

OPINION EDITORIAL: September, 2006

In advance of Constitution Day, September 17th

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“We The People:” the Constitution’s Last Line of Defense

The Constitution is our enduring legacy of freedom, giving us a democracy that divides our government three ways and lists our fundamental rights. It’s impossible to suspend any part of it, or substitute personal judgment for it.

Our democracy is in terrible danger today on at least two major fronts: Congress is a lapdog; and the President is signing laws, but saying he will not enforce parts of them.

The “separation of powers” embedded in the Constitution means no single branch of government (the President, the Congress, nor the federal Courts) can make all the decisions for “We the people.”

Congress’ duty is to write the laws, make rules for the military and oversee the President’s administration. The President’s duty is to sign or reject bills sent by Congress *in their entirety*, to command military forces, and to *faithfully* carry out the laws he signs.

The Supreme Court (and other federal courts) referees disagreements between Congress, the President, citizens and states – and is the final voice on what’s constitutional.

“Signing statements” – traditionally press release-type statements about the virtues or weaknesses of the bill being signed – are used by the current President as a selective veto of parts of laws he signs – laws passed by Congress.

If this practice goes unchallenged, future presidents will also feel free to violate the Constitution this way.

How should a President express concerns about the constitutionality of a law? He could say so while Congress is considering it ... or veto it, questioning its constitutionality ... or say in a signing statement that the President will challenge the constitutionality of the part of the law in question, so judges may determine if it’s constitutional.

This President’s signing statements say he’s not obliged to enforce laws he thinks are unconstitutional. While any citizen – you or I, or the President or members of Congress – can believe something is unconstitutional ... only the courts can determine that fact.

Courts have said this President was wrong several times about what’s constitutional (treating prisoners at Guantanamo Bay, and the phone-tapping program are examples).

What’s Congress doing about this disregard of the Constitution? Nothing. Many are furious about it, but you’d never know by the deafening silence from the part of government that is the Constitution’s opening act.

This Congress has substituted activity on non-controversial bills for the hard work of governing. Congress has passed emergency spending for the wars in Iraq and Afghanistan but abdicated their responsibility on other matters (other spending, defense policy, immigration, etc.).

On signing statements, Congress has not raised even a feeble voice.

What should Congress do? They should go to these signing statements, find something the President has said he won't do, demand he do it, and ask the Supreme Court to determine if this President's disputed understanding of the Constitution is correct.

Both this President and this Congress are violating the constitutional division of power, so brilliantly devised by the framers of the Constitution.

Our Constitution is as enduring as "We the people" demand it be. Decisions get made by people that show up for elections.

A government that defends and fulfills the promise of our Constitution is for "We the people" to choose and judge ... we must not also be lapdogs, or disinterested bystanders.

Show up, be engaged ... be the "We the People" our founders envisioned.

Cathy Travis, author of "[Constitution Translated for Kids](#)," is a communications director on Capitol Hill. See a complete listing of all signing statements since 1929 at: www.presidency.ucsb.edu/signingstatements.php?year=2006&Submit=DISPLAY