

**EXECUTIVE BRANCH
OF GOVERNMENT**



**LEGISLATIVE BRANCH
OF GOVERNMENT**

**JUDICIAL BRANCH
OF GOVERNMENT**

Checks and Balances
Separation of Powers

‘Checks and Balances’ is a safeguard designed to allow each branch of government to restrain abuse by the other branch.

- ↪ While not a Check, there are also some requirements of transparency and rules which safeguard a branch from possible retaliation.
- ↪ The philosophy underpinning these are delineated in Federalist Papers nr.51

‘Separation of Powers’ is a political doctrine wherein the responsibilities and role of different branches of government are kept distinct, to prevent abuses of power.

- ↪ What follows are NOT a complete enumerated list of such powers, although some listed may be ones which directly can act as a Check on the exertion of power by another branch.

*MORE WILL BE DONE WITH SEPARATION OF POWERS
IN A DIFFERENT INSTRUCTIONAL UNIT*

It is important to remember that **each branch of government can “attack” the other (in the political sense, of course!) AND each branch of government has a different constituency.**

The Constitution only insists that State government be republican in nature. It does not dictate that they be comprised of three separate branches, akin to the federal government. State governments. Nevertheless, most states have adopted systems of government whereby separation of powers is preserved, with state legislatures, executive governors and state court system

Legislative Branch of Government

Legislative checks on the Legislature (itself!) (Because it is bicameral, the Legislative branch needs a degree of self-checking.)

- Bills must be passed by both houses of Congress.
 - ↪ All revenue bills originate in the House
- Neither chamber may adjourn for more than three days without the consent of the other chamber
- **General Accounting Office**
 - ↪ The investigative wing of Congress, it has the ability to subpoena documents
- All journals are to be published
 - ↪ Allows for transparency/ accountability
- **Congress may discipline members of its own chamber (Article 1, Section 5)**
 - ↪ Censure / Expel member
 - ↪ Removal of a member from a committee assignment.
 - ↪ Congress may refuse to seat a member

Legislative checks on the Judiciary

- Senate approves federal judge nominees (Senate only)
- Power to impeach judges and remove them from the bench.
- Power to initiate proposals for constitutional amendments
- Power to set courts inferior to the Supreme Court
- Power to set jurisdiction of courts
- May alter the size of the Supreme Court



Senator McCain (Rep) voting against GOP efforts to kill the “Obamacare” health care law. He returned to the Senate after a brain cancer diagnosis.

Legislative Branch of Government

Legislative checks on the Executive

- In the case of an impeachment
 - ↳ House only: Votes on if there is evidence of impeachable offences
 - ↳ Senate only: Trial of impeachment
- Selection of the President (House) and Vice President (Senate) in the case of no majority of electoral votes
- Senate considers executive nominees
 - ↳ Cabinet and departmental appointments, judges and ambassadors
 - ↳ If they stall, the president may be able to get around them with a recess appointment.
- Federal law mandates a 60-day waiting period before regulatory changes become law
 - ↳ *This prevents presidents from pushing new regulations in the final months in office!*
- Senate: Votes to approve replacement ViceP
- May override Presidential vetoes
- Power to enact taxes
 - ↳ Revenue stream affects president's ability to pursue his/her agenda.
- Senate only: Approves treaties
- Power to declare war
- General Accounting Office
 - ↳ The investigative wing of Congress, it has the ability to subpoena documents from the executive



Chuck Schumer of New York (D)
Senate Majority Leader

Mitch McConnell of Kentucky (Rep)
Senate Minority Leader



Hakeem Jeffries of New York (D)
House Minority Leader

Kevin McCarthy of California (Rep)
House Majority Leader

Executive Branch of Government

Executive checks on the Legislature

- Veto power
- Vice Pres. is the President of the Senate (tiebreaking vote)
- May do recess appointments
- Emergency calling into session of one or both houses of Congress
- May force adjournment when both chambers of Congress cannot agree on when to shut down
- Executive submits federal budget to the House
- Executive compensation cannot be diminished.
 - ↳ Not a Check; it is protection against Legislative retaliation
- Can order the Justice Department (which is within the Executive branch) to not enforce certain laws for which they have jurisdiction.
 - ↳ For instance, the 'don't ask, don't tell' law passed by Congress in 1994
- Impoundment – presidential refusal to allow an agency to spend funds as Congress authorized and appropriated.



Executive Branch of Government

Executive checks on the Executive (itself!)

- Removing power: Vice President and the Cabinet can vote that the President is unable to discharge his/her duties
- The President can dismiss any cabinet Secretary or prior appointment for any reason.

Executive checks on the Judiciary

- Power to nominate Senate-confirmable judges
- President may grant amnesty, forgiving an entire class of crime.
- Pardon power

Judicial Branch of Government

Judicial checks on the Legislature

- Judicial review of legislation
- Judicial compensation cannot be diminished
 - ↪ Not a Check; it limits possibility of Congressional retaliation.

Judicial checks on the Executive

- Judicial review of initiatives, treaties and claims of executive power
 - ↪ Example: Supreme Court has ruled that presidents' . . .
 1. Are not immune from civil lawsuits while in office.
 2. Could not ignore judicial subpoena while in office.
 3. Executive privilege does not apply to presidential records
- Chief Justice sits as President of the Senate during presidential impeachment proceedings

Judicial checks on the Judiciary (itself!)

(Because of the different levels of the court system, there is a degree of self-regulation inherent in the system)

- A court could overturn the decision of an inferior court whose case goes to it.
- Could reprimand a lower court justice.

