

We the People

The Constitutional Separation of Powers

PART ONE: THE WISDOM OF THE FRAMERS

The Framers of our Constitution understood human behavior and created a system of government that would protect our nation from the worst of those human instincts. Humans are emotional and capable of actions they might later regret. Humans love power and may not exercise that power in the best of fashions. The Constitution was written to guard against these instincts.

One of the ways the Framers sought to accomplish this was with the separation of powers into legislative, executive and judicial branches. Congress, the President and the Supreme Court would each have checks upon the other branches and in turn would each be checked by the other branches. This system of separation of powers and its web of checks and balances was designed to allow government to rise above human frailty.

In 1787, the Framers arrived in Philadelphia to construct a new system of government with two events fresh in their minds: the abuse of power by the King of

England and the failed attempt to govern ourselves in the Articles of Confederation. They wanted to learn from these experiences and create something better.



BUT THE GREAT SECURITY AGAINST A GRADUAL CONCENTRATION OF THE SEVERAL POWERS IN THE SAME DEPARTMENT, CONSISTS IN GIVING TO THOSE WHO ADMINISTER EACH DEPARTMENT, THE NECESSARY CONSTITUTIONAL MEANS, AND PERSONAL MOTIVES, TO RESIST ENCROACHMENTS OF THE OTHERS.

JAMES MADISON

create a substantial federal government, but divide power between a Congress, a President and a Supreme Court.

It is essential to remember the Framers were not focused on creating a system of government that would get things done quickly or easily. Their greatest concern was the emergence of a single force within the government that would become so

powerful it threatened the principles that formed the foundation of this new system: limited government, commitment to the rule of law and protection of civil liberties.

This was the initial wisdom that allowed us to flourish as a constitutional republic.

James Madison, the Father of the Constitution, argued that if there was concern about the abuse of power by government, then we should stop putting all the power of government into a single set of hands.

The King possessed all the power under colonial rule, which led to tyranny. Under the Articles of Confederation, all the power was given to the states, leading to chaos. The Framers wanted to avoid both extremes. Their solution was to

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