

GOVT2305: Federal Government

Lectures 4: Constitutional Safeguards

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2025-07-01

Agenda and Announcements

Today's Agenda

- Lecture:
 - Separation of Powers
 - Checks and Balances
 - Federalism
- Activity/discussion:
 - Ethics and limits on government
- Quiz: Module 1

Next Week's Agenda

- Monday Lecture: Misinformation
- Monday Discussion/Activity: Memes Exercise
- Tuesday Lecture: Civil Liberties
- Tuesday Discussion: Civil Liberties and Majority Power

Announcements

Submit a political meme on Canvas by Monday morning

- You do not need to create a meme
- Find a meme that you think is political preferably one that has been in your actual social media feed - Instagram, Twitter (X)
- Short TikToks are fine! Instagram Reels are better! I need TikToks by Saturday
- If you choose to use a search engine, please look for a specific topic so we don't have just one or two memes

Reminders

- Monday Journals Due
 - Chapter 7 - Journal Due July 21
 - Chapter 8: Political Parties, Candidates, and Campaigns: Defining the Voter's Choice
- Tuesday Journals Due
 - One combined entry for Chapter 6: Public Opinion and Political Socialization: Shaping
- Tuesday Study Guide Due for Module 2
- Tuesday Module 2 Quiz

Today's Topic: Separation of Powers, Federalism, Checks and Balances

Review

- Basic problem: Government is organized coercive violence seen as legitimate
 - Great power to do good consensually where we are largely unified
 - Great power to do bad if resort to coercive violence is necessary because there is no

Why do we care about the Constitution

- The Constitution set out a system to limit the power of government to allow for the good and limit the bad
- If we just pretend to follow it, it has no real power to limit oppression - political violence
- The Constitution has been changed, in some ways drastically to deal with some of its original flaws
- There is a process to change it further if there is unity in the desire for change, but fundamental rights are not up to simple majorities

How did the Constitutional design limit abuse of power

- Separation of Powers within the federal government
- Checks and balances between individuals groups in the federal government
- Federalism: separation of powers between levels of government - state/federal
- The addition of the Bill of Rights (First 10 Amendments)

Separation of Powers

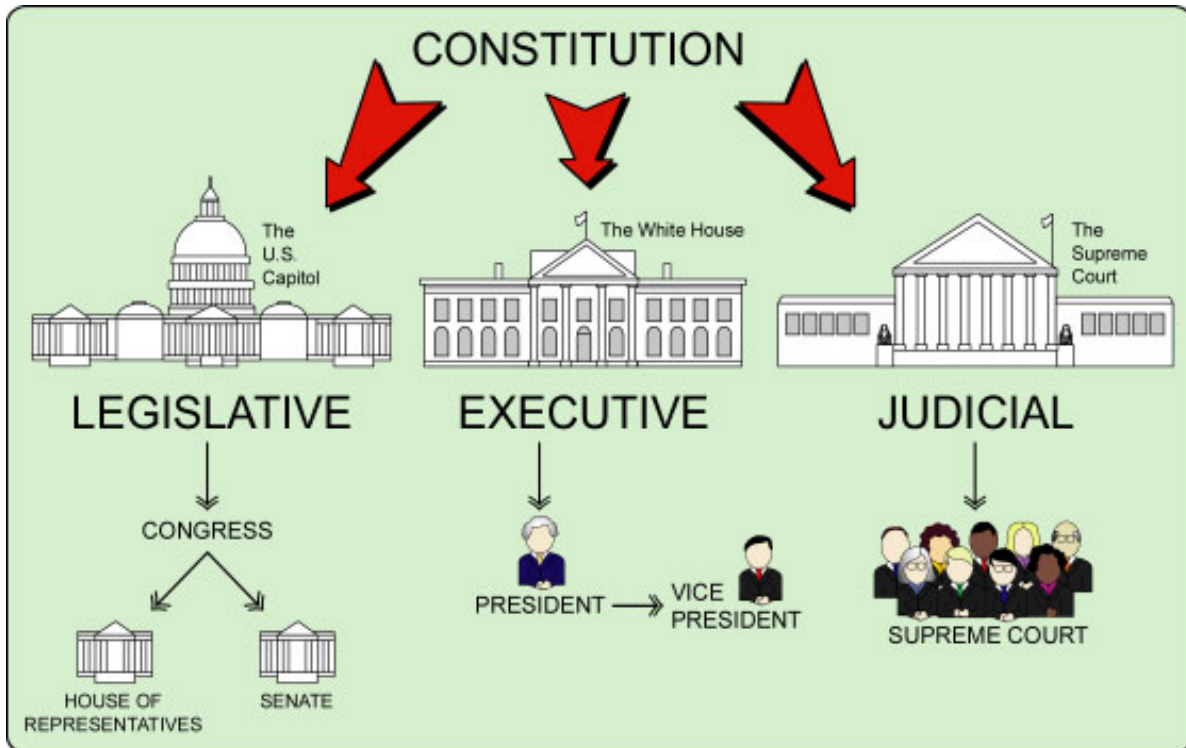


Figure 1: Source: Bill of Rights Institute

Separation of Powers

The Constitution was devised with an ingenious and intricate built-in system of checks and balances to guard the people's liberty against combinations of government power.

National Center for Constitutional Studies: <https://nccs.net/>

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It has gotten much better through Amendment!

Splitting up power to prevent abuse

- *Separate power* among competing groups with different agendas

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Checks and Balances

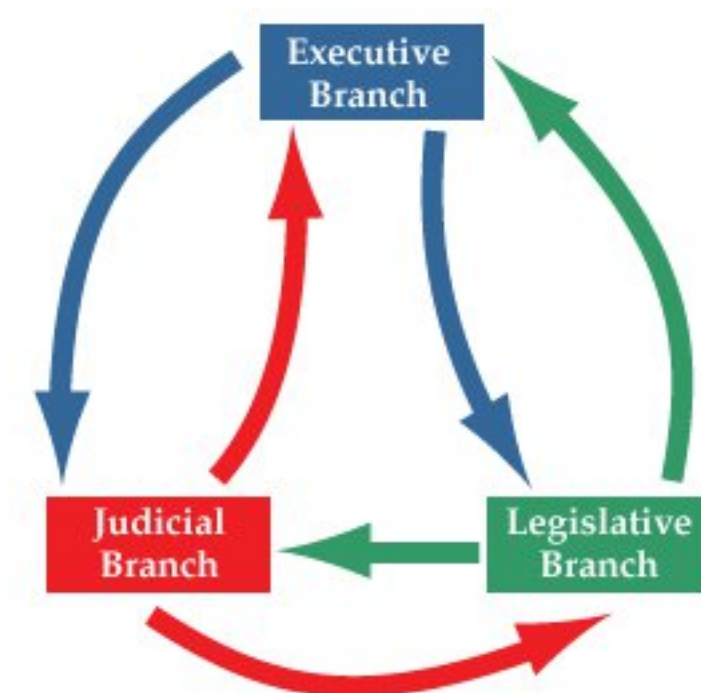


Figure 2: Source: <https://lsintspl3.wgbh.org/en-us/lesson/midlit10-soc-splgovt/1>

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- No one group or individual has sufficient power to dominate the others and act alone

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This is **Separation of Powers** and **Checks and Balances**

Three Branches of Government: Basic Powers



Figure 3: Source: Have Fun with History

Three Branches of Government: Basic Powers

- Legislative: Congress - Makes laws
- Executive: President - Executes the laws and governs
- Judicial: Courts - Interprets and applies the laws

Legislative Branch: Article I

Congress: Makes laws

- Impeach Presidents and Justices of Supreme Court

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Legislative Branch: Article I

Congress: Makes laws

- Impeach Presidents and Justices of Supreme Court
- Override Presidential vetoes by 2/3 majority of both houses
- Restrict extent of the Supreme Courts jurisdiction

Executive Branch: Article II

President: Executes the laws and governs

- Veto bills passed by Congress

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Executive Branch: Article II

President: Executes the laws and governs

- Veto bills passed by Congress
- Pardon criminals convicted by Courts
- Some discretion in how laws are carried out and enforced

Question 1

- Which branch of government has the power to impeach the President and Justices of the Supreme Court?
 - A. Legislative
 - B. Executive
 - C. Judicial
 - D. None of the above

Question 1

Answer: A. Legislative - Congress has the power to impeach the President and Justices of the Supreme Court

Judicial Branch: Article III

Courts: Interpret and apply the laws

- No explicit powers to check the other branches listed in the COnstitution

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Courts: Interpret and apply the laws

- No explicit powers to check the other branches listed in the Constitution
- Major implied power: Judicial Review

Judicial Branch: Article III

Courts: Interpret and apply the laws

- The Constitution is the "supreme law of the land"

Judicial Branch: Article III

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding

United States Constitution, Article VI, Clause 2

Judicial Branch: Article III

Courts: Interpret and apply the laws

- The Constitution is the "supreme law of the land"
- Interpret and apply the laws including the Constitution

Judicial Branch: Article III

Courts: Interpret and apply the laws

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- Implied: The power to review laws passed by Congress to enforce the Constitution

Judicial Branch: Article III

Courts: Interpret and apply the laws

- The Constitution is the "supreme law of the land"
- Interpret and apply the laws including the Constitution
- Implied: The power to review laws passed by Congress to enforce the Constitution
- Implied: The power to review the acts of Presidents

Question 2

- Which branch of government has the power to review laws passed by Congress to enforce the Constitution?
 - A. Legislative
 - B. Executive
 - C. Judicial
 - D. None of the above

Question 2

Answer: C. Judicial - Courts have the power to review laws passed by Congress to enforce the Constitution

Three Branches of Government: Checks on other branches

- Congress - veto override, impeachment, set jurisdiction
- President - veto, pardon, discretion in enforcement
- Courts - Judicial review - decide the Constitutionality

Congress: More Separation of Powers

Congress is split into two houses

- House of Representatives
- Senate

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States...

States - plural, not “A Free and Independent State” singular

Congress: More Separation of Powers

- Bills must pass both houses to become law
- Each house has different powers and responsibilities
- Each house has different constituencies and terms of office
- Each house has different rules and procedures

Congress: More Separation of Powers

- House of Representatives
 - elected every two years
 - elected by districts
 - closer to the people, more responsive to public opinion

Congress: More Separation of Powers

- Senate
 - elected every six years
 - elected by states (originally appointed by states)
 - more insulated from public opinion, more deliberative
 - intended to represent the interests of the states

Question 3

- The states claimed the status of 13 free and independent sovereign states in the Declaration of Independence states. True or False?
 - A. True
 - B. False

Question 3

Answer: True

The interests of the states

- The Senate was intended to represent the interests of the states

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- This was a compromise between large and small states
- This was necessary to pass the Constitution because:
 - the states were sovereign entities, essentially independent nations
 - the states had to ratify the Constitution
 - the states were the original source of the federal government's power

Federalism: National and State Power

Federal Government		State Government
Enumerated Powers <ul style="list-style-type: none">• Coin money• Regulate interstate and foreign commerce• Conduct foreign affairs• Establish rules of naturalization• Punish counterfeiting• Establish copyright/patent laws• Regulate postal system• Establish courts inferior to Supreme Court• Declare war• Raise and support armies• Make all laws "necessary and proper" to carry out responsibilities	Concurrent Powers <ul style="list-style-type: none">• Levy and collect taxes• Borrow money• Make and enforce laws• Establish courts• Charter banks and corporations• Take property for public purpose with just compensation (eminent domain)	Reserved Powers <ul style="list-style-type: none">• Regulate intrastate commerce• Conduct elections• Provide for public health, safety, welfare, and morals• Establish local governments• Maintain militia (National Guard)• Ratify amendments to the Constitution Powers Denied <ul style="list-style-type: none">• Tax imports and exports• Coin money• Enter into treaties• Impair obligation of contracts• Abridge the privileges or immunities of citizens or deny due process and equal protection of the laws
Powers Denied <ul style="list-style-type: none">• Tax state exports• Change state boundaries• Violate the Bill of Rights		

Figure 4: Source: <https://mlpp.pressbooks.pub/pol111mhs/chapter/3-1-federalism-as-a-structure-for-power/>

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- States kept all powers not expressly given to the federal government
- Police powers: laws regulating **most major issues** like:

State Powers

MURDER!

- Assault, battery, kidnapping, almost all crimes of violence

State Powers

THEFT!

- fraud, robbery, trespassing, almost all crimes against property

State Powers

PROPERTY REGISTRATION!

State Powers

BUSINESS FORMATION and CONTRACTS

Most laws relating to contracts, types of businesses, liability, and more

State Powers

INSURANCE

State Powers

ALMOST EVERYTHING *INTRASTATE*

Intrastate is within a single state's borders

Question 4

Which of the following is a power of the states?

- A. Regulating commerce with other states (interstate)
- B. Regulating foreign commerce
- C. Regulating commerce within the state (intrastate)
- D. Regulating the military

Question 4

Answer: - C. Regulating commerce within the state (intrastate)

National Powers

- Constitution gave explicit powers to the federal government

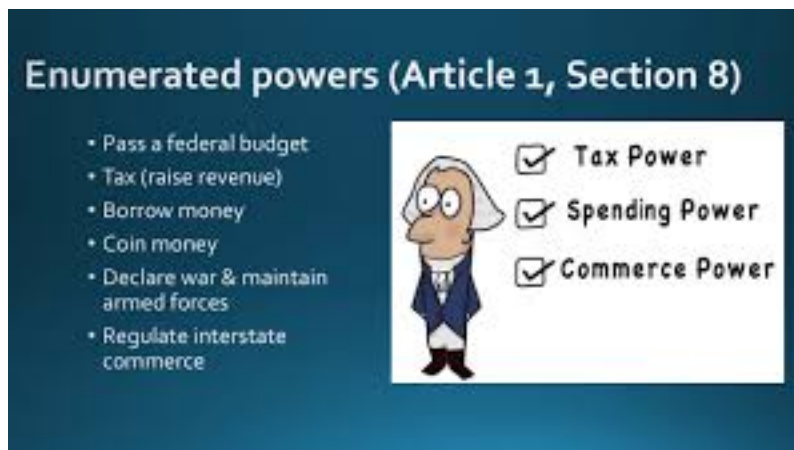


Figure 5: Source: <https://www.youtube.com/@CareyLaManna>

Bill of Rights

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.

- 10th Amendment to the United States Constitution

Bill of Rights

Unless the Constitution gives the federal government a power, it remains a state power or a right of the people

Question 5

Which part of the Congress was intended to represent the interests of the states?

- A. The House of Representatives
- B. The Senate
- C. The President
- D. The Supreme Court

Question 5

Answer: B. The Senate

Government: Delegated Violence

- Who is responsible for hired violence, the client or the hired muscle?



Figure 6: John Wick

Government: Delegated Violence

- Government acts on our behalf, especially in a democracy

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- If something is unethical for individuals to do, does a majority or plurality vote make it ethical?

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Government: Delegated Violence

- Government acts on our behalf, especially in a democracy
- If something is unethical for individuals to do, does a majority or plurality vote make it ethical?
- Can we delegate violence to the government that we cannot ethically do ourselves?
- What consequences does this have for the need to restrain government?

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