The Three Branches of Government

The Main Idea
The Constitution prevents any person, or any part of the government, from taking too much power. It does this by creating three separate branches of the federal government and distributing power among them.

Reading Focus
1. Why does the Constitution provide for the separation of powers?
2. What are the main responsibilities of each of the three branches of government?
3. How does the system of checks and balances work?

Key Terms
- separation of powers, p. 93
- legislative branch, p. 94
- executive branch, p. 94
- judicial branch, p. 94
- checks and balances, p. 96
- veto, p. 96
- judicial review, p. 97

Why do we have three branches of government? Well, who would protect your rights if the power to make and enforce laws was put in the hands of only one person? What might happen to your freedom of speech or your right to privacy?

Separation of Powers
Having all government power in the same hands is, in James Madison’s words, “the very definition of tyranny.” The framers of the Constitution agreed with Madison. They could have created a central government with all government power concentrated in one group of people. Many people feared such an all-powerful government.

As a shield against tyranny, the framers created separate branches of the federal government. One branch would write the laws. Another would carry out the laws. A third branch would interpret the laws. This structure is called the separation of powers.

READING CHECK
Summarizing Why did the framers separate the powers of government?
The Three Branches of Government

The concept of separation of powers had been written into many state constitutions already. For example, Georgia’s constitution stated that, “the legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.”

The Legislative Branch

“[I]n republican government, the legislative authority necessarily predominates [is supreme],” James Madison wrote in Federalist No. 51. The Constitution reflects this idea. Article I of the Constitution creates the U.S. Congress as the legislative branch, the lawmaking arm of the federal government. Congress’s functions are described in greater detail in the Constitution than the functions of the other branches. Besides making laws, Congress controls the money for the national government. This gives Congress great power.

The first Congress went right to work in the spring of 1789. In 519 days, it passed laws that helped set up the entire government. It constructed a financial system, organized new departments of the government, wrote the Bill of Rights, dealt with debts from the Revolutionary War, and chose a permanent location for the nation’s capital: Washington, D.C.

The Executive Branch

Once George Washington took office as the nation’s first president, Congress had to figure out how he should be addressed. The Senate came up with “His Highness the President of the United States of America and Protector of the Same.” Opponents in the House of Representatives laughed at the suggestion of this kingly title. So Congress decided on the more modest title we use today: “Mr. President.”

The president is head of the executive branch of the government, established by Article II of the Constitution. The executive branch is responsible for executing, or carrying out, the country’s laws. At first, the executive branch consisted of just the president and the vice president, as specified in the Constitution. Today the executive branch includes 15 executive departments, including the Department of State and the Department of the Treasury. The executive branch also includes thousands of agencies, divisions, commissions, and offices. The most recent addition to the executive branch was the Department of Homeland Security, created in 2002 to guard against terrorism.

The Judicial Branch

The Constitution described relatively little about the third branch of the government. The judicial branch, established in Article III, interprets the meaning of laws passed by Congress and sets punishments for people who break the law.

The Constitution created the Supreme Court as the head of the judicial branch. It also set the limits of judicial power and created a process for appointing judges. Yet it left to Congress the enormous job of actually setting up the system of “lower” courts, those beneath the Supreme Court.

Comparing and Contrasting

Compare the functions of the three branches of government.

Checks and Balances

When creating the three branches of government, the framers often looked to European philosophers for wisdom about human behavior and its effects on government. One such source was a 1748 work, The Spirit of the Laws, written by the French philosopher and judge Baron de Montesquieu. In it Montesquieu described how liberty could be threatened if one branch of government became too hungry for power. He argued for a balance of power among the branches of government.
3 Principles of Limited Government

The genius of the U.S. Constitution is that it spreads the powers of government both within the national government and between the federal government and state governments.

1 Federalism
In our system of government, some powers of government belong only to the federal government, while others belong only to the state governments. Still other powers are shared by both levels of government.

2 Separation of Powers
The powers of government are divided among the executive, legislative, and judicial branches.

3 Checks and Balances
Each of the three branches of government has ways to check, or limit, the powers of the other branches.

ANALYSIS SKILL ANALYZING VISUALS
1. How does the federal system limit the powers of government?
2. What checks does the executive branch have over the other two branches?
A Balance of Power
The framers provided this balance of power in the U.S. Constitution by giving each government branch powers that limit, or check, the powers of the other two branches. This scheme ensures that no branch of the federal government becomes too powerful. This equal distribution of powers and limits on power is called the system of checks and balances.

President Can Check Congress
The chart on the previous page shows how the system of checks and balances works. For instance, while Congress has the power to make laws, the president has the power to veto, or reject, proposed laws. (The Latin word veto means “I forbid.”) With this veto power, the president can check the lawmaking power of Congress.

Congress Can Check the President
In turn, the Constitution gives Congress a check on the president’s veto power. It allows Congress to override a presidential veto—that is, to pass the law despite the veto. Overriding a veto requires a two-thirds vote of both houses of Congress.

PRIMARY SOURCE
POLITICAL CARTOON
Checks and Balances
This cartoon illustrates one way to view the system of checks and balances set up in the Constitution.

President Nixon claimed that he did not have to release tape-recordings of conversations in his Oval Office to a Senate committee investigating during the Watergate scandal of the 1970s.

Senator Sam Ervin was chairman of the Senate committee investigating the Watergate cover-up.

Why do you think that the constitutional system of checks and balances is shown as a contest of strength between branches of government?

ANALYSIS SKILL
ANALYZING POLITICAL CARTOONS
How does this image show why a system of checks and balances is necessary?
Checks, Balances, and the Judicial Branch

Although the Constitution says relatively little about the judicial branch, President Washington believed that setting up the judicial branch was “essential to the happiness of our country and to the stability of its political system.” Congress went to work, passing a law that made the Supreme Court the head of the judicial branch. They set the number of Supreme Court justices at six, including a chief justice. Congress established the lower federal courts and designated their relationship to the state courts. Even when the judicial branch had been created, it was not clear how much power it would have in the checks and balances system. The Supreme Court defined the role of the judicial branch through one major ruling.

The Courts and Judicial Review

In an 1803 case called Marbury v. Madison, Chief Justice John Marshall established the principle of judicial review. According to this principle, it is up to the courts to review the acts of the other branches of government and decide whether the government has acted correctly.

As a result of Marbury, the Supreme Court can check the powers of the other branches. For example, it can decide if laws passed by Congress are constitutional and can strike down laws that are unconstitutional. The Supreme Court can also determine if an act of the president or members of the executive branch are constitutional. Later in this book you will learn more about how the branches of the federal government check and balance each other.

The Constitution embodies our American ideals of liberty and justice. No government—federal, state, or local—is supposed to act in violation of the Constitution. Sometimes, however, a legislative body passes a law that may or may not be constitutional. Such a law may be challenged in the judicial system. In some cases, that challenge may go all the way to the U.S. Supreme Court. It is the Supreme Court that enforces the Constitution as the highest law of the land.

READING CHECK Evaluating Why is the system of checks and balances important to government?