

The Structure of the Constitution

CLEI Summer Civics Series
2022 Professional Learning Series

Bureau of Standards and Instructional Support

Agenda

1. An overview of the U.S. Constitution.
2. Structure, function and processes of the legislative branch as described in Article 1.
3. Structure, function and processes of the executive branch as described in Article 2.
4. Structure, function and processes of the judicial branch as described in Article 3.
5. The authority and power of government.
6. Federalism: The relationship between state and national government.



Founding Fathers' Vision



**“A republic, if you can keep it.”
–Benjamin Franklin**

Image Source: National Portrait Gallery



**“But law and liberty cannot rationally become
the objects of our love, unless they first
become the objects of our knowledge.”
–James Wilson**

Image Source: Oyez



Importance of the U.S. Constitution



“Knowledge is in every country the surest basis of public happiness.”
-George Washington

Image Source: National Gallery of Art



Civics Literacy Excellence Initiative

U.S. Constitution Overview

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Important Terms and Misconceptions

- Separation of Powers
- Federalism
- Enumerated Powers
- Implied Powers
- Reserved Powers
- Concurrent Powers

- ✗ Outdated: “*a bundle of compromises*”
- ✗ Only about rights
- ✗ The national government has unlimited power and the states are insignificant



Structure of the Constitution

Preamble	We The People
Articles	Article I: The Legislative Branch Article II: The Executive Branch Article III: The Judicial Branch Article IV: States' Rights Article V: Amendment Process Article VI: Supreme Law of the Land Article VII: Ratification Process
Amendments	1-10: Bill of Rights 11-27: Other Amendments added to the Constitution

Background Image Source: National Archives



Relationship between the Declaration and the Constitution

1776

- Declaration of Independence

1781

- Articles of Confederation

1787

- U.S. Constitution



Abraham Lincoln

Fragment on the Constitution and Union January 1861

"The *Union*, and the *Constitution*, are the *picture* of *silver*, subsequently framed around it. The picture was made, not to *conceal*, or *destroy* the apple; but to *adorn*, and *preserve* it. The *picture* was made *for* the apple — *not* the apple for the picture."

- Abraham Lincoln

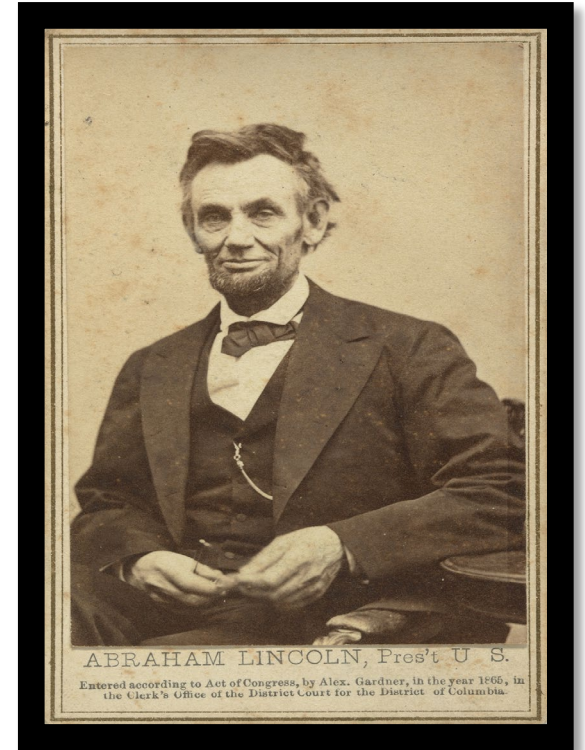


Image Source: National Portrait Gallery

What do you think Lincoln meant in this quote? What are his feelings toward the relationship between the Declaration of Independence and the U.S. Constitution?



Structure, Function and Processes of the Legislative Branch as Described in Article 1

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Federalist 51 (Publius)



“You must first enable the government to control the governed; and in the next place oblige it to control itself...experience has taught mankind necessity of auxiliary precautions.”

- James Madison

- Structure of government
- Separation of power
 - Have own will
 - ***“Ambition must be made to counteract ambition”***
 - Government controls itself
 - Legislature – bicameral

Image Source: National Gallery of Art

What do you think Madison meant by the quote "ambition must be made to counteract ambition"?



Constitutional Convention

Virginia Plan
Edmund Randolph
Population

New Jersey Plan
William Patterson
Equal representation

**Great
Compromise**

**House of
Representatives**
Population

Senate
Equal representation

Background Image Source: Wikipedia



Powers of Congress

Article I vesting clause

“All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.”

Enumerated Powers

Commerce	Common defense	General welfare
<ul style="list-style-type: none">• Lay and collect taxes• Borrow money• Regulate commerce with states, other nations, and Native American tribes• To coin money• Punishment of counterfeiting• Copyright and patent	<ul style="list-style-type: none">• Declare war• Raise army and navy• To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions• Punish piracy	<ul style="list-style-type: none">• To establish a uniform Rule of Naturalization• Establish post offices and post roads• Establish lower courts



Powers of Congress

Implied Powers

- Necessary and Proper Clause
- Article I, Section 8.18

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Reserved Powers

- 10th Amendment
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.



Article 1, Section 9: Restrictions on Congressional Power

- No Bill of Attainder
- Writ of Habeas Corpus shall not be suspended
- Ex Post Facto Law
- Export Tax
- No Titles of Nobility

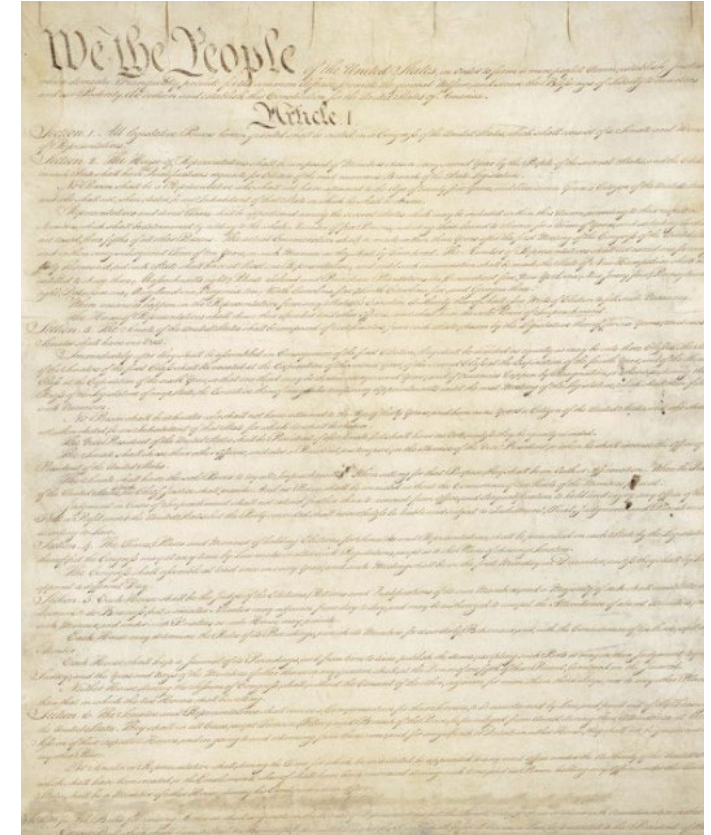


Image Source: National Archives



Consider the Checks on Congress

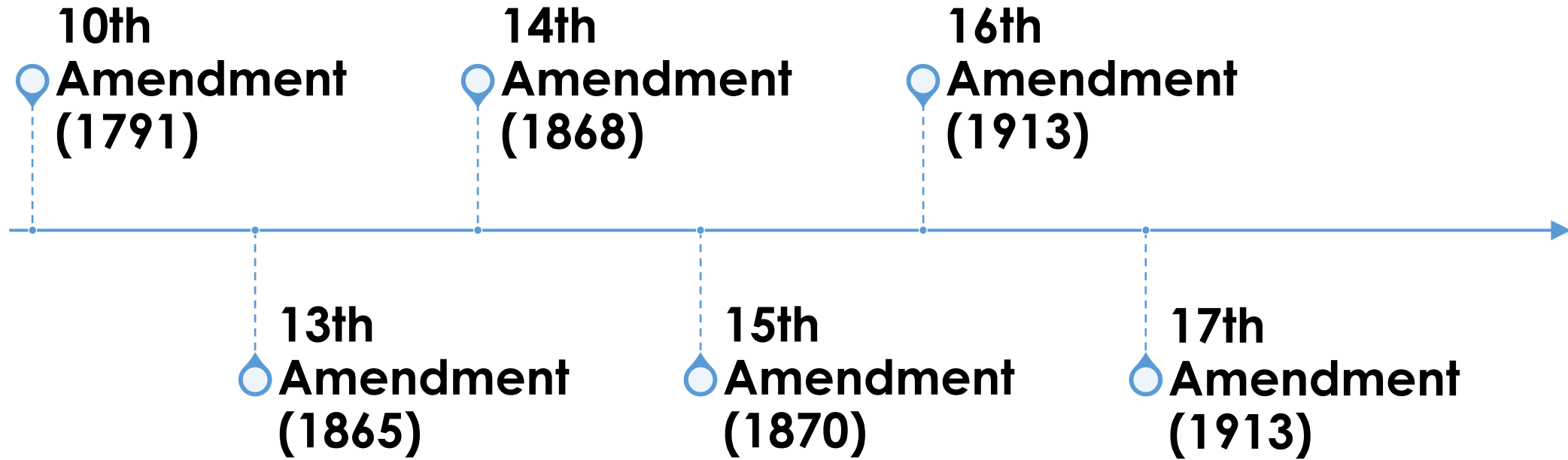
- Presidential approval or veto
- President's call or adjourn Congressional sessions
- Vice President tie breaker
- Supreme Court void on Congressional laws



Image Source: Public Domain, Wikipedia



Amendments Expanding the Power of Congress



Amendments Shrinking the Power of Congress

27th Amendment covers limits on salary changes (1992)



Structure, Function and Processes of the Executive Branch as Described in Article 2

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Federalist 70 (Publius)

Is a strong presidency compatible with good government?

- Energetic
- Republican executive
- Unity, powers, secrecy

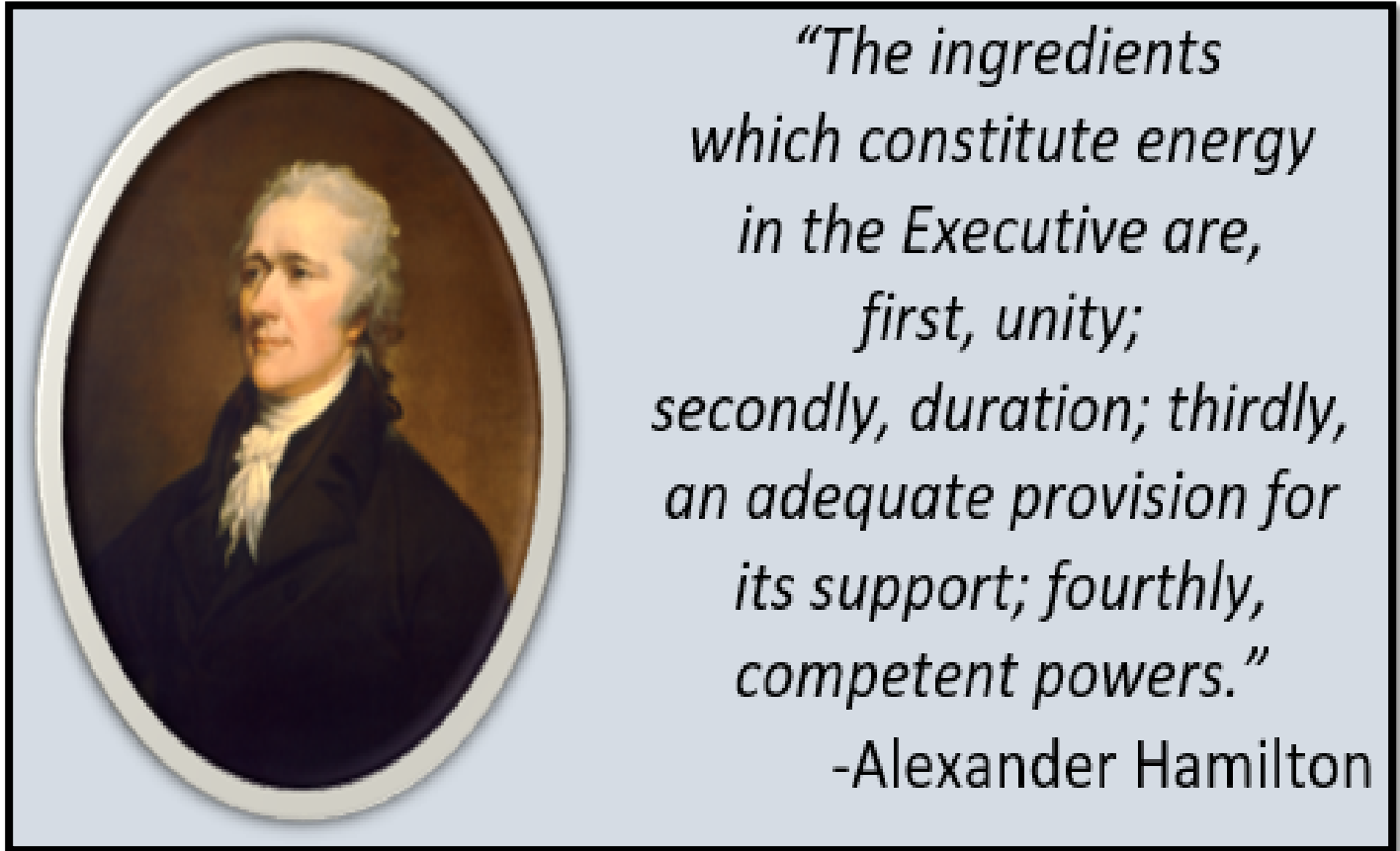


Image Source: National Gallery of Art



George Washington

- Refused to be made king
- Resigned military commission
- Refused to use military power to threaten Congress
- Unitary executive allows the president to make quick decisions to keep the country safe
- Set precedent for two-term limit



Image Source: National Gallery of Art



Executive Branch

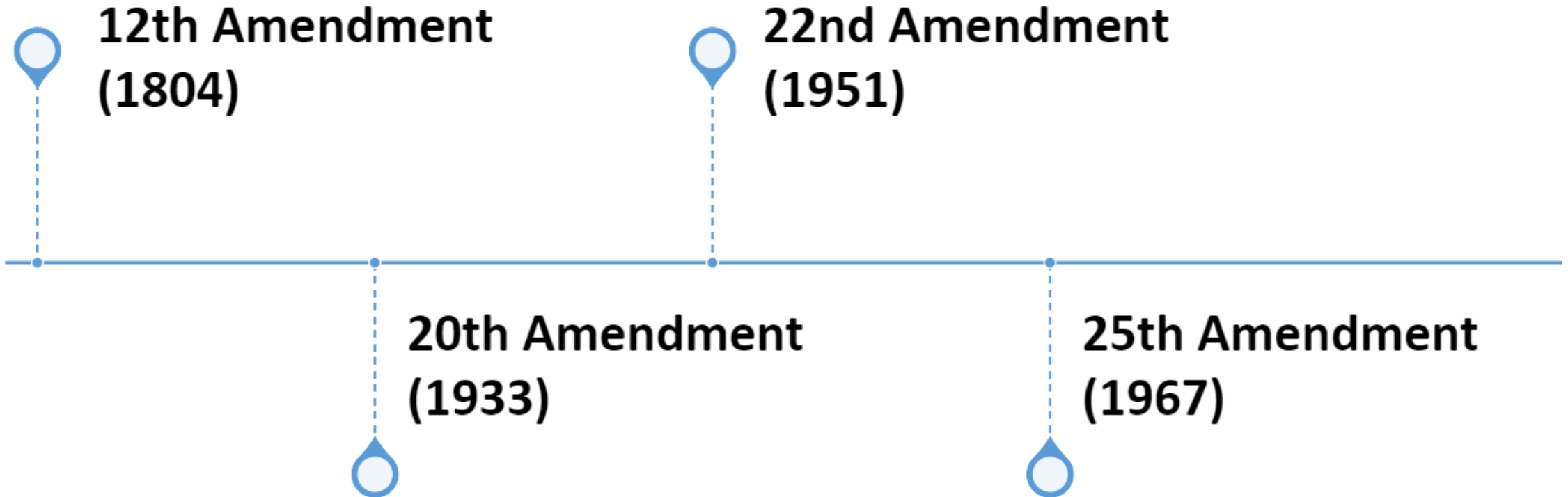
Article II vesting clause

“The executive power shall be vested in a President of the United States.”

Enumerated Powers	Checks on the President
<ul style="list-style-type: none">• Commander in Chief• Make treaties with Senate approval• Appointment and commissioning with Senate approval• Executive orders	<ul style="list-style-type: none">• Congress can impeach president• Congress can override a presidential veto• Congress can control the military by refusing to declare war• Senate can confirm treaties and presidential appointments



Amendments Affecting the Role of the Executive Branch



Structure, Function and Processes of the Judicial Branch as Described in Article 3

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Federalist 78 (Publius)

- Least dangerous branch
- Weakest of three
- Reflection of people in Constitution

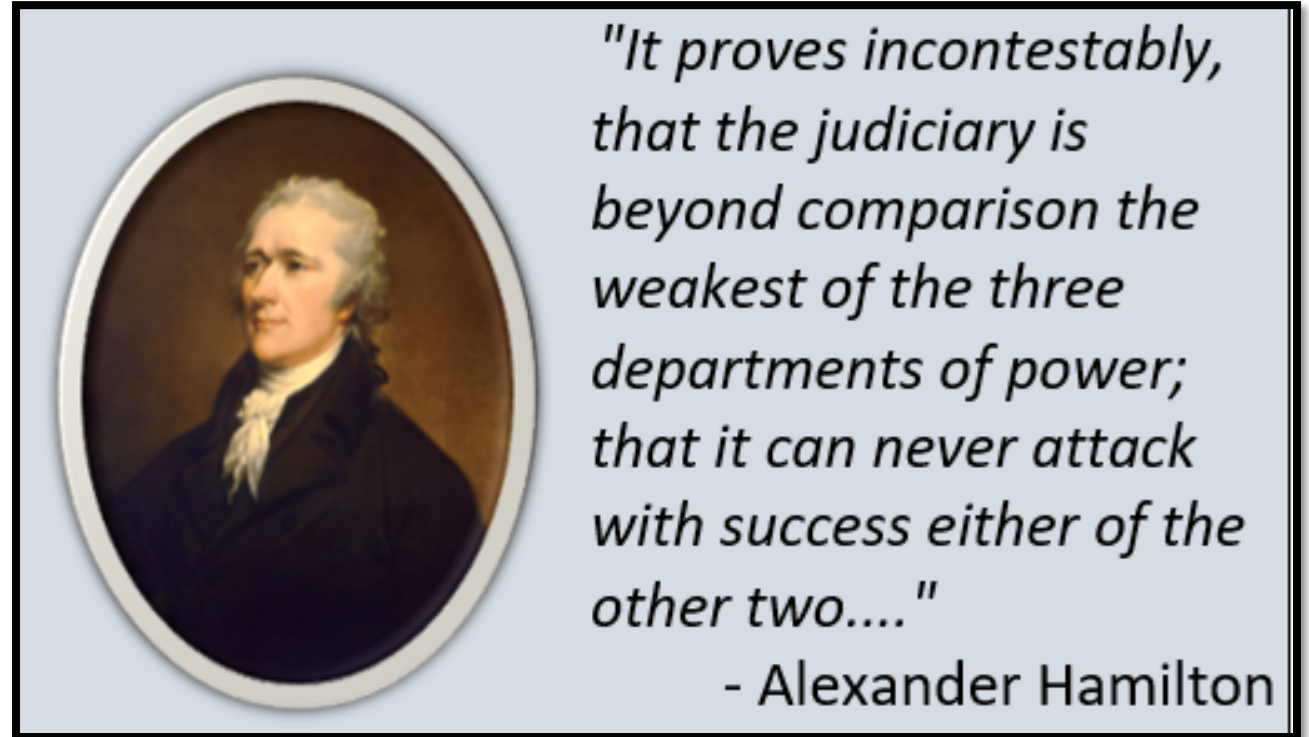


Image Source: National Gallery of Art

What do you think Hamilton meant by the judicial being the weakest branch?



Judicial Branch

Article III vesting clause

"The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts..."

Jurisdiction	Checks on the Supreme Court
<ul style="list-style-type: none">• A court cannot hear a case unless it has jurisdiction.• Original Jurisdiction<ul style="list-style-type: none">○ cases involving disputes between states, ambassadors, ministers, or consuls, the Supreme Court has original jurisdiction• Appellate Jurisdiction	<ul style="list-style-type: none">• Impeachment• Congress can determine the number of judges and the size of federal courts.• Judges can only be appointed by the President and requires confirmation by the Senate.

Marbury v. Madison (1803) - Established judicial review



Who Has the Authority and Power?

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Constitutional Interpretation Misconceptions

- The Supreme Court is the final authority
- The Constitution is a “living document”
- The Constitution is whatever the Supreme Court says

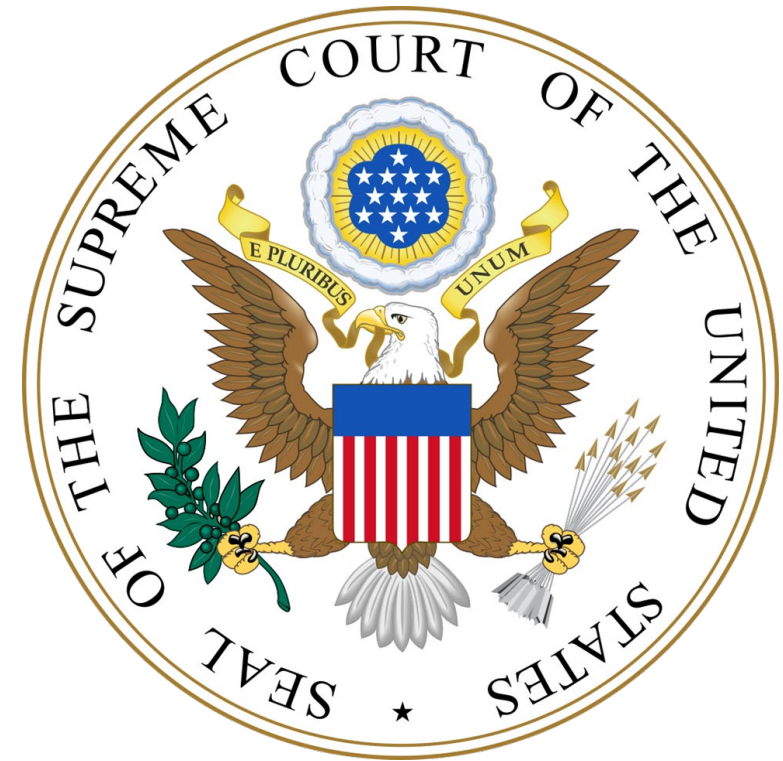
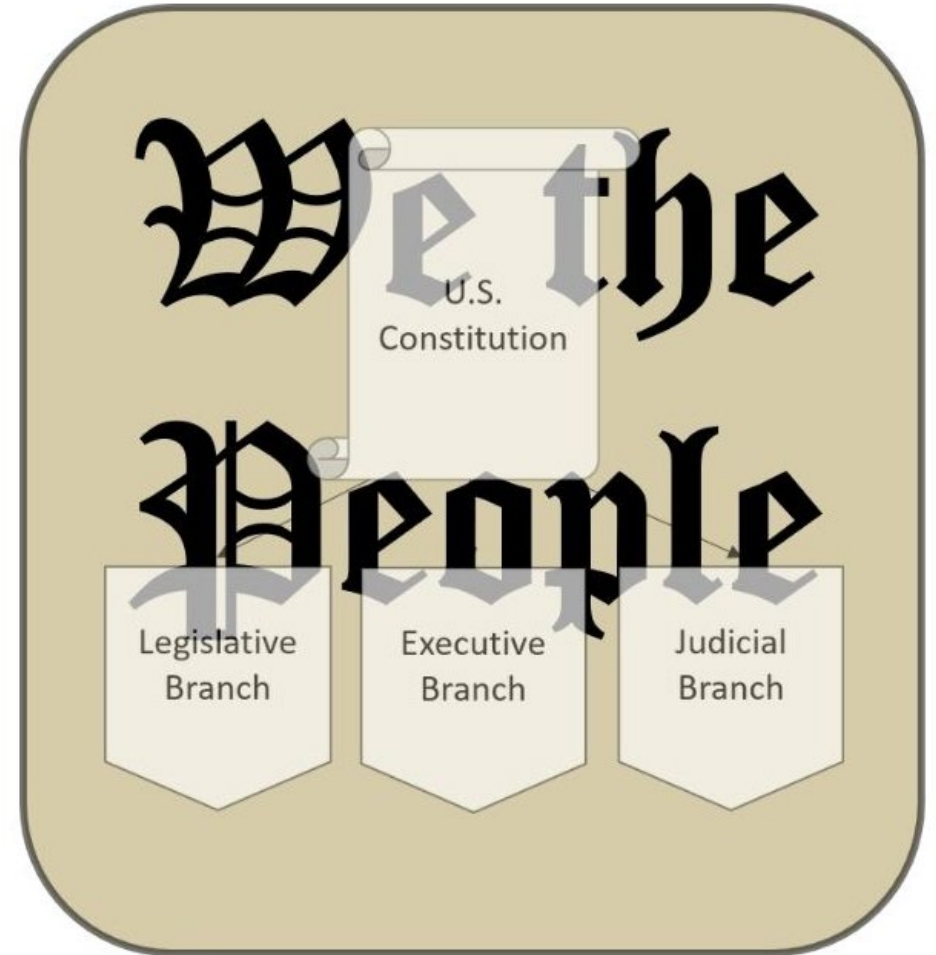


Image Source: Public Domain, Wikimedia



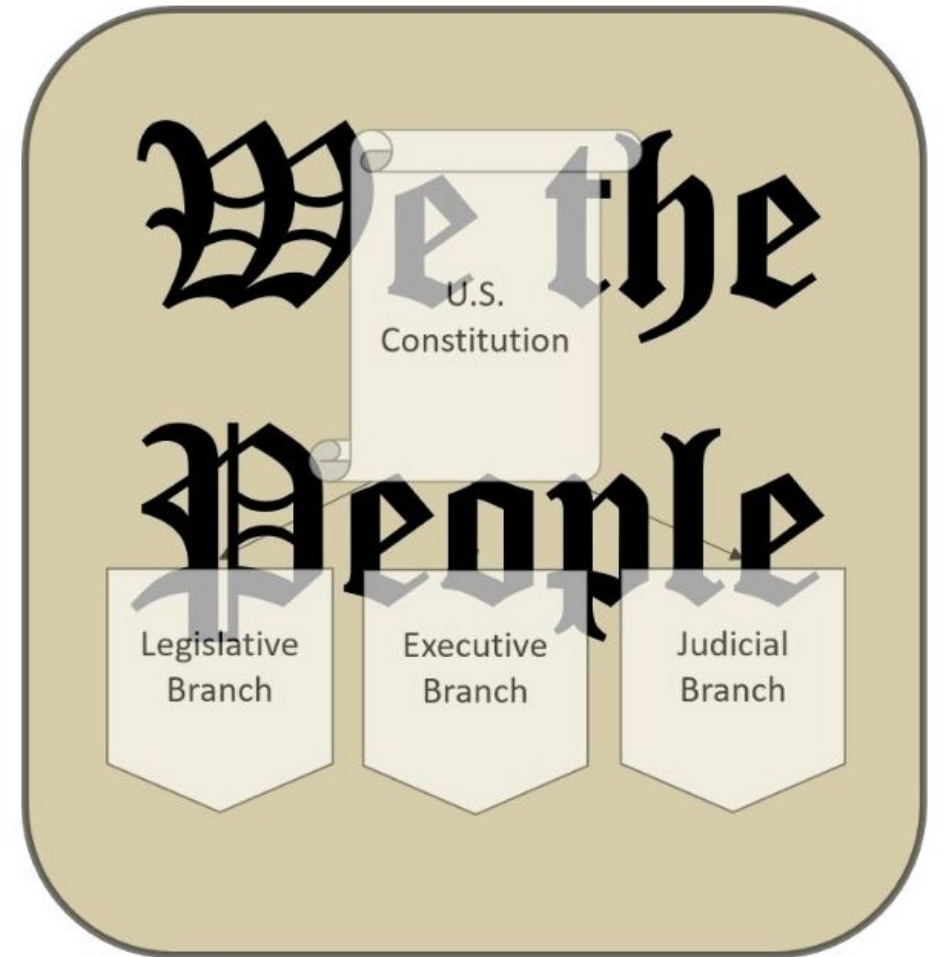
The Sovereign People

- We the people are the final interpreter of the Constitution
- Popular Sovereignty
- How do the people make changes?
 - Elections
 - Constitutional Amendment



Authority and Power

- Derived from the people
- Supreme law of the land
- Government officers in the branches are sworn in, taking an oath to uphold the Constitution



Constitutional Interpretation

“The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all.”

- George Washington's
Farewell Address



Image Source: National Gallery of Art



Federalism: The Relationship Between State and National Government

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Articles Four, Five, Six and Seven

Article IV
States Rights

Article V
Amendment
Process

Article VI
Supreme Law
of the Land

Article VII
Ratification
Process



Federalist 45 (Publius)



"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite."

- James Madison

- Constitutional Convention delegates devised a new government: federal system
- Helps Secure political liberty
- Conflict is a feature of the system
- 50 state governments in a "compound republic"

Image Source: National Gallery of Art

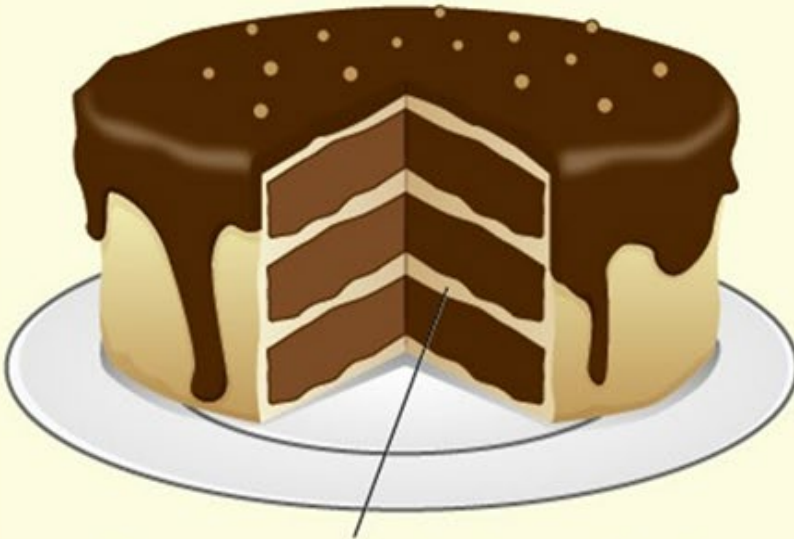
How did the Constitution limit the power of the federal government?



Types of Federalism

Dual Federalism

Layer Cake Federalism



Programs and authority are clearly divided among the national, state, and local governments.

Cooperative Federalism

Marble Cake Federalism



Programs and authority are mixed among the national, state, and local governments.

Image Source: Course Hero



Federalism: Decentralized Design

Advantages of State-Level Policy	Advantages of National Policy
States more responsive to citizen needs and desires	More fair
States offer more protection for individual rights	Equalize resources across the nation
Federalism fosters political innovation	Standardize best practices
Federalism gives people more choices	Problems of coordination



Federalism: Redistricting



Image Source: Wikipedia

- Gerrymandering
- Reapportionment
 - Article I, Section 2
- Redistricting
 - Article I, Section 4
"...Time, Place and Manner..."
- Baker v. Carr (1962)



Baker v. Carr (1962)



Image Source: Wikipedia

Case issue: Do federal courts have the power to decide cases about the apportionment of population into state legislative districts?

Connect — Extend — Challenge



Image Source: National Park Services

"Rising Sun" Chair

"I have often looked at that picture behind the president without being able to tell whether it was rising or setting. But now at length I have the happiness to know that it is a rising and not a setting sun."

-Benjamin Franklin



K-5 Benchmark Alignment

Grade 1	Grade 3	Grade 5
<p>SS. 1.CG.2.4: Recognize symbols and individuals that represent the United States.</p> <p>SS.1.CG.3.1: Recognize that the United States and Florida have Constitutions.</p>	<p>SS. 3.CG.1.1: Explain how the U.S. Constitution establishes the purpose and fulfills the need for government.</p> <p>SS.3.CG.1.2: Describe how the U.S. government gains its power from the people.</p> <p>SS.3.CG.3.2: Recognize that government has local, state and national level.</p>	<p>SS.5.CG.1.2: Explain how and why the U.S. government was created by the U.S. Constitution.</p> <p>SS.5.CG.2.3: Analyze how the U.S. Constitution expanded civic participation over time.</p> <p>SS.5.CG.3.1: Describe the organizational structure and powers of the national government as defined in Articles I, II and III of the U.S. Constitution.</p>
Grade 2	Grade 4	
<p>SS.2.CG.3.1: Identify the Constitution as the Supreme Law of the Land.</p> <p>SS.2.CG.1.2: Explain how the U.S. Government protects the liberty and the rights of American citizens.</p> <p>SS.2.CG.3.1: Identify the Constitution of the United States as the supreme law of the land.</p>	<p>SS.4.CG.1.1: Explain why the Florida government has a written Constitution</p>	<p>SS.5.CG.3.2: Analyze how the U.S. Constitution and Bill of Rights limit the power of the national government and protect citizens from an oppressive government.</p> <p>SS.5.CG.3.6: Explain the relationship between the state and national governments.</p>



6-8 Benchmark Alignment

SS.7.CG.1.7	Explain how the weaknesses of the Articles of Confederation led to the writing of the U.S. Constitution.
SS.7.CG.1.6	Analyze the ideas and complaints set forth in the Declaration of Independence.
SS.7.CG.1.9	Describe how the U.S. Constitution limits the powers of government through separation of powers, checks and balances, individual rights, rule of law and due process of law.
SS.7.CG.1.10	Compare the viewpoints of the Federalists and the Anti-Federalists regarding ratification of the U.S. Constitution and including a bill of rights.
SS.7.CG.3.2	Explain the advantages of a federal system of government over other systems in balancing local sovereignty with national unity and protecting against authoritarianism.
SS.7.CG.3.3	Describe the structure and function of the three branches of government established in the U.S. Constitution.
SS.7.CG.3.4	Explain the relationship between state and national governments as written in Article IV of the U.S. Constitution and the 10th Amendment.
SS.7.CG.3.7	Explain the structure, functions and processes of the legislative branch of government.
SS.7.CG.3.8	Explain the structure, functions and processes of the executive branch of government.
SS.7.CG.3.9	Explain the structure, functions and processes of the judicial branch of government.



9-12 Benchmark Alignment

SS.912.CG.1.3	Explain arguments presented in the Federalist Papers in support of ratifying the U.S. Constitution and a republican form of government.
SS.912.CG.1.4	Analyze how the ideals and principles expressed in the founding documents shape America as a constitutional republic.
SS.912.CG.1.5	Explain how the U.S. Constitution and its amendments uphold the following political principles: checks and balances, consent of the governed, democracy, due process of law, federalism, individual rights, limited government, representative government, republicanism, rule of law and separation of powers.
SS.912.CG.3.2	Explain how the U.S. Constitution safeguards and limits individual rights.
SS.912.CG.3.3:	Analyze the structures, functions and processes of the legislative branch as described in Article I of the U.S. Constitution.
SS.912.CG.3.4	Analyze the structures, functions and processes of the executive branch as described in Article II of the U.S. Constitution.
SS.912.CG.3.6	Explain expressed, implied, concurrent and reserved powers in the U.S. Constitution.
SS.912.CG.3.7	Analyze the structures, functions and processes of the judicial branch as described in Article III of the U.S. Constitution
SS.912.CG.3.8	Describe the purpose and function of judicial review in the American constitutional government
SS.912.CG.3.12	Analyze the concept of federalism in the United States and its role in establishing the relationship between the state and national governments.
SS.912.CG.3.14	Explain the judicial decision-making process in interpreting law at the state and national levels.



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