

ANALYTICAL READING ACTIVITIES  
TOPIC 1.6

---

# AP United States Government and Politics

# About the College Board

The College Board is a mission-driven not-for-profit organization that connects students to college success and opportunity. Founded in 1900, the College Board was created to expand access to higher education. Today, the membership association is made up of over 6,000 of the world's leading educational institutions and is dedicated to promoting excellence and equity in education. Each year, the College Board helps more than seven million students prepare for a successful transition to college through programs and services in college readiness and college success—including the SAT® and the Advanced Placement Program®. The organization also serves the education community through research and advocacy on behalf of students, educators, and schools.

For further information, visit [www.collegeboard.com](http://www.collegeboard.com).

## Acknowledgements

### AP Curriculum, Instruction, and Assessment Team

**Erin Spaulding**, Senior Director, AP Curriculum, Instruction, and Assessment

**Amy Smallwood-Ringenberg**, Director, AP Instructional Design

### AP U.S. Government and Politics Instructional Design Team

**Alicia Ross**, Blue Ridge High School, New Milford, PA

**Michael Dies**, YES Prep Southeast, Houston, TX

**Matt Furfaro**, Concord Community High School, Elkhart, IN

### Other Contributors

**John R. Williamson**

**Christopher Budano**

© 2019 The College Board. College Board, Advanced Placement Program, AP, SAT, and the acorn logo are registered trademarks of the College Board. AP Capstone is a trademark owned by the College Board. All other products and services may be trademarks of their respective owners.

Visit the College Board on the Web: [www.collegeboard.com](http://www.collegeboard.com)

# Topic 1.6: Principles of American Government

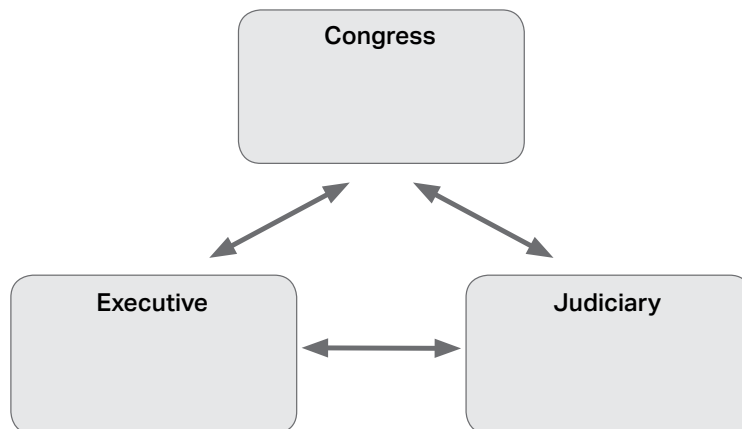
## Source Analysis

### Before You Read

In moving from the Articles of Confederation to the Constitution, newly created powers for the national government did present concerns for those Americans fearful of concentrated power.

In *Federalist No. 51*, Madison argued that separation of powers among three branches of government and a system of checks and balances would ensure that no one person or group of people would dominate the national government.

Before you read *Federalist No. 51*, use the graphic below to list what you already know about the ways in which each of the three branches of our federal government serves as a check on the others.



*Required Document:*  
*Excerpts from The Federalist No. 51 by James Madison*

*Paired with: Excerpts from Majority Opinion from Clinton v. City of New York*

### Related Concepts:

- Madisonian Model of Government
- Separation of Powers
- Checks and Balances
- Veto Power
- Judicial Review

### Definition

*Describe the assumptions and/or reasoning of a source or author.*

### Source Analysis

*Explain how the author's argument or perspective relates to political principles, institutions, processes, policies, and behaviors.*

---

## The Federalist No. 51

---

In *Federalist No. 51*, James Madison explains and attempts to persuade the reader that the underlying principles of the then proposed Constitution would provide safeguards against abuse of power. In fact, these ideas of separation of powers, checks and balances, and federalism were contained in the Virginia Plan as penned by Madison himself. Political scientists refer to the manner in which our government is structured into three branches of government as the “Madisonian Model.”

---

---

From the New York Packet.

Friday, February 8, 1788.

Author: James Madison

To the People of the State of New York:

TO WHAT expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea, I will hazard a few general observations, which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention.

### Check Your Understanding

Use the space below the paragraph to summarize what Madison is saying in your own words.

### Check Your Understanding

Why does Madison claim this document is being written?

---

---

*partition: division*

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. ...

### Check Your Understanding

What “foundation” is Madison laying here?

---



---



---

### Source Analysis

Highlight or underline what Madison claims is necessary for liberty to be maintained.

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. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government.

### Connect to Content

Compare Madison’s argument in this paragraph to our government today. How do the branches resist being controlled by another?

---



---



---

But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

### Source Analysis

Highlight or underline Madison’s claim about human nature in this passage.

### Source Analysis

How is this view connected to his theory that checks and balances are necessary to avoid a concentration of power?

---



---



---

A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. ...

But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions.

As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department?

### Check Your Understanding

What is the chief check on governmental power? According to Madison, is this chief check adequate?

---



---



---

### Source Analysis

Circle which branch is the most powerful in a republic, according to Madison.

### Connect to Content

How does the Constitution address this concentration of power in Congress?

---



---

### Connect to Content

Relate Madison's argument about the power of the president relative to Congress to current political behavior.

---



---



---



---

## After You Read

### Thinking Like a Political Scientist

#### Reasoning Process: Definition

What is Madison's reasoning for separation of powers and checks and balances?

---



---



---

What does Madison assume about the nature of people that makes the system of checks and balances necessary?

---



---

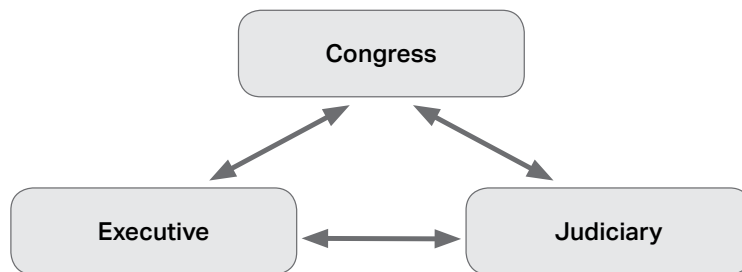


---

### Political Science Disciplinary Practices

#### Source Analysis

Using the same diagram from the Before You Read, connect Madison's outline of separation of powers to one way in which the system works and one issue that may cause the system to break down in our government today.



#### Ways the system works

Congress:

Executive:

Judiciary:

#### What may cause the system to break down

Congress:

Executive:

Judiciary:

## Clinton v. City of New York (1998)

Since the inception of the Constitution, battles over how power should be distributed among the legislative, executive, and judicial branches have been a central part of our national conversation. In the case, *Clinton v. City of New York* (1998), the Supreme Court, exercising its own powers under judicial review, considered a unique question: Does a power granted to the president by Congress violate the Constitution?

Central to the question for the Court was the meaning of the Presentment Clause in Article I, Section 7.

As you read excerpts from the majority opinion, look for the four elements of any Supreme Court decision that will support your efforts to uncover how the rationale of the majority opinion relates to the political principles underlying our policymaking institutions of government.

---

### SUPREME COURT OF THE UNITED STATES

WILLIAM J. CLINTON, PRESIDENT OF THE UNITED STATES, et al.,  
APPELLANTS v. CITY OF

NEW YORK et al.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

Justice Stevens delivered the opinion of the Court.

The Line Item Veto Act (Act) . . . was enacted in April 1996 and became effective on January 1, 1997. . . .

. . . the President exercised his authority to cancel one provision in the Balanced Budget Act of 1997 . . . and two provisions in the Taxpayer Relief Act of 1997 . . .

Appellees, claiming that they had been injured by two of those cancellations, filed these cases in the District Court. That Court again held the statute invalid . . . and we again expedited our review . . .

We now hold that these appellees have standing to challenge the constitutionality of the Act and, reaching the merits, we agree that the cancellation procedures set forth in the Act violate the Presentment Clause, Art. I, §7, cl. 2, of the Constitution.

### Check Your Understanding

How is the Line Item Veto Act connected to President Clinton's actions in the Balanced Budget Act (1997) and the Tax Payer Relief Act of 1997?

---



---



---

### Academic Vocabulary

Use context clues and what you know about the role and function of the Supreme Court to define *appellees* and *statute*.

### Academic Vocabulary

What does it mean to have "standing" to challenge an issue in the courts?

---



---



On the merits, the District Court held that the cancellations did not conform to the constitutionally mandated procedures for the enactment or repeal of laws in two respects.

First, the laws that resulted after the cancellations “were different from those consented to by both Houses of Congress.”...

Moreover, the President violated Article I “when he unilaterally canceled provisions of duly enacted statutes.” As a separate basis for its decision, the District Court also held that the Act “impermissibly disrupts the balance of powers among the three branches of government.” Ibid. ,,

IV

The Line Item Veto Act gives the President the power to “cancel in whole” three types of provisions that have been signed into law: “(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending; or (3) any limited tax benefit.” It is undisputed that the New York case involves an “item of new direct spending” and that the Snake River case involves a “limited tax benefit” as those terms are defined in the Act. It is also undisputed that each of those provisions had been signed into law pursuant to Article I, §7, of the Constitution before it was canceled.

The Act requires the President to adhere to precise procedures whenever he exercises his cancellation authority. In identifying items for cancellation he must consider the legislative history, the purposes, and other relevant information about the items. He must determine, with respect to each cancellation, that it will “(i) reduce the Federal budget deficit; (ii) not impair any essential Government functions; and (iii) not harm the national interest.” Moreover, he must transmit a special message to Congress notifying it of each cancellation within five calendar days (excluding Sundays) after the enactment of the canceled provision. It is undisputed that the President meticulously followed these procedures in these cases...

Thus, under the plain text of the statute, the two actions of the President that are challenged in these cases prevented one section of the Balanced Budget Act of 1997 and one section of the Taxpayer Relief Act of 1997 “from having legal force or effect.” The remaining provisions of those statutes, with the exception of the second canceled item in the latter, continue to have the same force and effect as they had when signed into law.

### Source Analysis

Circle the two reasons the District Court found the line-item veto unconstitutional.

### Check Your Understanding

What were the requirements that the president had to meet to conform to the Line Item Veto Act?

---



---



---

### Check Your Understanding

Explain whether President Clinton followed the procedures as laid out in the law.

---



---



---

In both legal and practical effect, the President has amended two Acts of Congress by repealing a portion of each. “[R]epeal of statutes, no less than enactment, must conform with Art. I.” There is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes.

Both Article I and Article II assign responsibilities to the President that directly relate to the lawmaking process, but neither addresses the issue presented by these cases.

The President “shall from time to time give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient . . . .” Thus, he may initiate and influence legislative proposals.

Moreover, after a bill has passed both Houses of Congress, but “before it become[s] a Law,” it must be presented to the President. If he approves it, “he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it.” His “return” of a bill, which is usually described as a “veto,” is subject to being overridden by a two-thirds vote in each House.

**Source Analysis**

What does the Court find was the effect of President Clinton’s actions?

---

---

---

**Check Your Understanding**

Circle the sections of the Constitution that outline how the President can affect the lawmaking process.

**Connect to Content**

According to the Constitution, how can the President affect the lawmaking process?

---

---

---

There are important differences between the President’s “return” of a bill pursuant to Article I, §7, and the exercise of the President’s cancellation authority pursuant to the Line Item Veto Act. The constitutional return takes place before the bill becomes law; the statutory cancellation occurs after the bill becomes law. The constitutional return is of the entire bill; the statutory cancellation is of only a part. Although the Constitution expressly authorizes the President to play a role in the process of enacting statutes, it is silent on the subject of unilateral Presidential action that either repeals or amends parts of duly enacted statutes.

### Source Analysis

What are the differences between the actions that the Constitution authorizes the president to do and what the Line Item Veto Act allowed?

---



---



---



---

### Academic Vocabulary

Take what you know about the word *statute* and define the term *statutory* in the space below the paragraph where the word first appears.

There are powerful reasons for construing constitutional silence on this profoundly important issue as equivalent to an express prohibition. The procedures governing the enactment of statutes set forth in the text of Article I were the product of the great debates and compromises that produced the Constitution itself.... Our first President understood the text of the Presentment Clause as requiring that he either “approve all the parts of a Bill, or reject it in toto.” What has emerged in these cases from the President’s exercise of his statutory cancellation powers, however, are truncated versions of two bills that passed both Houses of Congress. They are not the product of the “finely wrought” procedure that the Framers designed....

### Source Analysis

Circle the sentence or phrase that explains how the Court interpreted the Constitution’s silence on the issue of whether the president can veto parts of a bill.

### Check Your Understanding

What remarks does the Court offer regarding the Framers’ intentions?

---



---



---

*construing: understanding or explaining*

*truncated: cut short*

Although they are implicit in what we have already written, the profound importance of these cases makes it appropriate to emphasize three points.

First, we express no opinion about the wisdom of the procedures authorized by the Line Item Veto Act. ...

Second, although appellees challenge the validity of the Act on alternative grounds, the only issue we address concerns the “finely wrought” procedure commanded by the Constitution. ... Thus, because we conclude that the Act’s cancellation provisions violate Article I, §7, of the Constitution, we find it unnecessary to consider the District Court’s alternative holding that the Act “impermissibly disrupts the balance of powers among the three branches of government.”

Third, our decision rests on the narrow ground that the procedures authorized by the Line Item Veto Act are not authorized by the Constitution ... if the Line Item Veto Act were valid, it would authorize the President to create a different law—one whose text was not voted on by either House of Congress or presented to the President for signature. Something that might be known as “Public Law 105—33 as modified by the President” may or may not be desirable, but it is surely not a document that may “become a law” pursuant to the procedures designed by the Framers of Article I, §7, of the Constitution.

If there is to be a new procedure in which the President will play a different role in determining the final text of what may “become a law,” such change must come not by legislation but through the amendment procedures set forth in Article V of the Constitution.

The judgment of the District Court is affirmed.

### Source Analysis

Describe the three reasons why the majority upheld (affirmed) the judgment of the District Court.

---



---



---



---



---



---



---



---

### Check Your Understanding

What would be necessary for a line-item veto to be constitutional?

---



---



---

## After You Read

### Thinking Like a Political Scientist

#### Reasoning Process: Definition

How did the Court's understanding of the Presentment Clause and the president's role in lawmaking inform the decision in this case?

---

---

How do this case and the constitutional questions it presents reflect Madison's arguments in *Federalist No. 51*?

---

---

---

---

### Political Science Disciplinary Practices

#### Source Analysis

On what basis does the Court support its holding in *Clinton v. City of New York* (1998)?

---

---

---

---

How did the Court's decision limit the veto power of the president?

---

---

---

## Making Connections

In *Federalist No. 51*, Madison claims that the legislative branch in a republic is naturally the most powerful and that the executive is weaker. Is this true today? Which branch of government would you assert is most powerful in the modern era? Explain.

---

---

---

---

In his concurring opinion in *Clinton v. City of New York* (1998), Justice Anthony Kennedy considered the broader question that the majority opinion avoided. He stated:

“Separation of powers helps to ensure the ability of each branch to be vigorous in asserting its proper authority ... By increasing the power of the President beyond what the Framers envisioned, the statute compromises the political liberty of our citizens, liberty which the separation of powers seeks to secure.”

Who makes the stronger argument, the majority or Kennedy? Explain whether the Court was doing its duty in this case (interpreting the law), or overstepping by striking down a law passed by Congress.

---

---

---

---

---