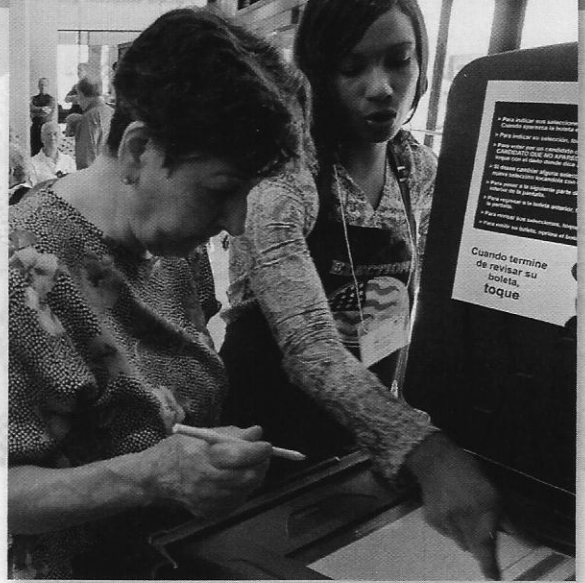


SECTION 1

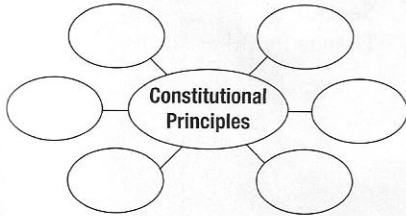
Basic Principles



Guiding Question

What are the six main principles on which the Constitution is based?

Use a concept web like the one below to take notes on the six basic principles of the Constitution.



Political Dictionary

- popular sovereignty
- limited government
- constitutionalism
- rule of law
- separation of powers
- checks and balances
- veto
- judicial review
- unconstitutional
- federalism

Objectives

1. Understand the basic outline of the Constitution.
2. Understand the six basic principles of the Constitution: popular sovereignty, limited government, separation of powers, checks and balances, judicial review, and federalism.

Image Above: Voters express their will to the government. This concept is called popular sovereignty.

The Constitution of the United States dates from the latter part of the eighteenth century. Written in 1787, it took effect in 1789. The fact that it is more than 220 years old does not mean, however, that in the twenty-first century, it is only an interesting historical artifact, best left to museums and dusty shelves. On the contrary, it remains a vitally important and vibrant document.

The Constitution is this nation's fundamental law. It is, by its own terms, "the supreme Law of the Land"—the highest form of law in the United States.

An Outline of the Constitution

The Constitution sets out the basic principles upon which government in the United States was built and operates today. The document lays out the ways in which the Federal Government is organized, how the leaders of that government are selected, and many of the procedures those leaders must follow as they perform their duties. Of utmost importance, it sets out the limits within which government must conduct itself.

The Constitution also lays out the basic rules of American politics. By doing so, it helps to determine who wins and who loses in the political arena. To really understand government and politics in this country, we must know a good deal about the Constitution and how it has been interpreted and applied throughout our history.

Even with its 27 amendments, the Constitution is a fairly brief document. Its little more than 7,000 words can be read in half an hour. You will find the text of the Constitution at the beginning of the book. As you read it, remember that this document has successfully guided this nation through more than two centuries of tremendous growth and change. One of the Constitution's greatest strengths is that it deals largely with matters of basic principle. Unlike most other constitutions—those of the 50 States and those of other nations—the Constitution of the United States is not weighted down with detailed and cumbersome provisions.

As you read the Constitution, you will also see that it is organized in a simple and straightforward way. It begins with a short introduction, the Preamble. The balance of the original document is divided into seven numbered

sections called articles. The first three articles deal with the three branches of the National Government: Congress, the presidency, and the federal court system. These articles outline the basic organization and powers of each branch, and the methods by which the members of Congress, the President and Vice President, and federal judges are chosen. Article IV deals mostly with the place of the States in the American Union and their relationships with the National Government and with one another. Article V indicates how formal amendments may be added to the document. Article VI declares that the Constitution is the nation's supreme law; Article VII provided for the ratification of the Constitution.

The seven articles of the original document are followed by 27 amendments, printed in the order in which each provision was adopted.

The Constitution is built around six basic principles. They are popular sovereignty, limited government, separation of powers, checks and balances, judicial review, and federalism.

Popular Sovereignty

In the United States, all political power resides in the people, a concept known as **popular sovereignty**. The people are the *only* source for any and all governmental power. Government can govern only with the consent of the governed.

The principle of popular sovereignty is woven throughout the Constitution. In its opening words—the Preamble—that document declares: “We the People of the United States . . . do ordain and establish this Constitution for the United States of America.”

The people have given the United States Government whatever powers it has, through the Constitution. That government exercises those powers through popularly elected leaders who are chosen by the people to represent them in the exercise of the people's power.

Limited Government

The principle of **limited government** holds that no government is all-powerful. That government may do *only* those things that the people have given it the power to do.

✓ Checkpoint
What is the purpose of the Preamble of the Constitution?

political arena
n. the setting in which political activity occurs

provision
n. a clause in a document or agreement

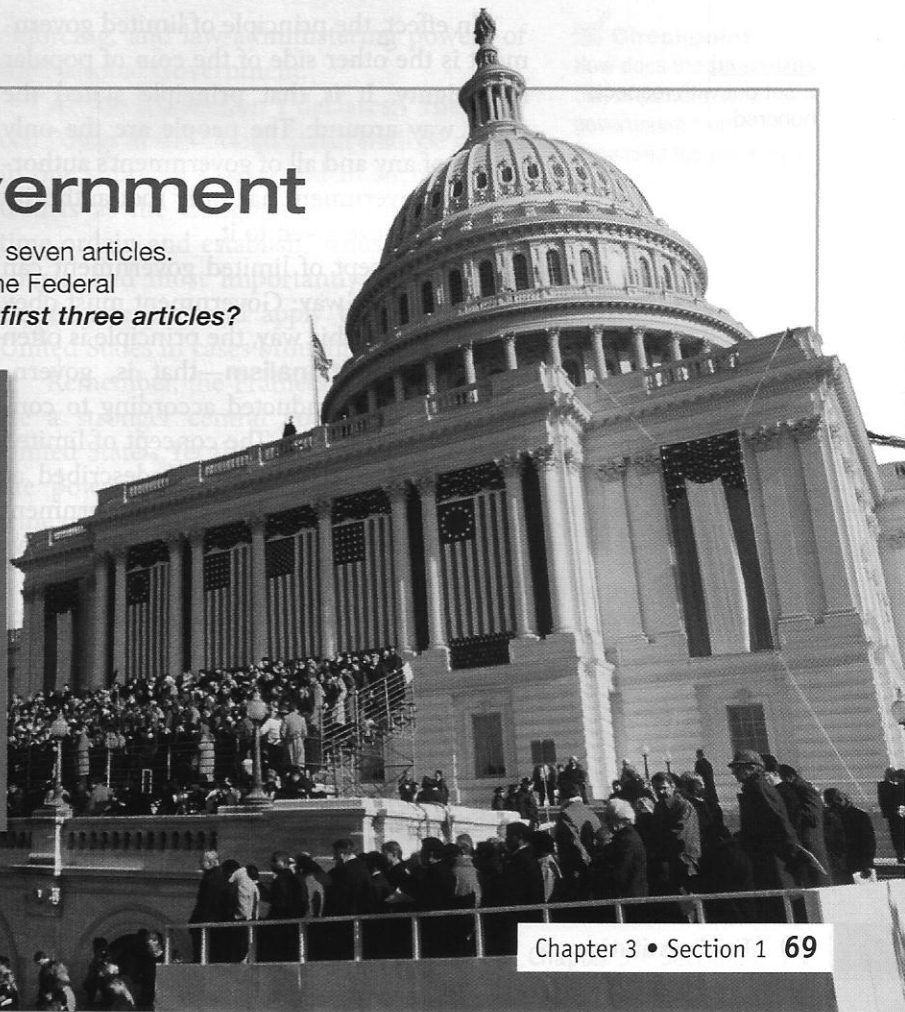
The Seven Articles

Outline of Government

The body of the Constitution is made up of seven articles. These articles set out the basic shape of the Federal Government. **What is the purpose of the first three articles?**

Articles of the Constitution

Section	Subject
Preamble	States the purpose of the Constitution
Article I	Creates the Legislative branch
Article II	Creates the Executive branch
Article III	Creates the Judicial branch
Article IV	Relations among the States
Article V	Amending the Constitution
Article VI	National debts, supremacy of national law, and oaths of office
Article VII	Ratifying the Constitution

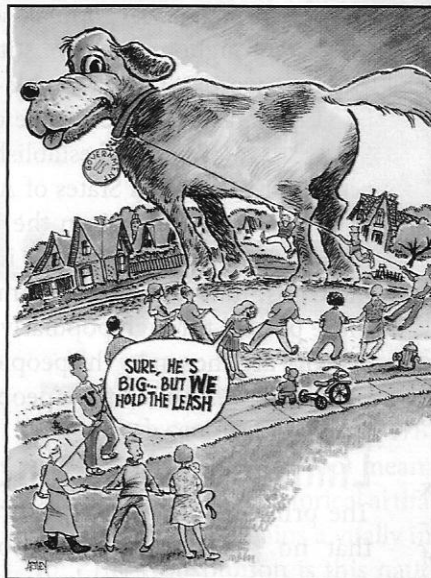


Basic Principles of the Constitution

These cartoons illustrate the six principles of government set out in the Constitution. **According to the cartoons, what is the role of the judicial branch? What are the roles of citizens?**



Popular Sovereignty



Limited Government



Separation of Powers

enshrined

v. set out with respect; honored

In effect, the principle of limited government is the other side of the coin of popular sovereignty. It is that principle stated the other way around: The people are the only source of any and all of government's authority; and government has only that authority the people have given to it.

The concept of limited government can be put another way: Government must obey the law. Stated this way, the principle is often called **constitutionalism**—that is, government must be conducted according to constitutional principles. The concept of limited government is also frequently described as the **rule of law**, which holds that government and its officers, in all that they do, are always subject to—never above—the law.

In large part, the Constitution is a statement of limited government. Much of it reads as **prohibitions** of power to government. For example, notice the Constitution's guarantees of freedom of expression. Those great guarantees—of freedom of religion, of speech, of the press, of assembly, and of petition—are

prohibition

n. a denial; a ban

vital to democratic government. They are **enshrined** in the 1st Amendment, which begins with the words: "Congress shall make no law. . . ."

Separation of Powers

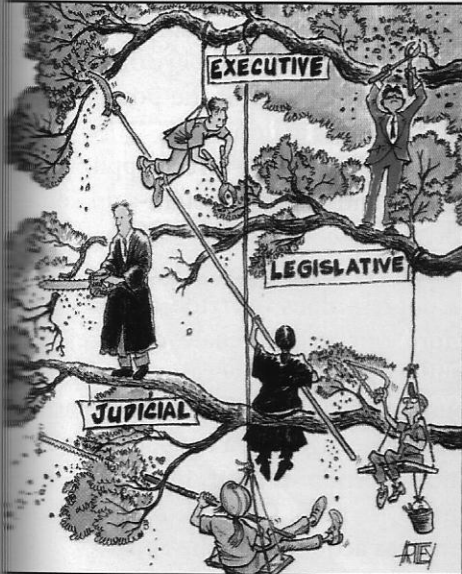
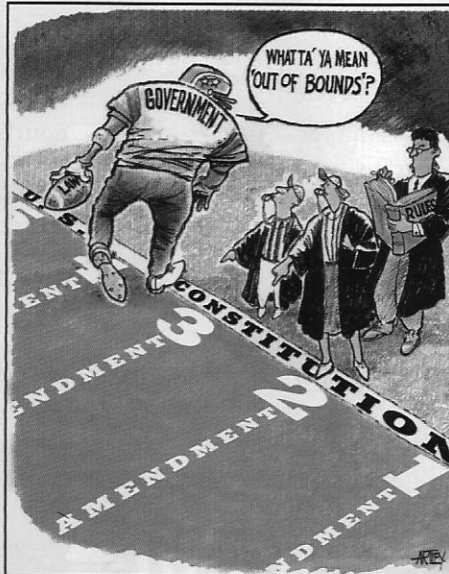
Recall from Chapter 1 that in a parliamentary system, the legislative, executive, and judicial powers of government are all gathered in the hands of a single agency. British government is a leading example of the form. In a presidential system, these basic powers are distributed—separated—among three distinct and independent branches of the government.

This concept is known as **separation of powers**. The idea had been written into each of the State constitutions adopted during the Revolution. A classic expression of the doctrine can be found in the Massachusetts constitution written in 1780 (Part the First, Article XXX):

"In the government of this commonwealth, the legislative department shall never

**Audio Tour**

Listen to a guided audio tour of these principles at PearsonSuccessNet.com

**Checks and Balances****Judicial Review****Federalism**

exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.”

The Constitution of the United States distributes the powers of the National Government among the Congress (the legislative branch), the President (the executive branch), and the courts (the judicial branch). This separation of powers is clearly set forth in the opening words of each of the first three Articles of the Constitution.

Article I, Section 1 declares: “All legislative Powers herein granted shall be vested in a Congress of the United States. . . .” Thus, Congress is the lawmaking branch of the National Government.

Article II, Section 1 declares: “The executive Power shall be vested in a President of the United States of America.” Thus, the President is given the law-executing, law

enforcing, and law-administering powers of the National Government.

Article III, Section 1 declares: “The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.” Thus, the federal courts, and most importantly the Supreme Court, interpret and apply the laws of the United States in cases brought before them.

Remember, the Framers intended to create a stronger central government for the United States. Yet they also intended to limit the powers of that government. The doctrine of separation of powers was designed to accomplish just that.

In *The Federalist*, No. 47, James Madison wrote of this arrangement: “The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many . . . may justly be pronounced the very definition of tyranny.”

The earliest of the State constitutions provided for a separation of powers among the

✓ Checkpoint

How does the separation of powers keep government from becoming too powerful?

vested

v. given to, conferred upon

Checkpoint
Name one of the ways
in which the President
can check the powers of
Congress.

legislative, executive, and judicial branches of the new governments they established. This was a reflection of the mistrust and suspicion toward any government common to the people of the new United States in the late 1700s. Thus, the inclusion of the doctrine of separation of powers was both natural and inevitable in the writing of the Constitution.

Checks and Balances

The National Government is organized around three separate branches. As you have just seen, the Constitution gives to each branch its own field of governmental authority: legislative, executive, and judicial.

These three branches are not entirely separated nor completely independent of one another. Rather, they are tied together by a complex system of **checks and balances**. This means that each branch is subject to a number of constitutional checks, or restraints, by the other branches. In other words, each branch has certain powers with which it can check the operations of the other two.

Congress has the power to make laws, but the President may **veto** (reject) any act of Congress. In its turn, Congress can **override** a presidential veto by a two-thirds vote in each house. Congress can refuse to provide funds requested by the President, or the Senate may refuse to approve a treaty or an appointment made by the chief executive. The President is the commander in chief of the armed forces, but Congress provides that military force; and so on.

The system of checks and balances links the judicial branch to the legislative and the executive branches. The President has the power to name all federal judges. Each appointment, however, must be approved by a majority vote in the Senate. At the same time, the courts have the power to determine the constitutionality of acts of Congress and of presidential actions, and to strike down those they find unconstitutional.

Head-on clashes between the branches of government do not often happen. The check-and-balance system operates all the time, however, and in routine fashion. The very fact that it exists affects much of what happens in Washington, D.C.

For example, when the President picks someone to serve in some important office in the executive branch—as, say, secretary of state or director of the Office of National Intelligence—the President is quite aware that the Senate must confirm that appointment. So, the chief executive is apt to pick someone who very likely will be approved by the Senate. In a similar sense, when Congress makes a law, it does so with a careful eye on both the President's veto power and the power of the courts to review its actions.

Spectacular clashes—direct applications of the check-and-balance system—do sometimes occur, of course. The President does veto some acts of Congress. On rare occasions, Congress does override a veto. And, even more rarely, the Senate does reject a presidential appointee. Twice in our history, the House of Representatives has impeached (brought charges against) a President, seeking his removal: Andrew Johnson in 1868 and Bill Clinton in 1998. On both occasions the President was acquitted by the Senate.

But, again, these and other direct confrontations are not common. Congress, the President, and even the courts try to avoid them. The check-and-balance system makes compromise necessary—and, remember, compromise is a vital part of democratic government.

Over time, the check-and-balance system has worked quite well. It has done what the Framers intended it to do; it has prevented “an unjust combination of a majority.” At the same time, the system of checks and balances has not often forestalled a close working relationship between the executive and legislative branches of the Federal Government.

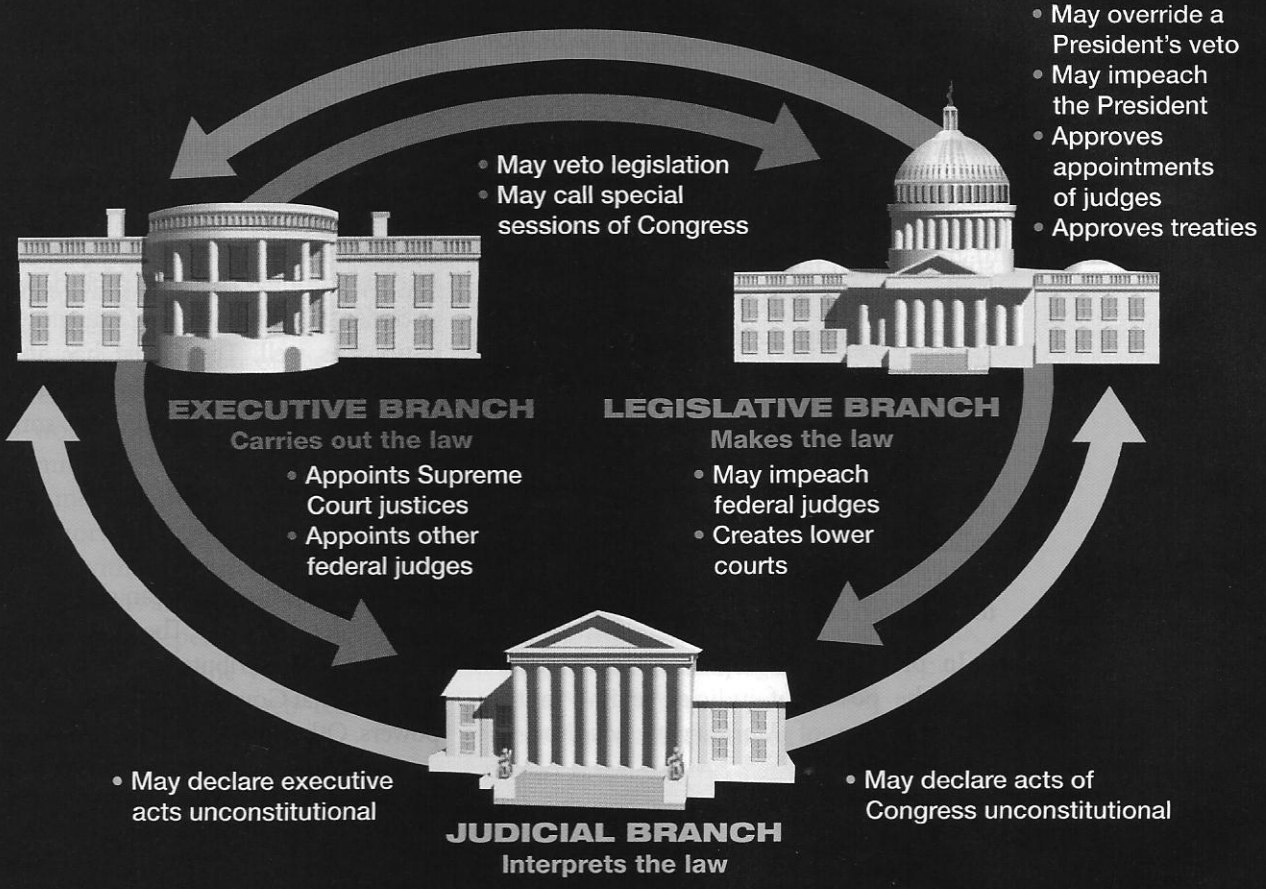
Note, however, that that working relationship runs more smoothly when the President and a majority in both houses of Congress are of the same political party. When the other party controls one or both houses, **partisan** friction and conflict play a larger-than-usual part in that relationship.

Through most of our history, the President and a majority of the members of both houses of Congress have been of the same party. Over the past 50 years or so, however, the American people have become quite familiar with divided government—that is, a political

override
v. to overturn, reverse,
cancel

partisan
n. loyalty to a particular
political party

Checks and Balances



» **Interpreting Diagrams** Under the system of checks and balances, each branch of government can check the actions of the others. *In what ways can the power of the executive be checked by the other two branches?*

environment in which one party occupies the White House and the other controls one or both houses of Congress.

Most recently, Republican President George W. Bush faced an opposing Congress in the last two years of his eight-year presidency. In 2008, Barack Obama recaptured the White House for the Democrats, and the Democratic Party strengthened their slim majorities in both houses on Capitol Hill.

Judicial Review

One aspect of the principle of checks and balances is of such importance in the American constitutional system that it stands by itself, as one of that system's basic principles. The

power of **judicial review** may be defined as the power of a court to determine the constitutionality of a governmental action.

In part, then, judicial review is the power to declare **unconstitutional**—to declare illegal, null and void, of no force and effect—a governmental action found to violate some provision in the Constitution. The power of judicial review is held by all federal courts and by most State courts, as well.¹

The Constitution does not provide for judicial review in so many words. Yet it seems

¹ Generally, the power is held by all courts of record. These are courts that keep a record of their proceedings and have the power to punish for contempt. Usually, only the lowest courts in a State—justice of the peace courts—are not courts of record.

auxiliary

adj. extra; supportive; supplemental

clear that the Framers intended that the federal courts, and in particular the Supreme Court, should have that power. In *The Federalist* No. 51, James Madison described the judicial power as one of the “auxiliary precautions” against the possible domination of one branch of the government over another.

In *The Federalist* No. 78, Alexander Hamilton wrote:

“The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute. . . .”

In practice, the Supreme Court established the power of judicial review in the landmark case of *Marbury v. Madison* in

1803. Since *Marbury*, the Supreme Court and other federal and State courts have used the power in thousands of cases. For the most part, those courts have upheld challenged governmental actions. That is, in most cases in which the power of judicial review is exercised, the actions of government are found to be constitutional.

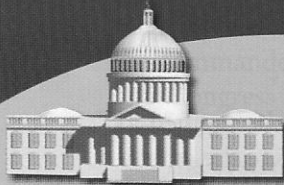
That is not always the case, however. To date, the Supreme Court has decided some 150 cases in which it has found an act or some part of an act of Congress to be unconstitutional. It has struck down several presidential and other executive branch actions as well. The Court has also voided hundreds of actions of the States and their local governments, including some 1,200 State laws and local ordinances.

Federalism

As you know, the American governmental system is federal in form. The powers held by government are distributed on a territorial basis. The National Government holds some of those powers. Others belong to the 50 States.

Federalism

Who Has the Power?



FEDERAL POWERS

- To maintain an army and a navy
- To declare war
- To coin money
- To regulate trade between States and with foreign nations
- To make treaties



STATE POWERS

- To conduct elections
- To establish schools
- To regulate business within a State
- To establish local governments
- To regulate marriage, divorce
- To assume other powers not given to the Federal Government nor denied to the States, by the Constitution

SHARED POWERS

- To enforce laws
- To establish courts
- To borrow money
- To secure the population
- To build an infrastructure
- To collect taxes
- To make laws

Interpreting Diagrams The Constitution divides power among the State and Federal governments. **Why does the Constitution give the power to regulate trade among the States to the Federal Government?**

The principle of **federalism**—the division of power among a central government and several regional governments—came to the Constitution out of both experience and necessity. At Philadelphia, the Framers faced a number of difficult problems, not the least of them: How to build a new, stronger, more effective National Government while preserving the existing States and the concept of local self-government.

The colonists had rebelled against the harsh rule of a powerful and distant central government. They had fought for the right to manage their own local affairs without the meddling and dictation of the king and his ministers in far-off London. Surely, the colonists would not now agree to another such government.

The Framers found their solution in federalism. In short, they constructed the federal arrangement, with its division of powers, as a compromise. It was an alternative to both the system of nearly independent States, loosely tied to one another in the weak Articles of Confederation, and to a much feared, too powerful central government.

We shall explore the federal system at length in the next chapter. For now, keep in

mind that among so many other reasons, federalism is an important part of the Constitution's web of protections of individual freedom. Remember, the Framers were dedicated to the concept of limited government. They were convinced (1) that governmental power poses a threat to individual liberty, (2) that, therefore, the exercise of governmental power must be restrained, and (3) that to divide governmental power, as federalism does, is to curb it and to prevent its abuse. James Madison addressed this point in this passage from *The Federalist Papers*:

PRIMARY SOURCE

In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each is subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.

—*The Federalist No. 51*

✓ Checkpoint
Identify two powers that the States hold, but that the Federal Government does not.

SECTION 1 ASSESSMENT

- 1. Guiding Question** Use your completed concept web to answer this question: What are the six main principles on which the Constitution is based?

Key Terms and Comprehension

- 2.** How do the first three **articles** differ from the other four articles?
3. (a) Into what three branches are the powers of the Federal Government separated? **(b)** Give a brief summary of the **checks and balances** in place for each of the three branches.

- 4. (a)** Explain the concept of the **rule of law**. **(b)** Why would this concept have been important for the Framers? **(c)** What might happen if there were no rule of law?

Critical Thinking

- 5. Summarize (a)** Explain the concept of judicial review. **(b)** How was this power formally established?
6. Express Problems Clearly What issues might arise when the legislative and executive branches are controlled by different parties?

Essential Questions Journal

To continue to build a response to the chapter Essential Question, go to your **Essential Questions Journal**.

Quick Write

Writing for Assessment: Develop a Main Idea Some essay tests provide a list of topics from which you must choose. Try to select a topic for which you can quickly develop a main idea. For example:
(a) The relationship between the separation of powers, checks and balances, and judicial review
(b) The importance of federalism to the survival of the U.S. government
(c) The importance of separating powers between the State and Federal governments