

July 9, 2007 Recently, the General Accounting Office studied nineteen instances where the President issued so-called “signing statements.” In such statements, the President essentially begins the process of interpreting legislation – up to and including declaring provisions unconstitutional—hence often refusing to enforce them. The GAO study found that in nearly 1/3 of the cases studied, the administration failed to enforce the law as enacted. This approach is especially worrisome for several reasons. First, these signing statements tend to move authority from the legislative branch to the executive, thus upsetting our delicate system of checks and balances. Next, these statements grant the President power not given by the Constitution, allowing him to usurp powers of the judicial branch. Finally, the idea of agencies refusing to enforce the law as enacted sets precedent for the type of run away administrative actions our constitution was expressly enacted in order to avoid. Although these signing statements are at record high numbers, the problem is not with a single administration. Contrary to the claims of those who raise this issue for purely political purposes, the most significant challenge to liberty presented by these statements is that they can serve to further erode our constitutional republic. I have long been skeptical of the line item veto on spending bills for the same reason I oppose these signing statements. The legislature should not yield its authority to the executive. Our constitutional republic demands that all branches of government understand and respect our system and jealously guard their own prerogatives. In modern Washington nothing is more misunderstood, and less appreciated, than the genius of republicanism. Presidents issue signing statements that effectively “approve in part and reject in part,” laws of the land—even though there is no constitutional provision for such a process. In addition, Congress cedes its powers at the crucial moment when a decision on whether or not a war is to be fought will be made, only to then criticize the effort it could have used its powers to stop. In his Notes on Virginia, Thomas Jefferson spoke clearly and directly about the idea of elected representatives delegating their responsibility to other branches of government, saying in no uncertain terms that since such representatives had received their authority by delegation from the people-- expressly for the use as representative-- the legislature had to choose to either use the authority granted or return it to the people. In other words, there is to be no delegation of authority from the representatives to the executive branch of government. Concerns with signing statements ought to include a concern for the health of our constitutional republic, it ought not to be based upon the political battle of the day. Regardless of whether the President is named Bush or Clinton, and without respect to any particular political interest, we in Congress need to fulfill our oath of office and protect and defend the constitution and our republic. Our constituents deserve no less, and should demand it of all of us.