The governmental concept of the separation of powers was incorporated into the [U.S. Constitution](https://www.thoughtco.com/us-constitution-and-bill-of-rights-4133019) to ensure that no single person or branch of the government could ever become too powerful. It is enforced through a series of checks and balances.

Specifically, the system of checks and balances is intended to make sure that no branch or department of the [federal government](https://www.thoughtco.com/what-is-federalism-3321880) is allowed to exceed its bounds, guard against fraud, and allow for the timely correction of errors or omissions. Indeed, the system of checks and balances acts as a sort of sentry over the separated powers, balancing the authorities of each branch of government. In practical use, the authority to take a given action rests with one department, while the responsibility to verify the appropriateness and legality of that action rests with another.

History of the Separation of Powers

Founding Fathers like [James Madison](https://www.thoughtco.com/james-madison-4th-president-united-states-104742) knew all too well—from hard experience—the dangers of unchecked power in government. As Madison himself put it, “The truth is that all men having power ought to be mistrusted.”

Therefore, Madison and his fellow framers believed in creating a government administered both over humans and by humans: “You must first enable the government to control the governed; and in the next place, oblige it to control itself.”

The concept of separation of powers, or “trias politics,” dates to 18th century France, when social and political philosopher Montesquieu published his famed "The Spirit of the Laws." Considered one of the greatest works in the history of political theory and jurisprudence, "The Spirit of the Laws" is believed to have inspired both the United States Constitution and France's Declaration of the Rights of the Man and of the Citizen.

The model of government conceived by Montesquieu had divided the political authority of the state into executive, legislative, and judicial powers. He asserted that ensuring that the three powers operate separately and independently was the key to liberty.

In American government, these three branches, along with their powers, are:

* The [legislative branch](https://www.thoughtco.com/the-legislative-branch-of-us-government-3322299), which enacts the nation’s laws
* The [executive branch](https://www.thoughtco.com/executive-branch-of-us-government-3322156), which implements and enforces the laws enacted by the legislative branch
* The [judicial branch](https://www.thoughtco.com/executive-branch-of-us-government-3322156), which interprets the laws in reference to the Constitution and applies its interpretations to legal controversies involving the laws

So well-accepted is the concept of the separation of powers that the constitutions of 40 U.S. states specify that their own governments be divided into similarly empowered legislative, executive, and judicial branches.

Three Branches, Separate But Equal

In the provision of the three branches of governmental power into the Constitution, the framers built their vision of a stable federal government, assured by a system of separated powers with checks and balances.

As Madison wrote in No. 51 of the [Federalist Papers](http://avalon.law.yale.edu/18th_century/fed51.asp), published in 1788, “The accumulation of all powers, legislative, executive, and judicial in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”

In both theory and practice, the power of each branch of the American government is held in check by the powers of the other two in several ways.

For example, while the [President of the United States](https://www.thoughtco.com/about-president-of-the-united-states-3322139) (executive branch) can [veto laws](https://www.thoughtco.com/about-the-presidential-veto-3322204) passed by Congress (legislative branch), Congress can override presidential vetoes with a [two-thirds vote](https://www.thoughtco.com/the-supermajority-vote-in-us-government-3322045) from [both houses](https://www.thoughtco.com/why-we-have-house-and-senate-3322313).

Similarly, the [Supreme Court](https://www.thoughtco.com/current-justices-of-the-supreme-court-3322418) (judicial branch) can nullify laws passed by Congress by ruling them to be unconstitutional.

However, the Supreme Court’s power is balanced by the fact that its presiding judges must be [appointed by the president](https://www.thoughtco.com/presidentially-appointed-jobs-requiring-senate-approval-3322227) with the approval of the Senate.

The following are the specific powers of each branch that demonstrate the way they check and balance the others:

Executive Branch Checks and Balances the Legislative Branch

* President has the power to veto laws passed by Congress.
* Can propose new laws to Congress
* Submits the Federal Budget to the House of Representatives
* Appoints federal officials, who carry out and enforce laws

Executive Branch Checks and Balances the Judicial Branch

* Nominates judges to the Supreme Court
* Nominates judges to the federal court system
* President has the power to pardon or grant amnesty to persons convicted of crimes.

Legislative Branch Checks and Balances the Executive Branch

* Congress can override presidential vetoes with a two-thirds vote from both chambers.
* Senate can reject proposed treaties with a two-thirds vote.
* Senate can reject presidential nominations of federal officials or judges.
* Congress can impeach and remove the president (House serves as prosecution, Senate serves as jury).

Legislative Branch Checks and Balances the Judicial Branch

* Congress can create lower courts.
* Senate can reject nominees to the federal courts and Supreme Court.
* Congress can amend the Constitution to overturn decisions of the Supreme Court.
* Congress can impeach judges of the lower federal courts.

Judicial Branch Checks and Balances the Executive Branch

* Supreme Court can use the power of judicial review to rule laws unconstitutional.

Judicial Branch Checks and Balances the Legislative Branch

* Supreme Court can use the power of judicial review to rule presidential actions unconstitutional.
* Supreme Court can use the power of judicial review to rule treaties unconstitutional.

But Are the Branches Truly Equal?

Over the years, the executive branch has—often controversially—attempted to expand its authority over the legislative and judicial branches.

After the Civil War, the executive branch sought to expand the scope of the constitutional powers granted to the president as [Commander in Chief](https://www.thoughtco.com/what-is-a-commander-in-chief-4116887) of a standing army. Other more recent examples of largely unchecked executive branch powers include:

* The power to issue [executive orders](https://www.thoughtco.com/presidential-executive-orders-3322125)
* The power to declare local and national emergencies
* The power to grant and revoke security classifications
* The power grant [presidential pardons](https://www.thoughtco.com/presidential-pardons-legal-guidelines-4070815) for federal crimes
* The power to issue presidential [bill signing statements](https://www.thoughtco.com/presidential-bill-signing-statements-3322228)
* The power to withhold information from Congress through [executive privilege](https://www.thoughtco.com/presidential-executive-privilege-3322157)

Some people argue that there are more checks or limitations on the power of the legislative branch than over the other two branches. For example, both the executive and judicial branches can override or nullify the laws it passes. Though they are technically correct, it is how the Founding Fathers intended the government to operate.

Conclusion

Our system of the separation of powers through checks and balances reflects the Founders’ interpretation of a republican form of government. Specifically, it does so in that the legislative (lawmaking) branch, as the most powerful, is also the most restrained.

As James Madison put it in [Federalist No. 48](http://avalon.law.yale.edu/18th_century/fed48.asp), “The legislative derives superiority…[i]ts constitutional powers [are] more extensive, and less susceptible to precise limits…[it] is not possible to give each [branch] an equal [number of checks on the other branches].”