

Guiding Principles of the Constitution

Over the years, the Constitution has acquired an almost sacred status for Americans. Part of the reason for that is its durability. The Constitution has survived, with relatively few changes, for more than two centuries. It ensures stability and continuity in American political life. Furthermore, it has come to represent who we are as a people and a nation. It symbolizes our collective values in a way that most Americans—regardless of their political views—are able to embrace.

Establishing a Limited Government The framers' main goal in crafting the Constitution was to create a system of limited government. They knew that absolute power often leads to the abuse of rights. On the other hand, they also knew that a lack of governmental power could result in chaos and instability.

The framers tried to make sure that the Constitution gave the government enough power to ensure peace and order, but not so much that its power went unchecked. As James Madison wrote in *The Federalist No. 51*, "You must first enable the government to control the governed; and in the next place to oblige it to control itself."

The limited government envisioned in the Constitution is based on six guiding principles: (1) popular sovereignty, (2) the rule of law, (3) separation of powers and checks and balances, (4) federalism, (5) an independent judiciary, and (6) individual rights.

Popular Sovereignty This principle means that power resides in the will of the people. The framers understood that making people the source of power is the best assurance that government will act in the people's interest.

In *The Federalist No. 39*, Madison defined a republic as "a government which derives all its powers directly or indirectly from the great body of the people." The Constitution supports popular sovereignty through [republicanism](#), or the idea that people elect leaders to a governing body of citizens. One section that upholds this idea is the following:

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States.

—Article I, Section 2, Clause 1

In other words, the people elect members of the House, the more representative body of Congress. Another section ensures republicanism in the states:

The United States shall guarantee to every State in this Union a Republican Form of Government.

—Article IV, Section 4

By guaranteeing republican government in the states, the Constitution extends the principle of popular sovereignty to the states.

The Rule of Law This principle requires that the American people and their government abide by a system of laws. This is another way to ensure that power is limited and not used in an arbitrary manner. Examples in the Constitution include these:

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

—Article IV, Section 2, Clause 1

In other words, no state may discriminate against the residents of another state. The law must be applied in the same way to all. Another section says,

This Constitution . . . shall be the supreme Law of the Land.

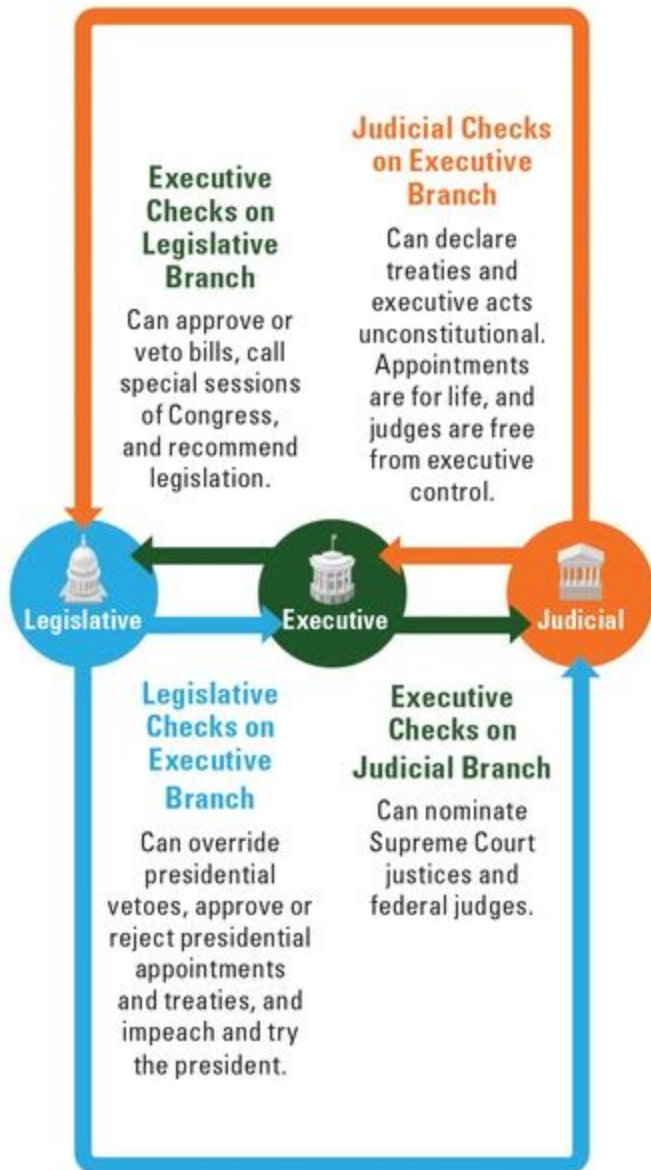
—Article VI, Section 2

This section asserts the authority of the Constitution and federal law over state and local law. When there is a conflict, the Constitution prevails.

Checks and Balances ▼

Judicial Checks on Legislative Branch

Can declare laws unconstitutional.



Legislative Checks on Judicial Branch

Can approve or reject nomination of federal judges, create lower courts, and remove judges through impeachment.

The system of checks and balances is a guiding principle of the Constitution and a key component of limited government to prevent any one branch from wielding too much power.

Separation of Powers—Checks and Balances The Constitution divides power in the national government among the three separate branches. This separation of powers was a key component in the framers' vision of limited government. In *The Federalist No. 47*, James

Madison wrote, “The accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.”

In the framers’ view, separating the powers of government among the three branches would ensure that no one branch could dominate. The framers took this principle a step further by inserting provisions in the Constitution that would allow each branch to check, or limit, the power of each of the other branches. This system of **checks and balances** can be seen in many parts of the Constitution, including in the following provision:

He [the president] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.

—Article II, Section 2, Clause 2

Although the president has the power to make treaties, such treaties must be approved by a two-thirds vote of the Senate to take effect. In this way, the Senate can check the power of the president. This clause goes on to say that the Senate can also block the president’s appointment of ambassadors, Supreme Court justices, and executive officers.

Another clause establishes the president’s **veto power** over bills passed by Congress. It says that the president can refuse to sign a bill into law and instead send it back to Congress:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to the House in which it shall have originated.

—Article I, Section 7, Clause 2

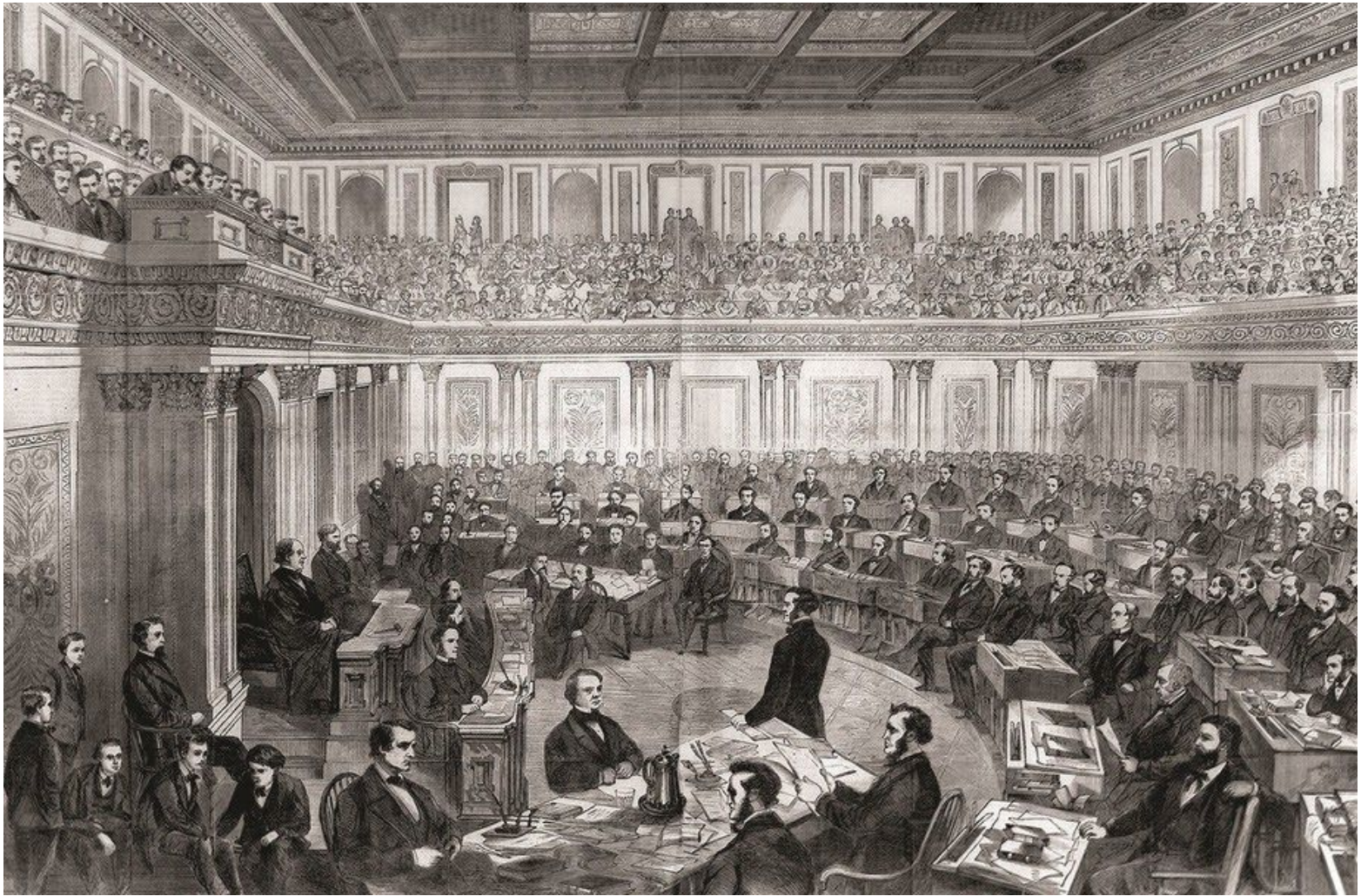
The clause goes on to say, however, that if Congress passes the bill again with a two-thirds majority, it becomes law without the president’s signature, thus checking the president’s veto power.

Other sections of Article I address the removal of top officials:

The House of Representatives shall . . . have the sole Power of Impeachment.

—Article I, Section 2, Clause 5

The only way to remove a president, other members of the executive branch, or federal judges from office is by **impeachment**. This process requires that a simple majority of House members vote to impeach, or formally charge, the official with wrongdoing. A trial then takes place in the Senate:



This 1868 sketch shows the Senate impeachment trial of President Andrew Johnson. Although the House voted to impeach him, the Senate acquitted him. Only two presidents have been impeached by the House, Johnson and President Bill Clinton, though both were later acquitted.

The Senate shall have the sole Power to try all Impeachments . . . And no Person shall be convicted without the Concurrence of two thirds of the Members present.

—Article I, Section 3, Clause 6

Conviction in a Senate trial requires a two-thirds vote of guilty. The power of impeachment gives Congress a check on the other branches of government.

Federalism The fourth guiding principle, [federalism](#), divides power between the central government and the various state governments. In creating a federal system of government, the Constitution also established three types of powers: delegated, reserved, and concurrent.

[Delegated powers](#) are those powers granted to the national government. Delegated powers may be either enumerated or implied in the Constitution. The delegated powers of the federal government include regulating immigration, making treaties, and declaring war.

[Reserved powers](#) are those powers kept by the states. Reserved powers allow states to set marriage and divorce laws, issue driver's licenses, and establish public schools, among many other things. Under the Constitution, much of the exercise of day-to-day power affecting citizens is carried out by the states.

[Concurrent powers](#) are those that are shared by the federal government and state governments. Examples include taxation and law enforcement.

The federalist principle in the Constitution is most evident in articles and amendments that refer to delegated, reserved, and concurrent powers, such as:

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

—Article I, Section 8, Clause 3

This clause, known as the [Commerce Clause](#), gives the federal government the power to regulate trade across state lines and to regulate and tax foreign trade. Another article establishes the amendment process:

The Congress . . . shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments.

—Article V

The amendment process is an example of concurrent powers. The federal government and the states share the power to amend the Constitution. Other powers are reserved to the states, however:

The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people.

—Tenth Amendment

This amendment reserves for the states or the people any powers that are not given to the federal government.



The First Amendment of the Bill of Rights guarantees Americans the freedom of speech and the right to assemble. These rights were exercised by participating in the national Women’s March. Demonstrators carried protest signs that addressed women’s rights and other human rights issues.

An Independent Judiciary The fifth guiding principle, an independent judiciary, was considered essential by the framers to support the rule of law and preserve limited government. In *The Federalist No. 78*, Alexander Hamilton wrote, “The independence of the judges may be an essential safeguard against the effects of occasional ill humors in society.” In other words, an [independent judiciary](#) would protect against abuses of the system by self-interested parties. This principle is found in Article III, which establishes the judicial branch.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

—Article III, Section 1

As this section makes clear, judicial authority rests with the Supreme Court and other federal courts. Where the article says that judges shall serve “during good Behaviour,” it essentially means “for life,” unless there is just cause to remove them. In addition, the salaries of judges may not be reduced while in office. These two provisions—lifetime tenure and a secure salary—help to insulate federal judges from political pressure and influence.

Individual Rights The sixth guiding principle, individual rights, played a major role in the struggle to ratify the Constitution. Anti-Federalists argued that the Constitution did not offer adequate protection for individual rights, so the Bill of Rights was added to address their concerns. The broadest of these protections are in the First Amendment, which says,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or

of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

This amendment protects the rights of individuals to speak their minds and act on their beliefs without fear of arrest or persecution by the government. In addition, the original text of the Constitution contains references to basic rights, such as trial by jury:

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury.

—Article III, Section 2, Clause 3

Trial by jury is a fundamental right guaranteed to all Americans. Another clause in the Constitution defines treason in a way that protects the rights of free speech and expression:

Treason against the United States, shall consist only in levying War . . . or in adhering to their Enemies . . . No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

—Article III, Section 3, Clause 1