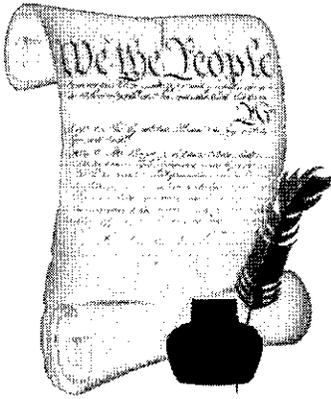


# Constitutional Principles

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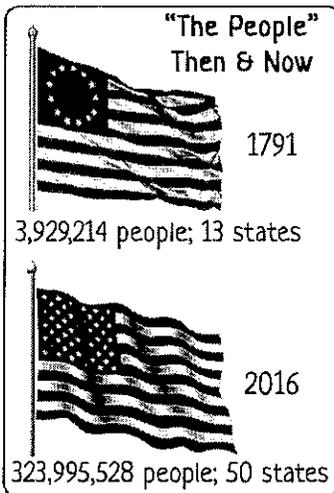
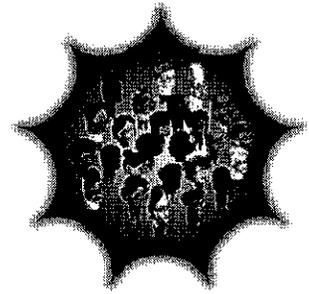


## The First of Its Kind

It may sound dramatic to say the U.S. Constitution revolutionized the world, but that's exactly what it has done. Since the Constitution was adopted in 1791 as the foundation for government in the United States, nations across the world have created their own constitutions modeled after ours. What makes the U.S. Constitution so popular? The principles behind it. At the time it was written, the U.S. Constitution represented a complete reversal from the kind of governments people were used to—autocratic, all-powerful systems where citizens had little or no power. For the first time, a group of citizens had freed themselves from that kind of government and created a brand new system where government was responsible to the people it governed.

## Where Power Comes From

Every nation's government has *sovereignty*—absolute power within its own borders, answering to no higher authority. For much of history, most of the world's governments were based on a system of nobility in which power was based on social class and passed down through families. America's Founders wanted to flip that on its head. They believed in **popular sovereignty**, the principle that a government's power is derived from the people.



Popular sovereignty may be the most fundamental idea behind the U.S. Constitution. You see it in the very first line, "We the People." You also see it in Articles 1, 2, and 3, which create a government whose officials are either elected by the people or chosen by representatives who were elected by the people. Throughout the Constitution, you can see a common theme: "the States" have a say in almost everything. That may not sound like popular sovereignty at first, but it is. How? Article 4 guarantees that voters in each state will have the right to elect their own state governments, so the ultimate power of state governments is... the people! That means even where the Constitution gives power to "the States," it's actually giving power to the people who elect the states' governments. If you look closely at the government structure set up by the Constitution, you'll see how each part ultimately links back to the people.

## Consent of the Governed

Most historical governments didn't care what their citizens thought about the government's actions. They didn't need to. When the people you govern don't have any way to kick you out of power, who cares what they think? It was exactly this situation that got America's Founders so steamed that they started a war in order to create their own government. **Consent of the governed** goes hand in hand with popular sovereignty. You can't have government power derive from the people if the government doesn't need the people's consent for its actions.



"The governing persons are the servants of the people."

*Patrick Henry thought the Constitution was dangerous and worked hard to keep it from being approved.*

# Constitutional Principles

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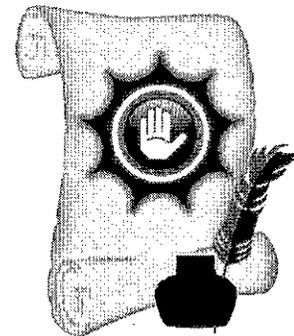
## Consent of [Some of] the Governed

When the Constitution was written, large groups of “governed” people did not have the power of consent. Women, people of color, enslaved people, and poor people who owned no land were all denied the right to vote. The Founders were all about escaping a power system based on birth and social class. Like most people at that time, they generally accepted that it was okay to deny power to people based on other factors, such as gender or race.

Consent of the governed is found everywhere in the Constitution, even though you won't find those exact words. It's all about how the members of government are chosen. Under the Constitution, the “governed” (the people) give their “consent” (approval) by voting. They also express disapproval by voting. But let's pause for a reality check: In practical terms, we can all see that citizens don't get to consent to everything the government does. Should we cry foul? First, take a closer look and see that the Constitution doesn't intend for citizens to be quite that involved. It creates a **republic**—a government where citizens elect representatives to government. Those representatives are empowered to make all kinds of decisions, but if they displease too many citizens, the people might not consent to letting them keep their jobs.

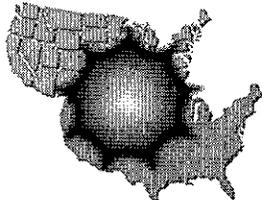
## Hold It Right There!

Most governments in the 1700s—including the British government the Americans had just broken free from—had few (if any) limits on their power. Governments were usually led by kings or similar figures who gained power by birth and could essentially do anything they felt like doing. Even in places like Great Britain, where society had demanded some limits on government, the starting point was unlimited power. Reform movements aimed to restrain that power. By contrast, the Constitution's starting point is **limited government**. Under this principle, a government only has the power that's been given to it.



## Federalism

The Constitution created a federalist system that divides power between a

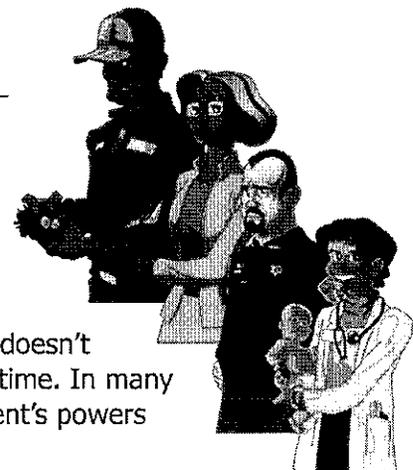


central government and smaller units of government (the states).

To understand how the Constitution limits government, you need to understand who was actually creating the Constitution: the states. Each state was basically an independent nation that agreed to cooperate with the other states. The men who attended the Constitutional Convention wrote the Constitution as representatives of the state they lived in. When they wrote Articles 1, 2, and 3, they created the three branches of the United States government and assigned each branch certain powers. Their starting point was that states were the source of the federal government's power. The only powers the federal government would have were the powers assigned to it in the Constitution. The states (and the people) would keep the rest.

## Limited? Seriously?

Time for another reality check: Today's federal government doesn't seem very limited. So what's up? In one sense, nothing has changed—Americans still operate on the principle that the government is limited to what the Constitution says it can do. But over time, several changes have evolved. For one thing, society's ideas about the role of government have changed. Today, Americans generally feel it's appropriate for government to keep an eye on everything from airline safety to food contamination to children's well-being. For another thing, “what the Constitution says” requires interpretation (because it doesn't say much), and the Constitution has been interpreted differently over time. In many cases, that has led to an expanded view of what the federal government's powers actually are.



# Constitutional Principles

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## Limited by Law

For the Founders, limited government was about more than just defining which powers the government would have. In the British system of nobility, the law simply wasn't applied to nobles in the same way it applied to everyone else. At the same time, there was little to hold the government itself accountable to the law. This kind of government was missing the **rule of law**—the principle that society is governed by laws, not people, and that even the government must follow the law.

The Constitution incorporates the rule of law as another way to limit government power. Article 6 establishes the Constitution as the “supreme law of the land” for the United States. The Founders were especially concerned with making sure no single person could become an all-powerful leader, so Article 2 requires the president to take an oath promising to “preserve, protect and defend the Constitution of the United States.” Article 6 also requires members of Congress, judges, and government officials at both the federal and state levels to take an oath to support the Constitution.

“I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.”

*U.S. law requires elected officials to take this oath.*

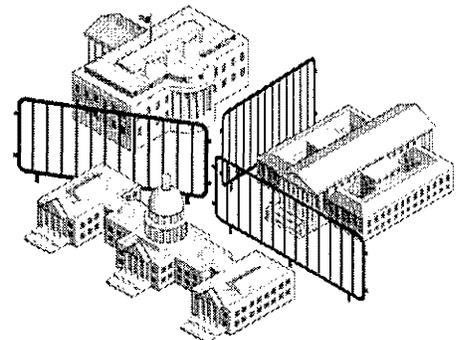
*President Richard Nixon faced impeachment for a variety of misconduct. He resigned after being connected to the burglary of a political party office.*



Moreover, the Constitution does not make government officials immune from the law. Article 1 allows members of Congress to be prosecuted for crimes and sued for other violations; Article 2 allows the president to be removed from office for “Treason, Bribery, or other high Crimes and Misdemeanors”; and Article 3 specifies that judges serving a lifetime appointment keep their jobs “during good Behaviour.”

## Failsafe Against Tyranny

For the Founders, the principles described so far still weren't enough protection against runaway power. They wanted to build protection into the structure of government itself. Having one branch of government hold too much power could be just as dangerous as having one person hold too much power, so they created three branches. The **separation of power** among independent branches within the government itself was another layer of security against concentrated power.



You won't find judicial review in the Constitution itself. Why? Because the power to interpret the Constitution was an

interpretation of the Constitution! In 1803, the U.S. Supreme Court ruled it would be impossible for the Court to do its job if it could not interpret the Constitution.

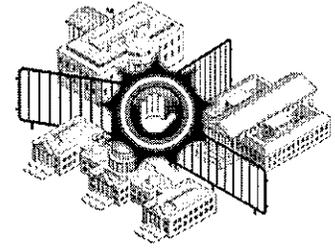
The Constitution separates power according to function. Article 1 creates the legislative branch, which has the lawmaking power. Article 2 creates the executive branch, which is empowered to carry out the laws the legislative branch makes. In Article 3, the Founders set up a judicial branch with the power to hear certain types of federal cases. The judicial branch also has the power to interpret the Constitution, which is called **judicial review**.

# Constitutional Principles

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## Failsafe Against the Failsafe

But even separating power within government wasn't enough for the Founders. What was to keep one of the branches from going crazy and grabbing all the power for itself? Enter the principle of **checks and balances**, which gives each branch the ability to restrain certain actions the other branches take.

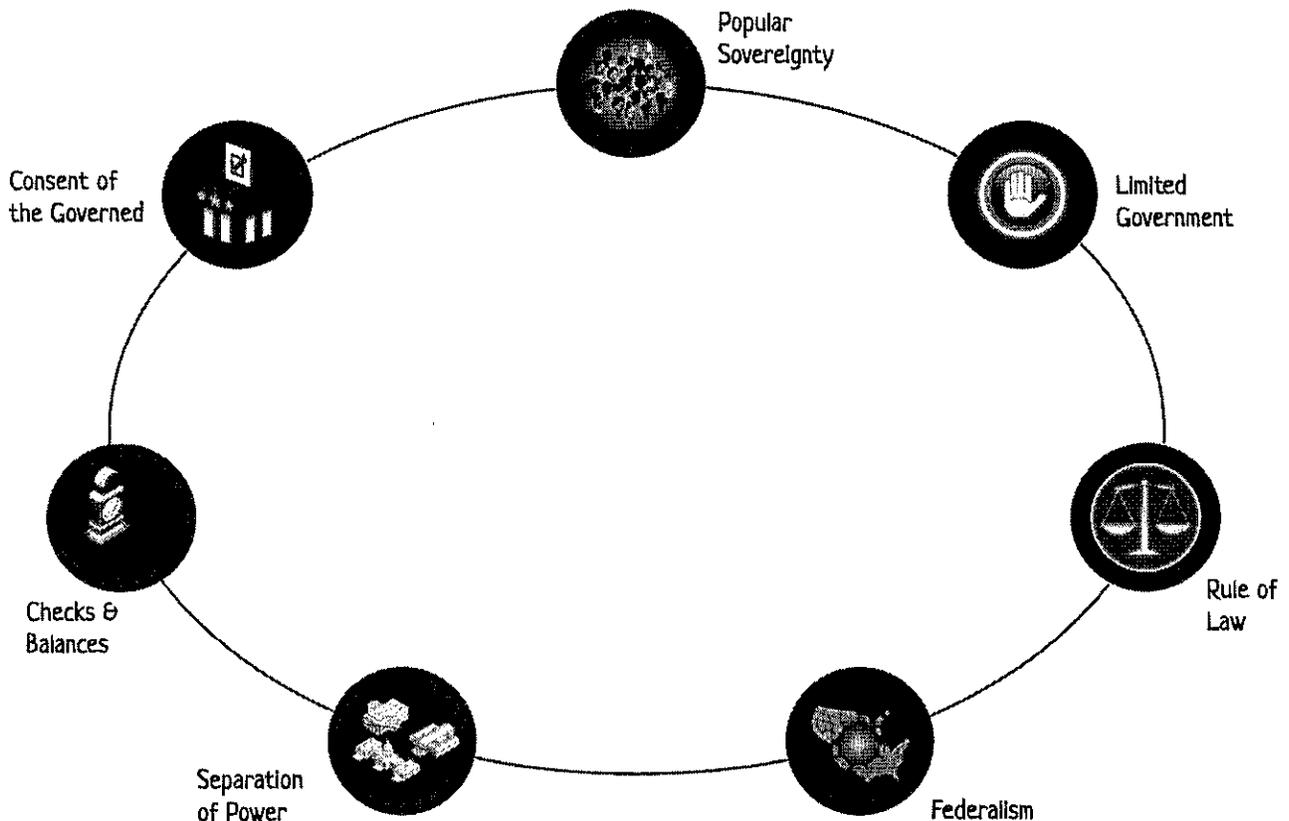


In the Constitution, this usually shows up as one branch's actions requiring approval from another branch. Article 1 requires the president's approval before a law passed by the legislative branch can actually go into effect. Article 2 requires the Senate's approval before a treaty the president makes with another country can go into effect. If the president commits a crime, Article 2 also allows the legislative branch to conduct a trial and remove the president from office.

The Constitution gives both the legislative and executive branches a say over the judicial branch: the president has the power to nominate federal judges, but the Senate has the power to approve the president's nomination.

Between these failsafes and all the other principles, the Founders hoped their Constitution would protect Americans' liberty for all future generations.

**Web of Principles.** Think about how these principles are related to each other. Draw lines between pairs of icons and write a note on the line about how those two principles might be related. Connect as many principles as you can. (This will get messy.)



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**Principle Examples.** In this activity, you will read five things that were said or written around the time the Constitution was created. Follow the instructions for each one.

- 1) During the debate over the Constitution, James Madison made this argument in an essay we now call The Federalist 45:

“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.”

- a. Which principle best describes Madison’s argument about the federal government?
- Popular Sovereignty
  - Checks and Balances
  - Limited Government
  - Rule of Law
  - Separation of Powers
- b. Underline the words or phrases that helped you decide which principle to choose.
- c. Explain the connection between what Madison said and the principle you selected:

- 
- 2) In The Federalist 39, James Madison explained this:

“The House of Representatives, like that of one branch at least of all the State legislatures, is elected immediately by the great body of the people. The Senate, like the present Congress, and the Senate of Maryland, derives its appointment indirectly from the people. The President is indirectly derived from the choice of the people, according to the example in most of the States. Even the judges, with all other officers of the Union, will, as in the several States, be the choice, though a remote choice, of the people themselves.”

- a. Which principle best describes Madison’s argument about the federal government?
- Popular Sovereignty
  - Checks and Balances
  - Limited Government
  - Rule of Law
  - Separation of Powers
- b. Underline the words or phrases that helped you decide which principle to choose.
- c. Explain the connection between what this section says and the principle you selected:

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3) Article 2, Section 4 of the U.S. Constitution says this:

“The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.”

a. Which principle best applies to this section? c. Explain the connection between what this section says and the principle you selected:

- Popular Sovereignty
- Checks and Balances
- Limited Government
- Rule of Law
- Separation of Powers

b. Underline the words or phrases that helped you decide which principle to choose.

4) George Mason was among the group of Anti-Federalists that were opposed to the Constitution. Here’s his view about the role of the Vice President:

“That unnecessary officer the Vice-President, who for want of other employment is made president of the Senate, thereby dangerously blending the executive and legislative powers...”

a. Which principle best describes Mason’s concern? c. Explain the connection between what Mason said and the principle you selected:

- Checks and Balances
- Popular Sovereignty
- Limited Government
- Rule of Law
- Separation of Powers

b. Underline the words or phrases that helped you decide which principle to choose.

5) In The Federalist 48, James Madison made this argument:

“Unless [the three branches] be so far connected and blended as to give to each a constitutional control over the others, the degree of separation ... essential to a free government, can never in practice be duly maintained.”

a. Which principle best describes what Madison is explaining? c. Explain the connection between what Madison said and the principle you selected:

- Popular Sovereignty
- Checks and Balances
- Limited Government
- Rule of Law
- Separation of Powers

b. Underline the words or phrases that helped you decide which principle to choose.