

supremacy and the effort to construct a strong presidency. See Table 2.1 for a comparison of the Articles of Confederation to the Constitution. Second, the framers sought to prevent what they saw as the threat posed by the "excessive democracy" of the state and national governments under the Articles of Confederation. This led to such constitutional principles as a **bicameral** legislature (a legislative assembly composed of two chambers or houses), **checks and balances** (mechanisms through which each branch of government is able to

TABLE 2.1

Comparing the Articles of Confederation and the Constitution

MAJOR PROVISIONS	ARTICLES	CONSTITUTION
Executive branch	None	President of the United States
Judiciary	No federal court system. Judiciary exists only at state level.	Federal judiciary headed by the Supreme Court
Legislature	Unicameral legislature with equal representation for each state. Delegates to the Congress of the Confederation were appointed by the states.	Bicameral legislature consisting of Senate and House of Representatives. Each state is represented by two senators, while apportionment in the House is based on state population. Senators are chosen by the state legislatures (changed to popular election in 1913) and House members by popular election.
Fiscal and economic powers	The national government is dependent upon the states to collect taxes. The states are free to coin their own money, print paper money, and sign commercial treaties with foreign governments.	Congress given the power to levy taxes, coin money, and regulate commerce. States prohibited from coining money or entering into treaties with other nations.
Military	The national government is dependent upon state militias and cannot form an army during peacetime.	The national government is authorized to maintain an army and navy.
Legal supremacy	State constitutions and state law are supreme.	National Constitution and national law are supreme.
Constitutional amendment	Must be agreed upon by all states.	Must be agreed upon by three-fourths of the states.

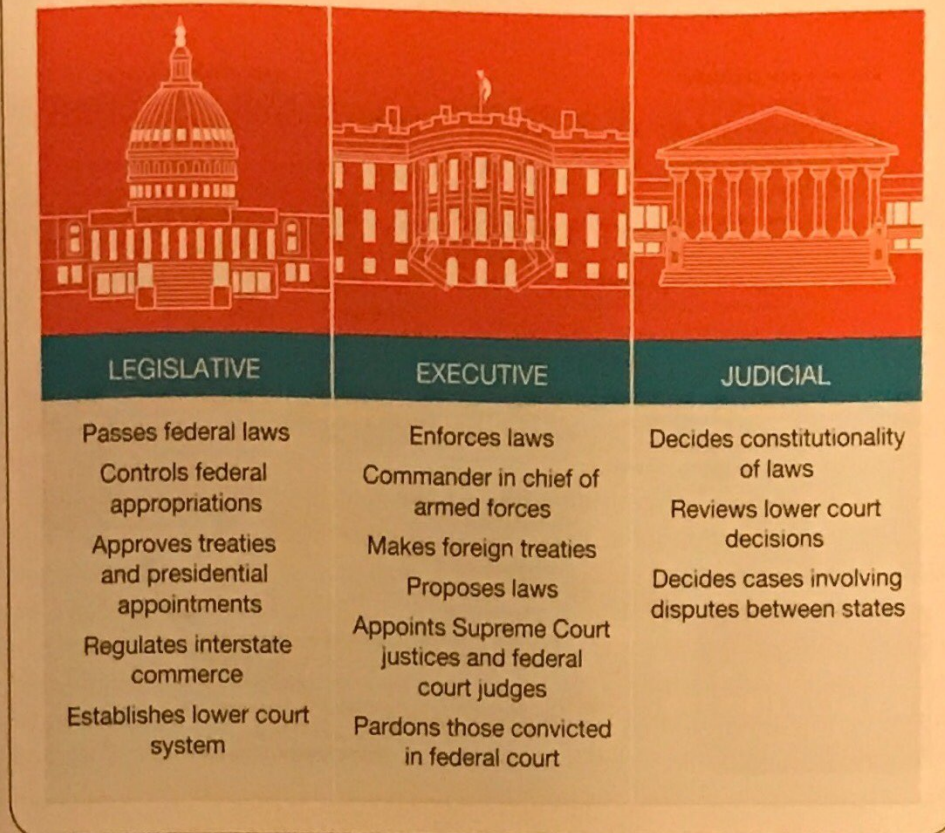
participate in and influence the activities of the other branches), staggered terms in office with longer terms for senators, and indirect election (selection of the president not by voters directly but by an **electoral college**, whereby presidential electors from each state who meet after the popular election cast ballots for president and vice president; senators also were chosen indirectly, by state legislatures). Third, the framers, lacking the power to force the states or the public at large to accept the new form of government, sought to identify principles that would help to secure support. This became the basis of the constitutional provision for direct popular election of representatives and, subsequently, for the addition of the **Bill of Rights** (the first 10 amendments to the Constitution, ratified in 1791; they ensure certain rights and liberties to the people). Finally, the framers wanted to be certain that the government they created did not pose an even greater threat to its citizens' liberties and property rights than did the radical state legislatures they feared and despised. To prevent the new government from abusing its power, the framers incorporated principles such as the **separation of powers** (the division of governmental power among several institutions that must cooperate in decision making) and **federalism** (a system of government in which power is divided, by a constitution, between a central government and regional governments) into the Constitution. Let us assess the major provisions of the Constitution's seven articles to see how each relates to these objectives.

The Legislative Branch Was Designed to Be the Most Powerful

In Article I, Sections 1–7, the Constitution provides for a Congress consisting of two chambers: a House of Representatives and a Senate. Members of the House of Representatives were given two-year terms in office and were to be elected directly by the people. Members of the Senate were to be appointed by the state legislatures (this was changed in 1913 by the Seventeenth Amendment, which instituted direct election of senators) for six-year terms. These terms were staggered so that the appointments of one-third of the senators would expire every two years. The Constitution assigned somewhat different tasks to the House and Senate. Although the approval of each body was required for the enactment of a law, the Senate alone was given the power to ratify treaties and approve presidential appointments. The House, on the other hand, was given the sole power to originate revenue bills.

The structure of the legislative branch reflected the framers' major goals. The House of Representatives was designed to be directly responsible to the people in order to encourage popular consent for the new Constitution and to help enhance the power of the new government. At the same time, to guard against "excessive democracy," the Constitution checks the power of the House of Representatives with that of the Senate, whose members were to be appointed by the states for long terms rather than elected directly by the people. The purpose of this provision, according to Alexander Hamilton, was to avoid "an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive."¹² Staggered terms of service in the Senate, moreover, were intended to make that body even more resistant to popular pressure. Since only one-third of the senators would be selected at any given time, the composition of the institution would be protected from changes in popular preferences transmitted by the

FIGURE 2.1 The Separation of Powers

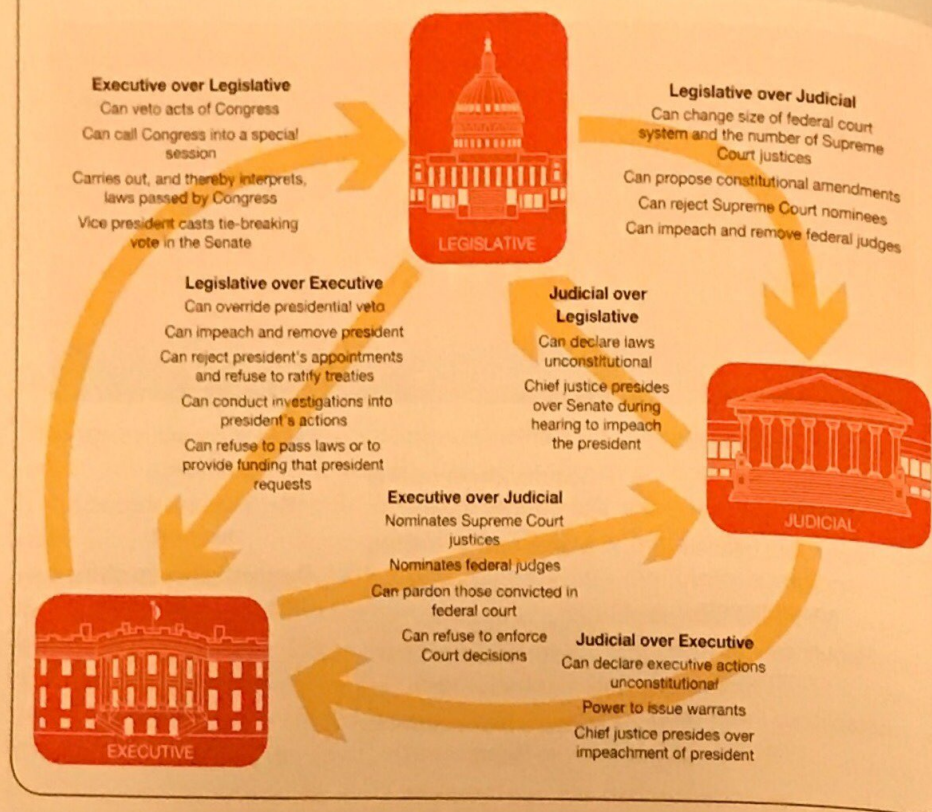


work, *The Spirit of the Laws*, "were taken as political gospel" at the Philadelphia convention.¹⁵ Although the principle of the separation of powers is not explicitly stated in the Constitution, the entire structure of the national government is built precisely on Article I (the legislature), Article II (the executive), and Article III (the judiciary; see Figure 2.1).

However, separation of powers is nothing but mere words on parchment without a method to maintain that separation. The method became known by the popular label "checks and balances" (see Figure 2.2). Each branch is given not only its own powers but also some power over the other two branches. Among the most familiar checks and balances are the president's veto as a power over Congress and Congress's power over the president through its control of appointments to high executive posts and to the judiciary. Congress also has power over the president with its control of appropriations (the spending of government money) and the right of approval of treaties (by the Senate). The judiciary has the power of judicial review over the other two branches.

Another important feature of the separation of powers is the principle of giving each of the branches a distinctly different constituency. Theorists such as Montesquieu called this a "mixed regime," with the president chosen indirectly by electors, the House by popular vote, the Senate (originally) by state legislature, and

FIGURE 2.2 Checks and Balances



the judiciary by presidential appointment. By these means, the occupants of each branch would tend to develop very different outlooks on how to govern, different definitions of the public interest, and different alliances with private interests.

Federalism Compared to the confederation principle of the Articles of Confederation, federalism was a step toward greater centralization of power. The delegates agreed that they needed to place more power at the national level, without completely undermining the power of the state governments. Thus, they devised a system of two sovereigns—the states and the nation—with the hope that competition between the two would be an effective limitation on the power of both.

The Bill of Rights Late in the Philadelphia convention of 1787, a motion was made to include a list of citizens' rights in the Constitution. After a brief debate in which hardly a word was said in its favor and only one speech was made against it, the motion was almost unanimously defeated. Most delegates sincerely believed that since the federal government was already limited to its expressed powers, further protection of citizens was not needed. The delegates argued that the states should adopt bills of rights because their greater powers needed greater limitations. But almost immediately after the Constitution was ratified, there was a movement to adopt a national bill of rights. This is why the Bill of Rights, adopted in 1791,