during times of national strife such as wartime?



**In 1993, President Bill Clinton supported the use of signing statements to state objection to legislation. He said:** *“If the President may properly decline to enforce a law, at least when it unconstitutionally encroaches on his powers, then it arguably follows that he may properly announce to Congress and to the public that he will not enforce a provision of an enactment he is signing. If so, then a signing statement that challenges what the President determines to be an unconstitutional encroachment on his power, or that announces the President’s unwillingness to enforce (or willingness to litigate) such a provision, can be a valid and reasonable exercise of Presidential authority.”*  
<http://www.usdoj.gov/olc/signing.htm>



**In January of this year, Al Gore said the following about the danger of signing statements as used by President Bush:** *“An executive who arrogates to himself the power to ignore the legitimate legislative directives of the Congress or to act free of the check of the judiciary becomes the central threat that the Founders sought to nullify in the Constitution – an all-powerful executive too reminiscent of the King from whom they had broken free. In the words of James Madison, ‘The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”* <http://www.truthout.org/cgi-bin/artman/exec/view.cgi/48/16982>