

Separation of Powers & Checks and Balances

French philosopher, Charles Montesquieu, coined the phrase “separation of powers” in his 1748 treatise, *The Spirit of the Laws*. In it, Montesquieu advocated for a system that divided and balanced the power of government among the classes, so as to create a form of government that was not led by a ruling class, single monarch or ruler.

Our founding fathers were well read and familiar with Montesquieu’s writings as well as those of other political philosophers. James Madison, known as the Father of the Constitution, believed keeping the three branches separated was fundamental to the preservation of liberty. In *Federalist No. 47* he wrote, “The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many... may justly be pronounced the very definition of tyranny.”

When the framers drafted the US Constitution, they created three different branches of government to administer three different types of power and were clear to write down specifically what powers each branch holds.

The legislative branch or Congress, divided into two houses, the Senate and the House of Representatives, makes the laws. The executive branch, including the president, vice president and numerous executive departments (i.e. State, Treasury, and Education) enforces the law. And the judicial branch interprets the laws through the Supreme Court and other lower federal courts.

Within the separation of powers, each branch of government has “checks and balances” over the other two. For example, Congress makes the laws, but the President can veto them and the Supreme Court can declare them unconstitutional. The president enforces the law, but Congress must approve executive appointments and the Supreme Court rules whether executive action is constitutional. The Supreme Court can strike down actions by both the legislative and executive branches, but the president nominates Supreme Court justices and the Senate confirms or denies these nominations.

With the ratification of the Bill of Rights in 1791, the 10th Amendment states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

Read recent news reports, in-print or online, look for examples of checks and balances at work among the three branches of our federal government

Next: The Legislative Branch



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