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### Presidents and the U.S. Constitution: The Executive's Role in Interpreting the Supreme Law of the Land

Mitchell Scacchi

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Presidents and the U.S. Constitution:

The Executive's Role in Interpreting the Supreme Law of the Land

Mitchell Scacchi

Senior Honors Thesis

Advisor: Professor Susan Siggelakis

April 30, 2021

## **Abstract**

In 1832, President Andrew Jackson issued a veto message claiming the same duty as the Supreme Court to interpret the U.S. Constitution. Do modern presidents exercise the principal role in interpreting the U.S. Constitution that President Jackson claimed was their duty, and, if so, in what ways do they choose to articulate their interpretations? The hypothesis is that modern presidents have exercised a principal role in interpreting the U.S. Constitution similar to the interpretative duty expressed by President Jackson, and they perform this duty, in part, through the issuance of veto messages and signing statements. After a content analysis of veto messages and signing statements issued from Presidents Roosevelt to Trump, the hypothesis was supported. Modern presidents have used veto messages and signing statements to articulate their constitutional interpretations of numerous constitutional topics – a practice that has been increasing throughout the modern presidency overall. Modern presidents have exercised a principal role in interpreting the Constitution similar to that expressed by President Jackson.

## **Introduction**

It is all but accepted that the Supreme Court is the final arbiter on the interpretation of the Constitution of the United States. As a result, the roles of the other two branches of government in interpreting the Constitution have been sidelined. As commander in chief, vested with the executive power of the United States and the power to approve or veto legislation passed by the Congress, the president may exert more of a role in interpreting the Constitution than previously thought. The topic of this research is the role of the president of the United States in interpreting the U.S. Constitution. As required by Article II, Section 1 of the Constitution, the president of the United States takes an oath to “...preserve, protect and defend the Constitution of the United States.” The argument can certainly be made, as was supported by President Andrew Jackson in

1832, that this oath requires the president to uphold the Constitution as *he* understands it and not as it is understood by others. If so, this would conceivably require the modern president to assume an interpretative duty to some degree.

This research seeks to answer the following question: *Do modern presidents exercise the principal role in interpreting the U.S. Constitution that President Jackson claimed was their duty, and, if so, in what ways do they choose to articulate their interpretations?* Answering this question requires extensive content analysis of documents issued by each modern president from Franklin D. Roosevelt to Donald Trump, namely veto messages and signing statements, as will be hypothesized. The goal is to determine whether modern presidents believe they have an independent role in interpreting the Constitution. This process will lead to a conclusion about whether the presidents of the modern era are guided by their own interpretations of the Constitution or whether they have abandoned this interpretative duty and deferred to others' opinions on the meaning of the Constitution.

## **Background**

The president of the United States has a unique role in the American political system, as the only constitutional officer with power over an entire branch of government. Article II, Section 1 of the Constitution states that "The executive Power shall be vested in a President of the United States of America." As commander in chief, vested with the "...Power, by and with the Advice and Consent of the Senate, to make Treaties..." under Article II, Section 2 and the authority to "...receive Ambassadors and other public ministers" under Article II, Section 3 of the Constitution, the president is seen as having principal foreign policy power. In addition to the pardon power, appointment and removal power, recommendation power, and faithful execution responsibility, among others, these broad and specific constitutional powers would conceivably

require the chief executive to interpret the Constitution to determine their scope and exercise them appropriately. Henry L. Chambers, Jr. (2016) asserts that, because of the presidential oath of office and the Take Care Clause, “The Constitution requires the President to interpret the Constitution and may allow him to act based on that interpretation” (1189). However, as David A. Strauss (1993) argues, the appropriate scope of executive independence in interpreting the Constitution is not easy to determine (116).

Many scholars have attempted to settle the boundaries of presidential constitutional interpretation. Michael Stokes Paulsen (2017) claims that “The President of the United States exercises his independent power and duty of faithful, responsible constitutional interpretation in many ways.” Through his power to veto legislation, grant pardons, and faithfully execute the laws, the president is in a position to “...interpret the Constitution independently of the views of both Congress and the courts,” and, therefore, “...he can check what he concludes in good faith are the unconstitutional or unlawful actions of these other branches” (Paulsen 2017). Some scholars, including Harold H. Bruff (2016), have even claimed that “The most important single interpreter of the United States Constitution is the president,” which is supported by the fact that “Presidential constitutional interpretation is fundamentally unlike that of the other two branches because it is ultimately performed by a single person, not a group” (8 and 10, respectively). Similarly, Dawn E. Johnsen (2008) notes that “The President’s constitutionally prescribed oath of office, the Take Care Clause, and the Supremacy Clause confirm the President’s obligation to uphold the Constitution through all executive action” (408). However, there are many contested constitutional issues where the three branches of government disagree as to the proper interpretation, such as the extent of authority vested in the president as commander in chief (Johnsen 2008, 408). In determining which branch’s constitutional interpretation should prevail

in these cases, Johnsen (2008) argues that “The answer must acknowledge that a measure of independence in presidential interpretation is unavoidable” (408). This is especially true given that presidents must constantly address issues that require constitutional interpretation but lack sufficient judicial guidance and precedent, such as “...issues of national security and the separation of powers” (Johnsen 2008, 408). Whether this is because the Supreme Court has acknowledged the interpretive value of giving wide deference to the executive branch or because presidents have had to act on certain issues before the Congress, it is altogether both impossible and impractical to command presidents to merely enforce judicial precedent and never implement their own constitutional interpretations (Johnsen 2008, 408). As a result, Johnsen (2008) claims that presidents have historically been important contributors to the overall interpretation of the Constitution, and, therefore, the question that needs to be asked is not whether but how presidents should play a role in deciding constitutional meaning (409).

In the early United States, the president’s power to veto legislation was one way in which he interpreted the Constitution. This veto power, as Alexander Hamilton (1788) claims in *The Federalist* No. 73, “...not only serves as a shield to the executive, but it furnishes an additional security against the enactment of improper laws.” The practice at the time was for presidents to only veto legislation they believed was unconstitutional. According to Richard A. Watson (1987), “When early Presidents did veto legislation, they tended to emphasize constitutional objections” in their veto messages (408). A veto message is a statement issued by the president upon refusing to sign a bill into law. One notable explanation of the president’s role in interpreting the Constitution was given by President Andrew Jackson in 1832 when he vetoed a bill to reauthorize the Bank of the United States. Jackson (1832) issued a veto message claiming the same duty as the Congress and the Supreme Court to interpret the Constitution, arguing that

“The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution” and that “Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others.” He asserted that “It is as much the duty...of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision” (Jackson 1832). Using veto messages to articulate constitutional interpretations was not limited to Jackson. Bruce G. Peabody (2001) writes that “In nineteenth century veto messages, for example, presidents used the full array of interpretive modalities associated with judicial analysis...” (60). However, as Carl McGowan (1986) argues, there is nothing in the Constitution limiting the veto power to unconstitutional bills (805).

In cases when the veto is an inadequate solution and the president believes, based on his reading of the Take Care Clause, that he must decline to carry out an unconstitutional part of a law, a signing statement is the way through which he can declare that intention (Chambers, Jr. 2016, 1200). A signing statement is a written pronouncement issued by the president upon signing a bill into law, explaining his reasoning for signing, his interpretation of the law’s meaning, his objections to certain aspects of the law, and/or how he intends to carry out the law (Library of Congress, n.d.). According to Kevin Evans and Bryan Marshall (2016), as effective tools through which the president can give credit to members of the Congress for passing a law and voice constitutional objections to certain provisions of a bill, “...signing statements provide a rich history of interbranch relations...” (750 and 775, respectively). Todd Garvey (2012) notes that there is an extensive history of presidents issuing signing statements, and the executive branch has historically held that the president has authority to refuse to enforce provisions of a

law he believes are unconstitutional (14 and 15, respectively). “Concurrent with the rise in the number of statements issued, the use of signing statements to voice constitutional objections to acts of Congress has become increasingly prevalent over the past 60 years,” even while there is seemingly little support for granting legal effect to objections raised in such statements (Garvey 2012, 2 and 14, respectively). These types of signing statements are controversial because the Constitution does not establish the extent of presidential discretion to decline to enforce unconstitutional legislation (Chambers, Jr. 2016, 1186). Additionally, “...the use of constitutional signing statements can augment executive power and functionally alter the Constitution’s separation of powers structure” (Chambers, Jr. 2016, 1187). These constitutional signing statements are proper insofar as the president’s constitutional interpretation is not bound by the dueling interpretations of the Congress or the Supreme Court (Chambers, Jr. 2016, 1201).

The Supreme Court is seen as the final arbiter on the meaning of the Constitution, while the presidency has become more of an administrative and policy-focused office. According to Peabody (2001), “In the eyes of the majority of political actors..., the Court’s exclusive or at least final authority to interpret the Constitution seems to be well-settled...” (57). That does not mean modern presidents have given up their role in interpreting the Constitution. “Though the Court has the final word regarding the Constitution’s meaning,” Chambers, Jr. (2016) notes, “the President may be obligated to interpret the Constitution” (1185). Some legal scholars note that “There is nothing in our constitutional text that prohibits an institutional sharing of the ‘interpretative power,’ and there is much in our polity’s structure and history to suggest that its successful operation *demand*s this division” (Peabody 2001, 57). Similarly, Paulsen (2017) writes that “The power of constitutional interpretation is not exclusively vested in the judiciary” but rather “...is possessed by each branch as a consequence of its other constitutional powers and



its oath of fidelity to the Constitution.” The separation of powers allows for each branch of government not to be bound by the others’ interpretations (Paulsen 2017). Furthermore, according to Geoffrey P. Miller (1993), “The history of checks and balances is also inconsistent with the notion of judicial supremacy in interpretation” (40). As such, “The Constitution itself does not subordinate the president to the courts in matters of constitutional interpretation” and “...there is nothing in [the judicial branch’s] function that is inconsistent with an autonomous presidential power of constitutional interpretation” (Miller 1993, 40). This argument is seemingly supported by the Framers of the Constitution. James Madison (1788) maintains in *The Federalist* No. 49 that “The several departments being perfectly co-ordinate by the terms of their common commission, neither of them, it is evident, can pretend to an exclusive or superior right of settling the boundaries between their respective powers.” This sets the foundation for the inquiry, namely whether modern presidents have assumed this independent interpretative role.

### **Hypothesis**

The president’s role in interpreting the Constitution, the scope and independence of that role, and the modes through which the president articulates his interpretation, have all been extensively considered, researched, and debated by many scholars. The following is an attempt to contribute to this research and to provide a new lens through which to view the modern presidency in relation to this topic. As a reminder, the research question is the following: *Do modern presidents exercise the principal role in interpreting the U.S. Constitution that President Jackson claimed was their duty, and, if so, in what ways do they choose to articulate their interpretations?* The hypothesis is as follows:

Hypothesis: Modern presidents have exercised a principal role in interpreting the U.S. Constitution similar to the interpretative duty

expressed by President Jackson, and they perform this duty, in part, through the issuance of veto messages and signing statements.

The null hypothesis is that modern presidents have not exercised a principal role in interpreting the U.S. Constitution similar to the interpretative duty expressed by President Jackson, and/or they do not perform this duty, in part, through the issuance of veto messages and signing statements. The hypothesis will be supported if modern presidents demonstrate a propensity to use veto messages and signing statements as modes through which to voice their interpretations.

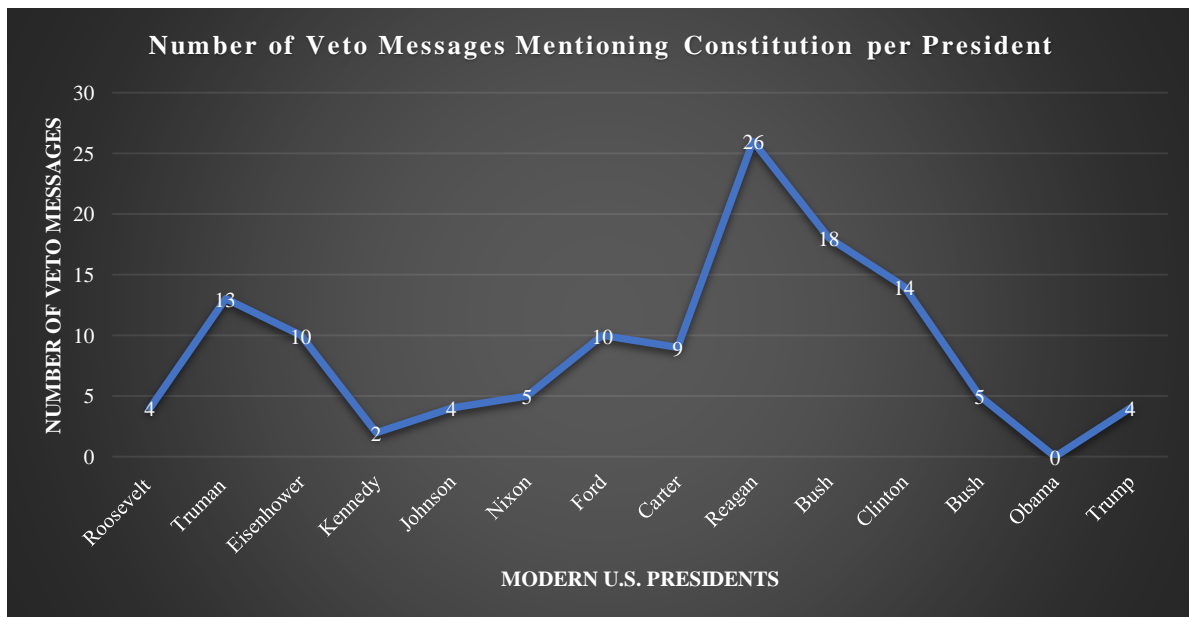
### **Methodology**

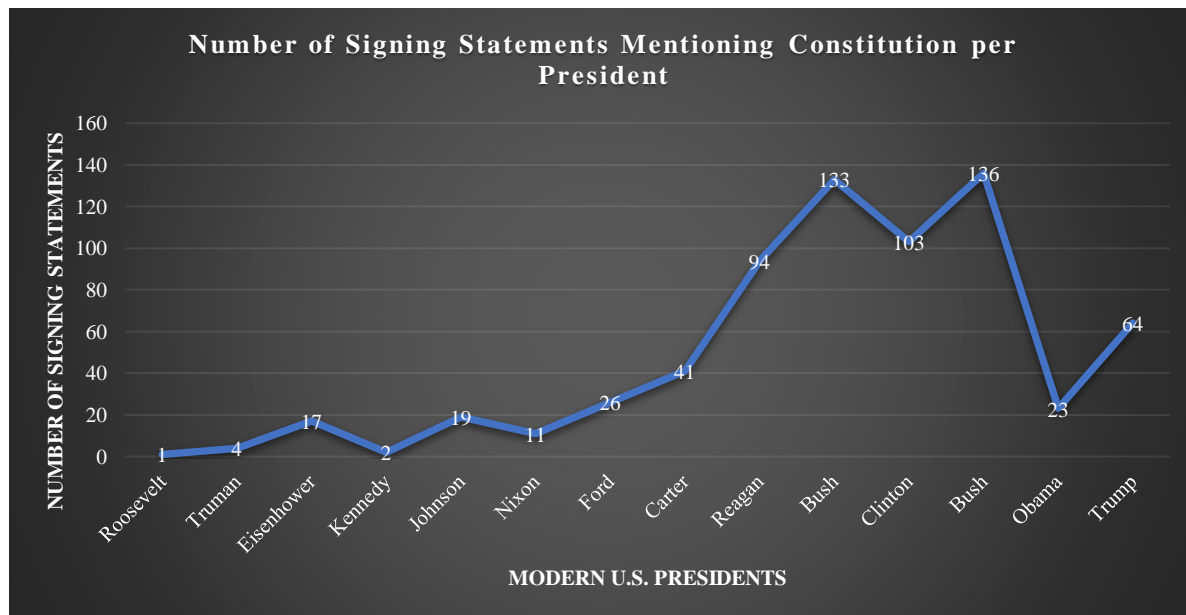
It is necessary to first define “modern presidents.” For the purposes of this research, the modern presidency is the period in presidential history encompassing President Franklin D. Roosevelt to the present day. These 14 presidents, not including President Biden (lack of content), are the focus of this research. To answer the research question, it is necessary to conduct a content analysis of presidential veto messages and signing statements issued from President Roosevelt to President Trump and document those that mention the Constitution or a constitutional provision explicitly or implicitly. This amounts to a total of 679 veto messages and 2,128 signing statements. The veto messages collected represent both regular vetoes, when the president returns legislation without his approval to the original house, and pocket vetoes, when legislation passed by the Congress does not become law because the president withholds his signature and the Congress adjourns within the 10-day period the president has to act on the bill. The veto messages are primarily accessed through the United States Senate’s website ([United States Senate](#)), and the signing statements (as well as a handful of veto messages) are accessed through The American Presidency Project’s document archive ([The American Presidency Project](#)). Access to content is particularly limited for Presidents Roosevelt and Truman.

To determine what constitutional provisions are cited most frequently, those mentioned in each document are marked accordingly. These citations are grouped into 17 categories, each one representing a part of the Constitution: Constitutionality/Unconstitutionality/Constitutional Concerns, Congressional Power, Incompatibility and Ineligibility Clauses, Presentment Clause/Veto Power, Vesting Clause/Executive Power/Constitutional Authority, Commander in Chief Clause, Foreign Policy Power/Treaty-Making Power, Appointments Clause/Appointment Power/Removal Power, Recommendations Clause, Take Care Clause, Bill of Rights, Fourteenth Amendment, Discharge of Duties/Constitutional Responsibilities, Separation of Powers/Checks and Balances, Federalism, *INS v. Chadha* (1983), and Miscellaneous. The goal is to determine whether modern presidents not only have a role in interpreting the Constitution but acknowledge that role and act upon it as their duty.

## Findings

Figure 1.



**Figure 2.**

The line graphs above detail the first set of findings. Figure 1 shows the number of veto messages issued by each president from Roosevelt to Trump that, in some way, mention the Constitution, while Figure 2 shows the number of signing statements issued by each president that mention the Constitution. As can be seen, these modern presidents (obviously some more than others) have articulated some sort of constitutional interpretation both when signing and returning legislation. All but one modern president issued at least one veto message mentioning the Constitution, while all 14 issued at least one signing statement with a constitutional interpretation. The number of veto messages mentioning the Constitution reaches its highest points with Reagan (26), Bush (18), and Clinton (14), while the number of signing statements rises steadily from Ford to Bush and remains consistently high from Clinton to Trump, with Obama as the exception with only 23. Six presidents issued at least 10 veto messages mentioning the Constitution, and 11 presidents issued at least 10 signing statements mentioning the Constitution, with eight issuing at least 20, six issuing at least 40, and four issuing at least 90 statements. In total, 18.3% of all veto messages issued from Roosevelt to Trump mention the

Constitution, and 31.7% of all signing statements issued from these presidents mention the Constitution. These figures are inherently affected by the number of bills each president is presented with. Since this is beyond their control, it is necessary to look at percentages over time.

Figure 3.

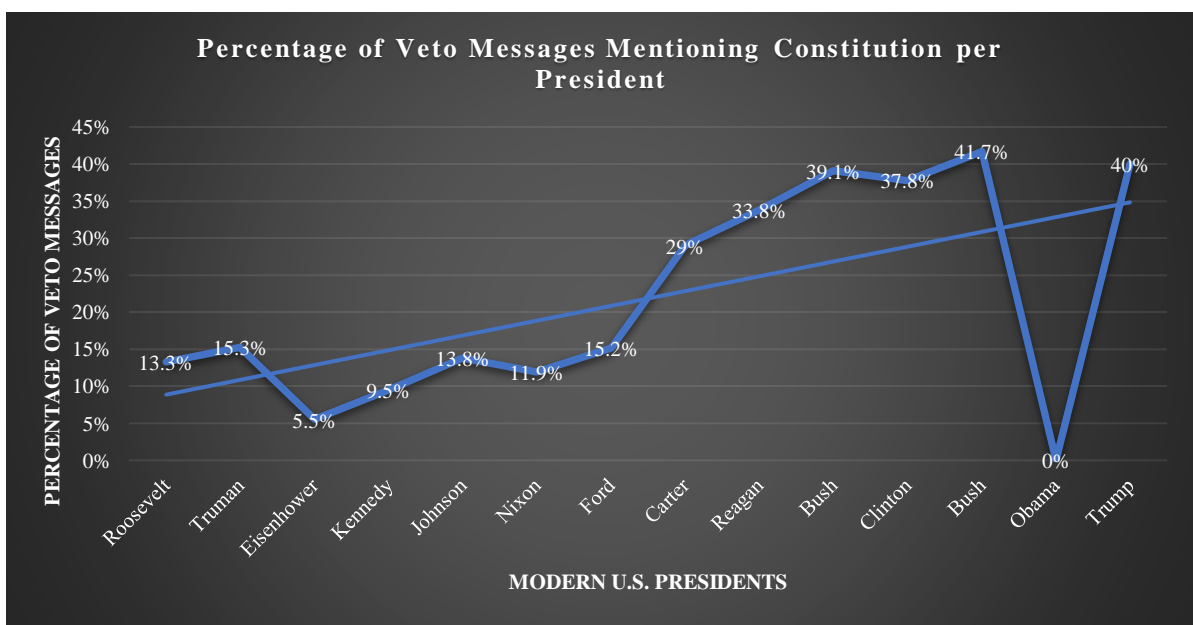


Figure 4.

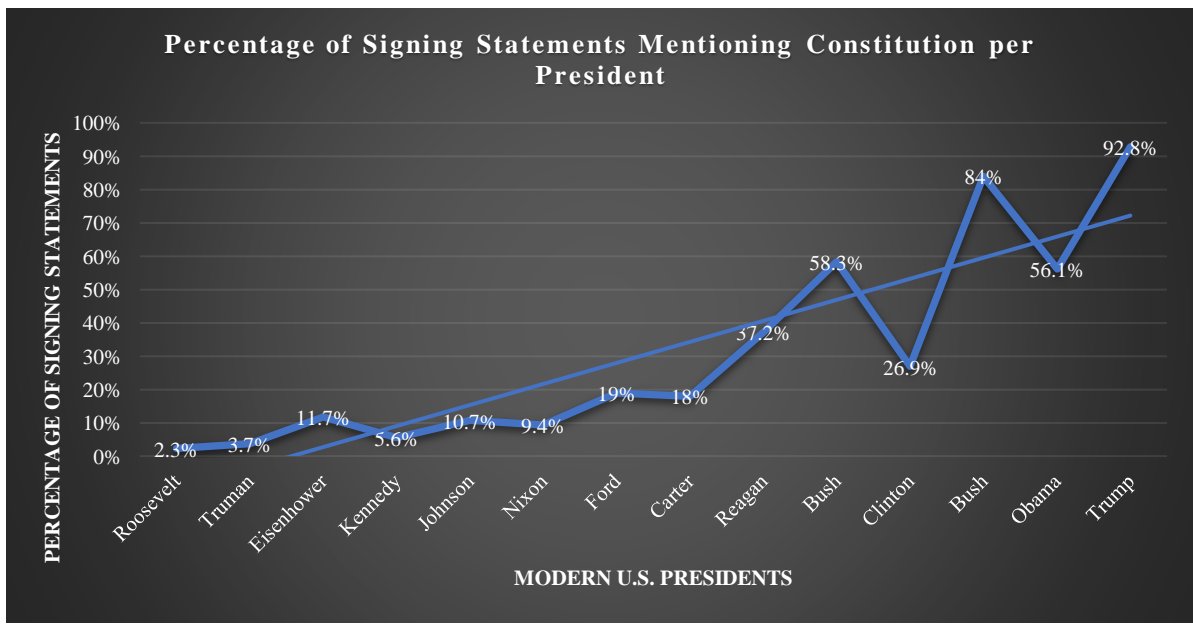
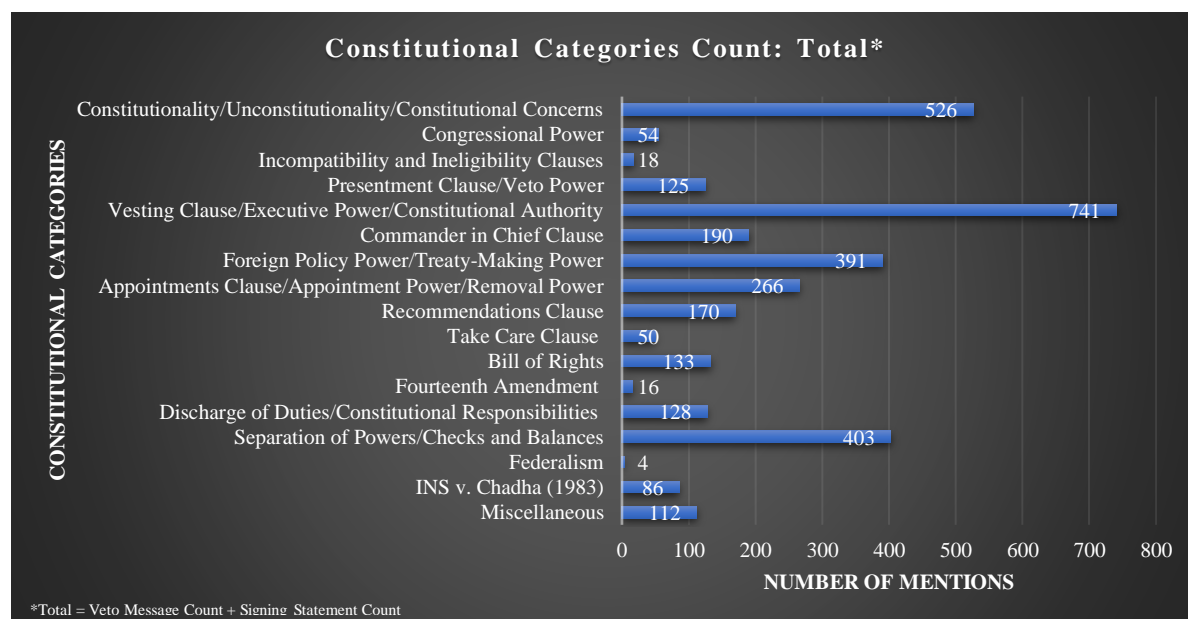


Figure 3 shows the percentage of veto messages issued by each president from Roosevelt to Trump that mention the Constitution in some form, while Figure 4 shows the percentage of signing statements issued by each president that mention the Constitution. These percentages were calculated by dividing the sums shown in Figures 1 and 2 for each president by the corresponding total number of veto messages or signing statements examined from each president, thereby putting them on an equal footing with each other regardless of how many bills they were presented with. These numbers in Figures 3 and 4 demonstrate what percent of the total veto messages and signing statements examined for each president included a constitutional interpretation. The percentage of veto messages mentioning the Constitution reaches consistently high values from Carter to Trump, with Obama as the exception, while the percentage of signing statements mentioning the Constitution reaches consistently high values from Ford to Trump. Eleven presidents mention the Constitution in at least 10% of their veto messages, with eight mentioning it in at least 15% and six mentioning it in at least 29% of their messages. Additionally, 10 presidents mention the Constitution in at least 10% of their signing statements, with eight mentioning it in at least 18%, six mentioning it in at least 25%, and four mentioning it in at least 50% of their statements. As shown by the trendlines, albeit with some exceptions, the percentages have been noticeably increasing throughout the modern presidency for both veto messages and signing statements.

Figure 5.



The findings shown in Figures 1-4 seemingly support the hypothesis, namely that modern presidents – especially those from Ford to Trump – acknowledge that they have a role in interpreting the Constitution when it comes to signing and vetoing legislation. When interpreting the Constitution, what parts of the document do these presidents cite? Figure 5 shows the 17 constitutional categories that encapsulate the types of constitutional provisions cited by modern presidents in all their veto messages and signing statements combined. The most frequently cited provision that modern presidents interpret – mentioned 741 times from Roosevelt to Trump – is the category that includes the Vesting Clause of Article II – “The executive Power shall be vested in a President of the United States of America” – the extent of executive power, and the president’s constitutional authority. The second most frequently mentioned category (526 times) is a president’s basic expression of a legislative provision’s constitutionality, unconstitutionality, or constitutional concern. An example from this category is President Truman’s (1950) assertion in his veto of H.R. 9490, the Internal Security Act of 1950, that “A phrase so vague raises a serious constitutional question.” Other frequently mentioned categories include principles of

separation of powers and checks and balances (403 times); the president's foreign policy power (391 times); and the Appointments Clause of Article II, Section 2, including the president's power of appointment and power of removal (266 times).

### **Analysis**

Based on the findings above, modern presidents have clearly used veto messages and signing statements to some degree to articulate their constitutional interpretations. Although less than half of all veto messages (18.3%) and signing statements (31.7%) mention the Constitution, these percentages still represent a decent portion of the total issued from Roosevelt to Trump. These percentages – 18.3% and 31.7% – represent 124 veto messages and 674 signing statements, respectively, that include constitutional interpretations. These sums demonstrate that modern presidents take the opportunity to mention and interpret the Constitution when the right legislation presents itself to warrant their interpretations. It is important to note that a significant number of veto messages (and some signing statements) were issued in response to legislation passed by the Congress providing relief for particular individuals and organizations titled “For the relief of....” These types of bills predictably did not contain the content that elicits a constitutional interpretation on the part of the president. Understandably, a president will not be compelled to issue a constitutional interpretation for every bill that he is presented with, especially where the contents of those bills do not warrant it. However, for those that do – in this case, for the 798 bills, or 28.4% of bills, presented to a total of 14 presidents – the modern president will take the opportunity to articulate his constitutional interpretation where appropriate. Not only that, but the percentages of veto messages and signing statements mentioning the Constitution per president from Roosevelt to Trump have actually been increasing overall. The average percentage of veto messages mentioning the Constitution per



president from Roosevelt to Ford is 12.1%, which increases to an average of 31.6% per president from Carter to Trump. Likewise, the average percentage of signing statements mentioning the Constitution per president from Roosevelt to Nixon is 7.2%, which rises to an average of 49% per president from Ford to Trump. These increases reveal the modern president's growing tendency to use these pronouncements as ways through which to interpret the Constitution.

In light of these findings, *why is this important?* First, it clearly indicates that modern presidents perceive themselves as independent interpreters of the Constitution. In many respects, they are guided by their own constitutional interpretations, especially of those provisions of the Constitution that define the powers and duties of the president. The evidence clearly supports this observation; 53% of all mentions of the Constitution are related to Article II, which sets out the executive branch of government and includes the following categories: Vesting Clause/Executive Power/Constitutional Authority, Commander in Chief Clause, Foreign Policy Power/Treaty-Making Power, Appointments Clause/Appointment Power/Removal Power, Recommendations Clause, and Take Care Clause. President Trump (2018) issued a signing statement expressing his administration's intention to carry out a provision of S. 756, the First Step Act of 2018, "...in a manner consistent with Article II, section 3 of the Constitution, which provides the President the discretion to recommend to the Congress only 'such Measures as he shall judge necessary and expedient.'" Interpreting the president's foreign policy power under Article II, President Obama (2013) noted in a signing statement that certain provisions of H.R. 4310, the National Defense Authorization Act for Fiscal Year 2013, "...could interfere with my constitutional authority to conduct the foreign relations of the United States." These are just two of the many examples of the president exercising his interpretative duty over Article II.

Additionally, just over one out of every five mentions of the Constitution – 21.7% – are, to some extent, interpretations of executive power. These interpretations range from direct citations of the Vesting Clause of Article II to indirect references of the president’s constitutional authority. For example, President Reagan (1988) pocket vetoed S. 508, the Whistleblower Protection Act of 1988, citing that “The litigation of intra-Executive branch disputes conflicts with the constitutional grant of the Executive power to the President...” (2578). President Clinton (1999) gave a more indirect reference when he signed H.R. 2490, the Treasury and General Government Appropriations Act, 2000, noting that a particular provision of the act would not be interpreted “...to detract from my constitutional authority and that of my appointed heads of departments to supervise and control the operations and communications of the executive branch...” This demonstrates that modern presidents have taken the lead, as opposed to the other two branches of government, in interpreting those parts of the Constitution that affect them the most, namely Article II and the extent of executive power. Just as the Congress and the courts have discretion over the extent of the constitutional powers and operations of their respective branches, the modern president has shown his desire to exercise his rightful discretion over the scope of the constitutional powers and operations of his branch of government.

Beyond Article II, modern presidents have also articulated their own interpretations of a wide range of constitutional topics, such as the extent of congressional power, the separation of powers, the Bill of Rights, and more. For example, President Johnson (1965) vetoed H.R. 8439, the FY1966 Military Construction Authorization Bill, because “Its enactment would represent a fundamental encroachment on one of the great principles of the American Constitutional system – the separation of powers between the Legislative and Executive branches.” When President George H. W. Bush (1992) vetoed S. 3, the Congressional Campaign Spending Limit and

Election Reform Act of 1992, he determined that “...S. 3 would limit political speech protected by the First Amendment...” (1). Furthermore, there are many instances – such as the 86 times these presidents cite the Supreme Court’s decision in *INS v. Chadha* (1983) – in which these presidents reference a Supreme Court ruling to support their own interpretations of the Presentment Clause and the separation of powers doctrine. *INS v. Chadha* (1983) is a case in which the Court found the Immigration and Nationality Act’s provision for a one-House legislative veto of executive actions to be unconstitutional because it violated the separation of powers (Oyez, n.d.). President George H. W. Bush (1990) pocket vetoed S. 2834, the Intelligence Authorization Act, Fiscal Year 1991, because he found language conditioning the president’s actions on his obtaining the approval of a congressional committee to be “...clearly unconstitutional under the Presentment clause of the Constitution and the Supreme Court’s decision in *INS v. Chadha*, 462 U.S. 919 (1983)” (118). When signing H.R. 2217, the Department of the Interior and Related Agencies Appropriations Act, 2002, President George W. Bush (2001) acknowledged that “Several provisions in the bill purport to require congressional approval before executive branch execution of aspects of the bill” – an inherent separation of powers issue – and, therefore, he stated his intention to “...interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.” These two examples demonstrate how constitutional interpretations can include multiple constitutional provisions coupled with one another and/or linked to Supreme Court decisions.

It is not clear, however, whether these examples show a willingness on the part of the president to respect judicial supremacy, especially considering many modern presidents viewed legislative veto devices as unconstitutional *before* the 1983 *Chadha* decision. For example, when

he signed S. 2391, the Futures Trading Act of 1978, President Carter (1978) objected to a provision requiring congressional committee approval before action by a commission because “This ‘committee approval’ requirement is one of several types of legislative veto devices which I and the Attorney General view as unconstitutional....” While not necessarily the final arbiter on its meaning, the modern president is clearly a central figure in the overall interpretation of the Constitution and exercises a relatively independent interpretative duty. In this way, the hypothesis is supported: Modern presidents have exercised a principal role in interpreting the Constitution similar to the interpretative duty expressed by President Jackson, and they have shown a tendency to use their veto messages and signing statements to perform this duty.

### **Conclusion**

When thinking about the powers and responsibilities of the president of the United States, interpreting the Constitution is not likely to be an obvious one. This research considered the modern president’s role in interpreting the U.S. Constitution, asking whether they have exercised a principal role and, if so, how they have performed it. President Jackson once claimed that the president has an equal right to interpret the Constitution as the Congress and the Supreme Court. There are many scholars who support this position, arguing that the separation of powers allows for the sharing of interpretive power across the three branches of government, that the president has the ability to independently interpret the Constitution as he understands it, and that the president is an important contributor to the overall interpretation of the Constitution. The hypothesis was that modern presidents have exercised a principal role in interpreting the U.S. Constitution similar to the interpretative duty expressed by President Jackson, and they perform this duty, in part, through the issuance of veto messages and signing statements.

After extensive content analysis of 2,807 veto messages and signing statements issued from Presidents Roosevelt to Trump, this hypothesis was supported. Given that 18.3% of all veto messages and 31.7% of all signing statements issued during the modern presidency mentioned the Constitution in some form, it is evident that modern presidents have a principal role in interpreting the Constitution, are aware of this role, and are willing to exercise this role independently as their duty. Modern presidents have used these pronouncements as mechanisms through which to articulate their constitutional interpretations, and this practice has been noticeably increasing throughout the modern presidency. Moreover, modern presidents are, in part, guided by their own constitutional interpretations, especially of those constitutional provisions that are the most relevant to their office. President Jackson would be proud.

Of course, there is more research to be done with this topic. First, one could examine the differences between Democratic and Republican presidents in both the frequency and content of their constitutional interpretations. Second, further research could explore the other ways through which the president exercises his role in interpreting the Constitution, considering the president is not presented with a bill every day. Third and finally, given that the modern presidency has steadily grown into a policy-focused office, it is possible that modern presidents have used the Constitution in their veto messages and signing statements as a rationale for defending their own policy interests; one might assume that these presidents are more interested in using the Constitution as a cover for the ulterior motive of protecting their policy preferences. Those interested might further analyze these veto messages and signing statements in order to discern whether modern presidents tend to use the Constitution strategically in this way.

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