



The Gilder Lehrman Center Present & Annenberg Public Policy Center:

The Civic Mission of Nation

Three Branches of Government

by Geraldo Cadava, PhD

The US Constitution was ratified by the individual states in 1787 and 1788. After ratification, the Confederation Congress determined that the Constitution would go into effect in early 1789. The country's founding document established three branches of government: the executive, the legislative, and the judicial.

The intention of organizing the government in this way was to prevent any single branch from becoming too powerful. This so-called separation of powers was designed so that each branch of government could limit the power of the other two branches, hence the system of checks and balances.

Theories about the separation of powers—from ancient Greece and Rome, early modern England, and Enlightenment philosophers from across Europe—influenced the thinking of the framers of the US Constitution, whose overwhelming concern was protecting “The People.”

Yet federalists, who supported the US Constitution, and anti-federalists, who were skeptical of it, held different ideas about what structures of government would protect the People the most and lead to the most perfect form of democracy, in which all Americans (more on this in a minute) would have a voice. Generally, federalists believed the beauty of the US Constitution was that each branch of government would be co-equal and independent from the other. Anti-federalists remained wary of a federal government in which “all important powers” were collected in “one centre, where a few men will possess them almost at discretion.”

Beyond these basic divisions between federalists and anti-federalists over the location of power in the federal government, they also held different ideas about which branch of government would need to be checked most. Each had reason to fear an executive, a legislature, or a judiciary that was too strong, so they carefully delineated the powers of each. Federalists thought that the legislature (i.e., a Congress made up of a Senate and House of Representatives) would try to grab power by passing whatever laws it wanted, so the president had to have veto power. But according to anti-federalists, the president's veto power had to be limited;



otherwise, presidents themselves risked becoming legislators if they had the power to strike down laws at will. As for the judicial branch, would judges only void laws they deemed unconstitutional, or would they also do away with laws that, in their estimation, were unwise or unjust?

The separation of powers, the system of checks and balances, and the division of the federal government into three branches—which is replicated in the governments of all of the states, with governors, state legislatures, and state courts—has shaped almost all of the conflicts we’ve faced as a nation, including into the present. The independent branches of government have also protected democracy and civil rights when individuals or groups of Americans have threatened to undo them.

Executives have imposed their will to uphold laws that protected the rights of minorities. See Eisenhower’s decision to activate the National Guard in Arkansas in 1957, to force the integration of Little Rock Central High. Courts have prevented presidents from getting away with corrupt schemes. For example, the Supreme Court forced Richard Nixon to turn over tapes related to the Watergate scandal in 1974. Congress, for better and worse, has overridden about four percent of all presidential vetoes. The website of the US Senate lists every instance of a president vetoing a bill and whether the veto was overridden by Congress or sustained.

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