

INTERPRETING THE DOCUMENTS: Balance of Power

Our founding fathers envisioned a nation in which a balance of powers would outweigh tyranny, which had afflicted the colonies for centuries. The founding fathers developed a **new system of government** that had not been used by any other country before. Within this form of government, citizens would play a much more important role.

The founding fathers implemented many ideas from the **Roman Constitution of 287 BC**. These included three separate branches of government that would check and balance one another in an attempt to distribute power, ensuring that one branch would not become more powerful than another.

The idea of **executive, legislative, and judicial branches** of government was not a new concept, but the founding fathers experimented with making them independent branches that were also cohesive. The system works well, but the balance of power has occasionally shifted since the ratification of the constitution, causing a constant debate over the limits of each branch's powers.

Initially, the judicial branch had little power and definition. It was not until 1803, when Chief Justice John Marshall's ruling in **Marbury v. Madison** defined the scope of the Supreme Court's power. The case

concerned Judge Marbury, appointed by President John Adams. The paperwork for his appointment was not completed before Jefferson became president and he refused the appointment. Marbury wanted the Supreme Court to issue an order forcing Jefferson's

Secretary of State, Madison, to give him the job. At that time a 1789 law gave the Supreme Court power to issue such orders. Chief Justice Marshall changed that by ruling the 1789 law unconstitutional because it gave unsanctioned power to the Supreme Court. While Marshall's ruling limited the Supreme Court's power, it also strengthened it because it established the court's power to declare acts of Congress unconstitutional.



Supreme Court Building in Washington, DC.

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White House in Washington, DC.

The power of the executive branch has evolved over the centuries. As the United States gained authority as a nation, the president has gained more power. The executive branch **gains the most power during times of war**. Twice during the Civil

War President Lincoln suspended *habeas corpus*, which establishes a person's right to appear before a judge before being imprisoned. Lincoln feared courts in the northwest would not convict Union protesters. Lincoln was declaring martial law, a power the Constitution only gives to Congress.

The debate about the constitutionality of the executive branch's growing power did not end with Lincoln. During World War II, President Franklin Roosevelt set in motion the Manhattan Project to develop the **atomic bomb**. The executive branch kept the project so secret from the other branches of the government that Vice President Truman only learned about it after Roosevelt's death. More recently, President George W. Bush increased the executive branch's power was setting up **military tribunals** completely outside the regular court system to try enemy combatants.

Power in the legislative branch has also changed over time, but the power of Congress as a whole has not changed as much as the power of the individual representatives. There are **no term limits for Congressmen** and incumbents (those who currently hold the position) are more easily elected than new candidates. Re-electing incumbents can be good because it allows people familiar with the system to continue working in it. Incumbency can be bad because it keeps fresh ideas out and is arguably not a true voice of the people.



Capitol Building in Washington, DC, 1906.