

Reminder of balanced powers

Today we are celebrating Law Day throughout the United States. Each year at this time, the American Bar Association provides a theme intended to educate and aid in the public awareness of our uniquely American form of government. All law in the United States is ultimately derived by the Constitution. A bedrock principle of American government is the division of power among three separate branches of government. The United States was the first nation that used a written constitution to adopt separation of powers as the framework for its government. Articles I, II and III of the Constitution define most of the powers given to the three branches of our government.

The Legislative branch (Congress) is empowered to actually draft and make our laws. Examples of legislative power at the federal level include the ability to raise taxes, borrow money, spend money, establish and support armed forces, declare war, regulate commerce and in general create new laws that the citizenry must follow.

The Executive branch (president) oversees the federal agencies that implement laws passed by Congress. While Congress may have the ability to establish and fund our military, the president is commander-in-chief of the nation's armed forces. The president also has the power, with Senate approval, to make treaties with other nations and to nominate federal judges and appoint government officers.

The Judicial branch (Supreme Court), although appointed by the president, has the power to interpret the law and decide on the



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constitutionality of laws passed by Congress. Supreme Court justices and federal judges are appointed for life by the president. The Constitution intentionally protects judges from Congress or the president — their tenures and salaries are secure and cannot be manipulated by the other two branches even if they disagree with a judge's or court's ruling. This ensures the integrity and impartiality of our judicial system and is probably the single most important tenet of democracy as a whole.

It should be clear that while all three branches are separate and balanced, there is much overlap among them. This was intentional on the part of our Founding Fathers. For example, based upon enormous pressure and lobbying from his constituents, suppose a prominent Florida congressman (Legislative branch) submitted a bill that made it a federal crime to be seen in public on Saturdays in September wearing only the colors garnet and gold. Suppose also that the president (Executive branch), again under tremendous pressure from wealthy lobbyists and constituents, promptly signed this controversial bill into law. Then, further suppose that

30,000 unsuspecting students got arrested one Saturday afternoon in Tallahassee for violating this new law. Fortunately, they pooled their money and hired a high-priced lawyer from the University of Florida to take their case all the way to the Supreme Court (Judicial branch). Even though the Legislative and Executive branches took part in making this law, the Judicial branch would still have the power to "interpret" the constitutionality of the law. The Supreme Court is not supposed to be influenced by public opinion. In theory, no matter how popular or unpopular a law may be, the court should rule strictly on its constitutionality. In our example, even though the majority, if not all, of the justices would likely find the wearing of garnet and gold reprehensible, they would hopefully put such personal views aside and be forced to rule that such a law was unconstitutional and unenforceable.

Separate branches and balanced powers were intended to ensure that no one branch of government could be corrupted and dominate or control over the others. Although tested over time, this unique concept of division of powers has flourished for over 200 years and is still going strong.

On behalf of the members of the Manatee County Bar Association, please join me in celebrating Law Day 2006 and the liberties under law that we all enjoy as Americans.

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