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**UK and US Models of Separation of Powers: A Comparative
Study**

**Dissertation Submitted in Partial Fulfillment of the Requirements for
Master's Degree in Literature and Civilization**

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Dedication

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I dedicate this dissertation to my parents for their great support, to my sisters and brothers for their encouragement throughout my study, and to my little son Mohamed Bachir who has been the source of my energy for giving me the extra strength and motivation to challenge life difficulties. A special dedication to the teachers who taught me during my educational journey.

RABAH Nafissa

I dedicate this to my parents, for your constant love and support.

I dedicate this to my brother Mohammed and my sisters, who were always there for me, even on the tough days.

I dedicate this to my teaches from primary school to university. I am in debt to express my sincere gratitude to them.

I dedicate this to my best friend, Djaouaher. Thanks for her support and encouragement.

I dedicate this to all of my relatives and colleagues.

Acknowledgements

All praises to Allah and His blessing for overcoming the challenges we have been faced.

We would like sincerely to acknowledge our warmest thanks to our supervisor, Dr. NESBA Asma who made this work possible. Her friendly guidance and expert advice have been invaluable throughout all stages of the work. Really, it has been a great pleasure and honour to have her as our supervisor.

Our deepest gratitude to the whole staff in the library of our faculty of Arts and Languages for their willingness to provide us with the available references.

We would also wish to express our gratitude to all those who contributed indirectly in the final preparation of this work and made its completion an enjoyable experience.

Abstract

The Separation of powers is a theory created by the French scholar Montesquieu in 1748. It means that the power should not be practiced by only one man or one group of people or a single institution. This principle received a great interest among researchers of political sciences throughout history. The present study aims at examining the implementation of the separation of powers' principle in United Kingdom(UK) and United States(US). It attempts to compare between the UK and US methods of implementing of the separation of power's doctrine. In this research, a descriptive-comparative method is adopted. The most significant result which emerges from the comparative study is that the UK and US models of implementing the separation of powers are different in some points and share common ones. Concerning the UK, it has no strict separation of powers. Simply, the legislative and the executive are twined, but the judicial branch is an independent. As for the US, it has a strict separation of powers. That is to say, the US has three independent branches. This result could be attributed to historical, constitutional, and political system factors. The findings have important implications for increasing the awareness about the separation of powers in both countries. A further study with more focus on facilitating the rigidity of the doctrine of separation of powers is therefore suggested.

Keywords: Executive, Judiciary, Legislative, Separation of Powers, UK, US.

List of Abbreviations and Acronyms

DCA	Department of Constitutional Affairs
EU	European Union
GB	Great Britain
MPs	Ministers of Parliament
PM	Prime Minister
UK	United Kingdoms
US	United States

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General introduction

1. Background of Study

A system or group of people by which the country is ruled by is known as the Government. Through history scholars absorb a long time in understanding and examining the forms of Government around the world. Democratic form is the most popular form, it is of the people, for the people and by the people. Also its authority distributed among its three branches : legislative, executive, and judiciary. Political liberty is the main concern in this form of Government, in which the abuse of power is totally absent. This is only achieved by the principle of separation of powers which is founded by the French philosopher Montesquieu. In this theory, he advocated that political functions must be allocated among various governmental institutions; therefore, the dominance of one branch should be avoided. Montesquieu's theory gets a great acceptance as world-wide countries start applying this principle. In fact, the implementation of this doctrine differs from one country to another. In this research, United Kingdom (UK) and United States (US) governments are the selected models as they are the strongest and the most stable countries around the world.

2.Statement of the problem

Despite the fact that UK and US accept the doctrine of separation of powers theoretically, but, in practice, they share common points and differ in others. A comparative study between them can extensively highlight those similarities and differences.

3.Research Questions and Research Hypotheses

To reach our goals of this study the following questions have been raised.

1. Are the UK and US implementing the separation of powers similarly or differently ?
2. Are the UK and the US models of separation of power overlapped or separated ?
3. How are the UK and US government systems structured ?
4. What are the reasons behind the way of exercising of separation of powers ?

The following hypotheses assumed to answer the above raised questions.

H.1. The similarities between the UK and US models of separation of powers outweigh the differences.

H.2. There is an overlap in the British separation of powers whereas there is a separation in the American powers.

H.3. Both UK and US divide their Government structure into three institutions.

H.4. There are various reasons behind the British and the American ways of performing the theory of separation of powers

4. Aims of the Study

This study aimed to shed light on the structure of the three branches of UK and US in order to facilitate their implementation of separation of powers. In addition to that, it attempts to compare between their implementation of the doctrine.

5. Research Methodology

As long as this study is conducted to compare between the British and the American models of separation of powers, it is classified as a qualitative research in which descriptive-comparative method is adopted. In this respect, the descriptive method used to highlight the structure of the three branches of UK and US. From the division of the their Governments, a comparative method used to elicit the relationship between the organs of the UK and US. Consequently, the similarities and the differences are clarified.

6. Significance of Study

This study has a great significance for political sciences' students who are dealing with UK and US politics. Because of the complexity of UK and US political systems, this research is valuable for those who have no knowledge about their systems. Additionally, it can be a reference for further researches as it provides reliable information about the separation of powers in UK and US.

7. Structure of Study

The present work comprises three chapters; two are theoretical and one is practical. The first two theoretical chapters go in parallel in dealing with the three branches: the legislative, the executive and judiciary of UK and US. Specifically, the first chapter is devoted to the British structure while the second one deals with the American structure. The third chapter spots a light on the similarities and the differences between UK and US ways of implementation of the separation

of powers. Also, it identifies the significant contributory factors behind those two ways of implementation.

CHAPTER ONE

The Three Branches of the UK Government

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Introduction

The United Kingdom(UK), also known as Great Britain (GB), is a nation located northwest of the European mainland. It is shaped from four countries, England, Scotland, Wales and Northern Ireland. Politically, Britain has the oldest constitution around the world since it traced back to the age of Anglo –Saxons. Through history, the British constitution remains distinctive from most other constitutions as it is not codified in one single document. Usually the constitution of UK is known as an unwritten constitution ,but most of it has been written somewhere. Even though it has no complete unified constitution ,it constructs one of the most strong organized political system in the world.

As it is well known, UK is a parliamentary democracy and a constitutional monarchy. Parliamentary democracy means that the British citizens have the right to elect their representatives, and a constitutional monarchy means that the king or the queen does not have all the powers in the state, but the law determined his or her power. The separation of powers is an essential principle in the British constitution, in which the three branches of the state should separate from each other individually and functionally. For more understandings of the UK model of separation of powers, the British Monarch and the three principle organs of the British government must be illustrated .

1.1.The British Monarch

The British Monarch has been developed through a long evolution and different adjustments through centuries. The Monarch of the UK refers to the Sovereign, the Crown , also it can be called the head of the state . As it is well known that the UK has a hereditary constitutional Monarchy, so the state is ruled by the Monarch who is only the head of the state not the head of Government; his or her power is identified by the constitution. In the UK, the Monarch receives his or her title in a hereditary process, this process beginning goes back to the 11th century. Although the Monarch no longer has a political or Executive functions , he or she keeps playing a significant role in the life of the UK. The British Monarch has been developed over centuries creating nowadays Monarch with its power and influence .

1.1.1.The Historical Development of the British Monarch

The UK has gone through a long history of adjustments and development to create the British Monarch and its power. The British Monarch origins traced back to the age of Anglo-Saxon and Medieval Scotland ,which unified the kingdoms of England and Scotland by the 10th century. In 1066, the Norman's victorious leader became the Crown, when the last Crown of

Anglo-Saxon killed. The process continued to the Plantagenet kings ,who controlled the majority of the people and the lands of the state. Meanwhile, the process of reducing the English Monarch power continued under the Magna Carat (1215). From 1603, both English and Scotland kingdoms were controlled by a single Crown. Britain becomes a republic for 11 years since (1649-1659), this means that the people have the right to vote for their Government. After that the Monarch returned to be constitutional limited by laws such as the bill of Rights in 1689. The time passed and the British Monarch covered a quarter of the world lands in 1921. The story continued to these last centuries, when the Monarch formed completely with its rights and duties. This was a brief history of the process of creating the British Monarch.

The British Monarch is a hereditary, that is after the death of the king or the queen, the Monarch descends to the eldest son or to the eldest daughter if the son is absent. This hereditary leadership returns back to the age of Charles I in 1642. During that era, Charles II hires to the throne after his father to restore the line of succession. This was the early emergence of the hereditary leadership. This system continued developing to be constitutionally adapted in the state.

The British Monarch has experienced different changes over centuries to be created. But its hereditary principle does not represent a democratic principle, since the Monarch is chosen without any voice of the citizens as they are prevented from electing their ruler. This principle keeps the royal power to the same family from generation to another regardless to the ability and qualifications. According to Paine (1976), As the monarchy degrades and diminishes us, the hereditary succession, claimed as a matter of right, insults and burdens future generations.

1.1.2. The Power of The British Monarch

Most people believe that the Monarch has only ceremonial roles, but, in reality, it has official duties. Even though, if those roles do not exist in the British constitution, they are still accomplished by the Monarch. The Monarch is a factor of the national identity, unity, and coherence. Furthermore, the Monarch is a symbol of the nation's stability and continuity. Each of the three branches of the state operated under the name of the Monarch. That is to say, the British Monarch has a variety of responsibilities in all of the legislative, executive, and judiciary representing the Monarch's high authority and its significance to the state. The Monarch power includes appointing the Prime Minister; summoning or proroguing Parliament; giving or rejecting royal assent to bills; and waging war by and making peace (Haves, 2019).

1.1.2.1.The Legislative Power of The British Monarch

First, the Monarch carried out many responsibilities in the legislative branch, the most popular functions are mentioned. As a head of the state, he or she has the power to convene parliamentary sessions, extend and prorogue them. Additionally, the king or the queen opens the sessions of Parliament after the new election through the State Opening with the "Speech from the Throne" of the king or the queen, where the Parliament is informed about the Government's proposal for the parliamentary year. The Monarch also carries the responsibility of giving the Royal Assent to all Bills passed by Parliament before they become an act of Parliament. Above all, the Monarch can dissolve the Parliament even before the expiration of its term, and calls for a new election. Finally, the Monarch is responsible for the appointment of the peers of the House of Lords.

1.1.2.2.The Executive Power of the British Monarch

In addition to having a legislative power, the head of the state has constitutional roles in the Executive branch. The Monarch holds the responsibility of appointing and dismissing the Prime Minister, but the Prime Minister is not actually selected by the Monarch as he or she is the leader of the party which wins most seats of the House of Commons after the election. Then, the Prime Minister's advice is taken into account by the head of the state to appoint other ministers. The Monarch also plays a significant role in the Military sector. He or she can declare peace or war as he or she is the commander-in-chief of the armed forces of the state.

1.1.2.3.The Judicial Power of the British Monarch

Besides the legislative and the executive roles, the Monarch carries out several roles in the judiciary branch of the state. The Monarch is the head of the judiciary branch as the whole branch works under it. The king or the queen officially selects the judges of the Supreme Court. The Monarch also appoints the Lord Chancellor who is one of the ministers of the Cabinet and has the responsibility of controlling the administration of the justice. As a head of the state, the Monarch has the right to grant forgiveness to the punishment awarded by the Courts. Finally, the religious diversity and tolerance are acknowledged and celebrated by the Monarch.

Despite the fact that the monarch holds a high authority in the state, it cannot say yes or no without the recommendation of the Prime Minister. Also, the head of the state does not do all of his or her power personally, but most of it is exercised by the Prime Minister or the ministers themselves. Another limitation of the Monarch is that it cannot say no to a decision created by the Parliament.

1.2.The Legislative Branch of UK

The legislative branch , also called parliament, is the core of the three branches of UK governmental system. This body has its own specific design, members, and power. Britain has developed its legislative power through different establishments and reforms. The majority of historical researchers divided the parliamentary development of UK into four stages; each stage with its significance and achievements. According to Bond (1966), the British parliament in fact, returns back to thousands of years ago and it is divided into four periods. Like Bond who classified the historical development of the British legislation into four phases, Graham (1910) in his book mentioned that:

The history of Parliament proper divides itself naturally into four distinct periods. The first may be said to stretch from the middle of the thirteenth to nearly the end of the fifteenth century; the second dates from the accession of Henry VII., and extends to the Revolution of 1688. The remaining century and a half, up to the Reform Bill of 1832, forms the third period; and with passing of that momentous Act commences the last and most important epoch of all (p. 3-4).

This quote shows the four stages of developing the British parliament, and the features of each stage. As result to distinct modifications during those four periods ,the parliament which we know now has been created. As a matter of fact, the UK has a bicameral legislation , in which the parliament takes place across two houses (House of Commons and the House of Lords) under the Monarch; each with its own structure, individuals ,and responsibilities towards the state.

1.2.1.The House of Commons

The House of Commons, also known as the Commons ,is the lower chamber of the parliament of the Unites Kingdom ,even though it is the dominant branch of the parliament .Thus, this house exceed the house of lords power under the Parliament Act 1911.This parliamentary chamber is the democratically elected body, including 646 members who are called "Members of Parliament" or "MPs". The majority of these members of parliament also serve a position of ministers in the Government. These individuals have a specific qualifications giving them the right to be elected; they construct an organized structure in the parliament ,where a great role is operated .

1.2.1.1.The Members of Parliament Qualifications and Election

The member of parliament in the UK , is a member who is elected to have a seat in the House of Commons in the UK parliament. This member must be elected by citizens in the day of the general election. Candidates of the election must acquire certain requirements to be able to stand for the general election. Importantly, candidates must be 18 years old at least, a citizen of the United Kingdom ,a citizen of the Republic of Ireland, or a citizen of a member of the Commonwealth of Nations. Additionally, they must be able to attend at the nomination time and on the day of election .

Each MP represents only one constituency, this constituency covers a particular geographical area, so the elected MP represented all the individual living in that area. Specifically, the United Kingdom separated into 646 constituencies, with 529 in England, in Wales 40, in Scotland 59 , and 18 in Northern Ireland. Furthermore, five years is the maximum period of the MPs to be in the parliament. When the five years ends, a general election is scheduled by the prime minister for electing the new House of Commons representatives. For this reason, the first-past-the-post electoral system is the method used in the election. This means that the winner is the candidate with the majority of votes.

1.2.1.2. The House of Commons' Leadership

The Speaker of the House of Commons is the chief officer of the Commons, who carries the highest authority of the house. Hibbing (1988) asserted, the leadership position of the house of Commons is the Speaker who holds the highest honor and respect in the chamber. Hence, this office holder is elected after every general election, or after the retirement or the death of the previous speaker. The winner of this post is a candidate from the MPs who received the plurality of votes by the other members of parliament. In general, the speaker presides the house and represents it, upholds the rules organizing its operation, and saves its rights and privileges. In addition to these functions , the speaker has other different roles in the Commons' chamber. The leader of the House of Commons has numerous lists of roles in the house of Commons ,such as he or she is the chairmen of the house, the speaker of the house, and its organizer (Factsheet M2 Members Series,2010) .

1.2.1.3.The Principle Functions of the House of Commons

The House of Commons plays a significant role in the parliament ;its principle function can be divided into four categories: legitimization ,recruitment , parliamentary scrutiny and expression. Legitimization is the biggest role of this chamber, in which much of the MPs'

time is passed ,making laws and taxes, debating and voting on Bills. Moving to the second responsibility recruitment ,it carries out for appointing ministers to the executive body from the members of parliament. Subsequently, parliamentary Scrutiny is a central activity of the House of Commons. By scrutinizing the operation of the government , the Commons ensure that the governmental job is running properly. The final role the members of parliament carried is representing their constituencies, where they have the right to discuss their constituencies' needs with the house showing the consideration of the whole British citizens. The vital roles of the House of Commons are approving bills and taxation , scrutinizing the government work, providing the executive with ministers, and representing the people in all matters(Political and Constitutional Reform Committee,2015). In addition to these functions, many other responsibilities can be classified under those four categories.

1.2.2.The House of Lords

The House of Lords is the upper house of the parliament , it serves as the second chamber in the British bicameral legislature. It is an autonomous form, and it subordinates to the House of Commons .Unlike the Hose of Commons ,the House of Lords is the unelected body of the parliament ,comprising about 800 members ,making it the largest legislative house around the world. Certainly ,the House of Lords' membership is life peers, hereditary peers ,and the lord spiritual. Even though this chamber lost its co-equal power with the Commons, its members keep playing a fundamental function to the legislative process and to the state as whole.

1.2.2.1.House of Lords Membership

The first thing we must know about the House of Lords' members is that the minimum age of them is 21 years. As it is mentioned above , the Lords are classified into three categories. The first category is the "life peers", who are appointed by the head of the state on the advice of the Prime Minister. Their number recently is around 670 sitting in the house under the life peerage Act 1958. The second category as provided by the House of Lords Act 1999 contains 92 hereditary peers, individuals in this category typically inherit their titles without appointment from the Monarch. Specifically, The bulk of the second chamber members used to be hereditary peers until the House of Lords Act 1999 established , most of the hereditary peers are removed ,and replaced by peers for life. The creation of life peers not only brought into the house members who have a social background diversity ,but also providing the house with different individuals who are experts in a particular fields. The last category comprises 26 Lords Spiritual ,who are bishops and archbishops of the Church of England. By having a

demanding job outside parliament , members of this last group remains less effective, and solely attend in the house. Vig and Paschen (2000) acknowledged that

The house used to be dominated by hereditary Peers, but increasingly their number has been diluted by Peers appointed for life. Life peerages are awarded for political reasons, but also for more achievement in British society : this includes eminent scientists, engineers, businessmen, social scientists ,and so on (p.66)

1.2.2.2. House of Lords Leadership

The Lord Speaker is the chief officer of the House of Lords. This new office is created under the separation of powers' doctrine replacing the lord chancellor office in the house. The owner of this office is elected every five years by other members of the house, or on the death, retirement, or resignation of the previous Lord Speaker, this member can serve this position two five- years terms only. Of course, this member has essential roles in the house such as presiding the house, representing the work of the house, and attending in some ceremonial duties, including the State Opening of Parliament.

1.2.2.3.The Principle Functions of the House of Lords

The House of Lords functions are somehow similar to the House of Commons functions. As mentioned by Russell (n.d.) the functions of the Lords are similar to the Commons functions, just with some implementation differences. The Lords' function is less extensive than the Commons, however; it is significant to the legislation process. Similar to the House of Commons ,the Second Chamber role is grouped into four categories: legitimization, recruitment, scrutiny, and expression.

Its legitimization can be accomplished by the long time(60%) the Lords spend on legislation, revising the bill before amending them. Recruitment performed by the individuals provided by the Upper House to the government. We can see this in the appointment made by the Prime Minister to some Lords ,so they hold a post in the executive. An example of the scrutiny role the House of Lords fulfills is the specific perspectives of its members. As they are experienced in a particular field, they may look to a relevant legislation better than the elected members .Like the House of Commons ,the House of Lords achieves a number of expression tasks. For instance, the Lords has the ability to debate issues considering any group of society whenever they fell the need for that. Moreover, other several functions can be added to those four categories.

1.2.3.The Relationship Between the House of Commons and the House Lords

The relationship between the two chambers is not easy to be specified, because the United Kingdom has no complete written constitution. Since making law power is the core of the parliament, it can illustrate one part of their relation. An act of parliament is started by a proposed bill by either of the houses, however; most of the bill is introduced by the Commons. The proposed bill is passed through the billing process in the two houses. When the bill is created by the Commons, it moves through five stages to be approved. Once it is approved by the Commons, it is passed to the lords for revising it (and vice versa). The bill keeps moving between the houses until both of them agreed upon it. Finally, the bill moved to the crown to receive the "Royal Assent", it is signed by the head of the state and becomes a law. All in all, this process shows one angle of the connection between the two chambers of the UK parliament. Along with making law, the two houses show their collaboration in performing distinct functions of the parliament.

Any other public bills (except one to confirm a provisional order' or one "to extend the maximum duration of Parliament beyond five years") which "is passed by the House of Commons in three successive sessions (whether of the same Parliament or not)" and which, "having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of those sessions" shall, "unless the House of Commons direct to the contrary," becomes an Act of Parliament on the Royal assent being signified thereto, notwithstanding that the House of Lords has not consented to the Bill (Dennis,1912.154-195).

Even though both of the houses are related together developing a strong parliament, they are associated with some peculiar features. The United Kingdom has a bicameral parliament, but its two chambers are no longer equal in power. Another ambiguity is that the Commons cannot completely consent a bill, despite the fact that they are the central lawmaking body. Furthermore, a member of Parliament represents the whole constituency including individual who did not elect him or her. Moving to the power of lords which had been diminished, and the hereditary members of the upper house representing undemocratic feature of the British parliament.

The legislative branch is the initial body of the British political system. Generally, this body shows the strengthens of the state as it is the part which is responsible for creating legislations of the state. Mainly, the United Kingdom has a bicameral parliament, where its two chambers collaborated to strictly achieve the parliamentary functions of the state.

1.3.The Executive Branch of The UK

The Executive, also called the Government, it is for those who have the authority to serve the whole of Britain. Simply, it considers the relationship between the citizens and the institutions of the country in all levels. It is centered on Whitehall in London where its members perform their responsibilities. The Prime Minister, and the Cabinet are the most powerful parts who made up this branch. Each of the two parts specifies from each other in organization, membership, and roles.

1.3.1. The Prime Minister

The prime minister or the PM is the head of the Government. He or she is the leader of the party that wins the majority of votes in the general election (the election of Commons). This office is an unelected position in the Government. He or she is appointed by the Sovereign after the general election. As The Monarch asked the head of party which wins the plurality of votes to form the Government of the state. The owner of this post has specific qualifications in addition to certain roles to the government operation.

1.3.1.1. The Qualification of the Prime Minister

The Prime Minister must meet certain qualifications to be appointed by the Monarch. First the person must be 18 years at least, be a citizen of either Britain, the Commonwealth or the Republic of Ireland and does not have any criminal convictions. Also, he or she must be a leadership of a party in the country. Finally, this member must be a member of the parliament, and acquires a high level of confidence and ability. According to Forman and Baldwin (1996), the Monarch considers many different requirements before appointing the Prime Minister, for example; considering their relationship with the Monarch and their ability to serve the Prime Minister's position. The owner of this office drives a high authority in the executive process, so the Monarch wisely chooses the member who will hold this office.

1.3.1.2. The Prime Minister Power

As there is no constitutional definition to the responsibilities of the Prime Minister, it is difficult to determine his or her powers. Scholars argue about the difficulty of generalizing the powers, and much of this office job is related to what the MPs decide to do. Since the owner of this post has prerogatives in the Executive, his or her power becomes the subject of confusion. Only the most popular and essential function of this office will be discussed. According to the Great Britain article (2011), the Prime Minister is the head of the Executive, who is responsible for various roles in the Government including: recommending ministers to the Monarch, meeting the Monarch regularly, and ensuring the appropriateness of the government procedures.

The Prime Minister has great responsibilities within the British Government . First, the PM is the leader of His or Her Majesty' Government, responsible for the Government decisions, meeting the Monarch to discuss the business of the Government. This server has the ability to hire and fire ministers, as he or she is the adviser of the Monarch in appointing ministers' matters. Also, this officer represents the core of the Executive branch in the House of Commons. Additionally, the Prime Minister carries the responsibility of organizing the Executive branch and disturbing functions among its members. In addition to these roles, the PM performs many other functions in both the Executive and the Legislative.

The prime minister represents a high authority in the state as he or she is serving privileged posts in both parliament and Government. This officer performs many functions making him or her more powerful than the head of the state himself or herself. As the holder of this office carries a huge power, he or she somehow symbolizes the weakness of the Monarch .For instance, the Monarch cannot hire or fire a minister or appointed a member separately without the help of the Prime Minister.

1.3.2. The Cabinet

The Cabinet is the main body in the executive branch and its origins goes back to the early 12th century. In modern British, the Cabinet is made up of a group of ministers chaired by the Prime Minister. These individuals are called Cabinet ministers, who are selected by the PMs. The Cabinet members have specific qualifications allowed them to perform a high responsibilities in the executive branch.

1.3.2.1. The UK Cabinet Background

The British Cabinet earliest form was the Privy Council, which advises the Monarch during the 12th century. By time, this Council grows into 40 councillors, dealing with more administrative matters. Moving to the 17th century, when the Monarch's committee of councillors gained more importance. In the 18th and the 19th century, the roles of the committee developed and were specified. In 1916, a War Cabinet created containing only four members, to be replaced by the new Cabinet gathering about 20 individuals in 1919. On 4 November 1919, the first meeting of the Cabinet was scheduled, based on the War Cabinet methods. The origin of the Cabinet returns back to the Privy Council of the 12 century, this council was developed during centuries to reach the modern Cabinet of the British Government.

(<https://www.nationalarchives.gov.uk/cabinetpapers/cabinet-gov/development-cabinet-government.htm>)

1.3.2.2.The Cabinet Membership

The UK Cabinet ministers are the key members of the Executive body. Their size is about sixteen to twenty-four individuals, who appointed by the Prime Minister from both the House of Commons and the House of Lords. Cabinet members number must be small enough to allow ministers discuss more freely, also it must be big enough to have various opinions in making decision. As James (1992) stated in his book "British Cabinet Government", "The size of the Cabinet, which had grown slowly since the turn of the century, reached two dozen: too many to allow thorough discussion of more than a few subjects at any meeting"(p.2). This group met every Thursday morning around the large coffin-table in the Cabinet room at Downing Street. Concerning the Prime Minister decision about the suitable server to a position in the Cabinet, he or she must take into account certain requirements before selecting .

1.3.2.2.1.The Qualifications of the Cabinet Ministers

The Prime Minister has the responsibility to select the ministers of the Cabinet. To do so ,the Prime Minister must consider several qualifications before appointing ministers. First, the candidates must have an administrative competence and political skills. Second, they must be proficient in scheduling meetings, making decisions, setting agendas, and so on. As well as, the head of Government dismisses candidates who are too old, very young, or inexperienced in the field. Besides the Prime Minister, the chosen Cabinet members contributed together to archive different roles in the Government .By so doing, the Prime Minister will choose the appropriate member who will suit the position.

1.3.3.The Cabinet Office

Before 1916,there was no official procedures that organize the cabinet meetings or records the Cabinet decisions. The only way ministers were used to pursue Cabinet policies is the recollection. Until 1916 when the Cabinet Office created, the method changed automatically. The Cabinet Office starts acting like the personal assistant to the Cabinet. Its fundamental functions are offering support to the Prime Minister and ministers of the Cabinet, organizing agendas by distributing papers to ministers, recording the decisions of the Cabinet. The Cabinet Office also has other different roles in the Executive branch. The Cabinet Office comes to play a role in ensuring the effectiveness of the government job and help ministers to achieve their responsibilities(A Short Guide to the Cabinet Office,2015).

1.3.4.The Function of the Cabinet

Since the Cabinet members are the main functionaries of the Executive branch, they carry a great responsibility in this branch. The main Executive power they have is to guide the whole authority of the Executive in corresponding the policies of parliament. Another primary role of the British Cabinet is the policy making, the Cabinet is regarded as the decision making institution where the ministers implement and change policies. Though the Cabinet is an Executive body, it is given the ability to propose legislation. The function of proposing legislation refers to the Cabinet as it can initiate legislations and pass them to the parliament. An important responsibility of ministers of the Cabinet is to be able to defend the Cabinet decisions, they can disagree with each other during meetings, but when a decision is created, all of the ministers are obliged to support the policies of the Cabinet. In addition to this significant roles, the Cabinet has other functions inside and outside the Executive. "The executive power of the Crown is, in practice, exercised by a single body of ministers, making up Her majesty's government" (Elliott & Thomas, 2014, p. 104). This quote shows how the head of the state carries certain amount of Executive powers but do not practise them conventionally; it is the function of the Cabinet to do so.

Though the Cabinet has a high authority in the Executive body, sometimes it represents a kind of weakness to the Government. It is clear that the Cabinet ministers are derived from either the House of Commons or the House of Lords of parliament. By so doing, these ministers practise an enormous amount of power in the Government as they hold titles in the Cabinet. Simply, it can be said that the members of parliament control the life of the Government under the name of the Cabinet. This interference of the two parliament and Government represents the extent of the British separation of powers.

The executive branch goes between the legislative branch and the judiciary branch. This body can be referred to as the authority of running the whole state. Also, it consists of the Prime Minister and the Cabinet who are the main parts in achieving most of the roles of the monarch.

1.4. The Judiciary Branch of the UK

When acts are created by the legislative body and enforced by the executive, a third body is required to put those acts into implement. The Judiciary branch is the third body of the British political system. Generally, it is the branch which is responsible for saving civil liberties,

serving the need of citizens, reining in unlawful activities directed against them and the state. This branch has a completely different structure and role from the Legislative and the Executive branch.

1.4.1. Overview about the Judiciary System

The British legal system returns back to many years ago, and it is still changing in order to serve the needs of the citizens. Moreover, the British law is constructed from a variety of resources. The British courts were centred in London, but latter the need of establishing local courts increased. Those London and local courts developed through centuries accompanied with the increasing number of society and the overlapping responsibilities of the legal work. Finally the British courts are divided into two types of courts, the criminal courts and the civil courts each with its structure and responsibilities.

1.4.2. The Source of the British Law

The law of the UK is made up from of deferent sources, these sources include the common law, the Statue law, and the European Union (EU) law. These three sources were not the only sources, but they are the most significant ones. First, the common laws originated from the old customs and traditions of the invaders and settlers. After the Norman Conquest, their rules were decided and written by judges in order to become the ruler of the land. The common laws considered as a reference to judges where they can find the suitable judgments for their new cases. The common law was not adapted only by the United Kingdom, but also it is adapted by the US of America and the countries of the Commonwealth. As these sources retune back to the early age of the UK, it is the oldest source among the other sources of the British law.

Secondly, Statues law, legislation, or act of Parliament is another source of law . It is introduced as a proposed bill in the Parliament, either by the House of Commons or by the House of Lords. Bills move through several stages in both of the Chambers of Parliament before being passed to the Monarch for the Royal Assent. When a bill received the Royal Assent, it becomes an act of Parliament, and enters the statues-book representing a specific law for the land. Today, most of the British law is in the Statues law form as it is written and becomes more authoritative.

Finally, the European Union law becomes part of the UK law since the UK signed to entry the European Economic Community in 1972. On the first January 1973, UK becomes a part of the European Community, and applying the EU law is one of the conditions of being a

member of the Union. Sometimes the EU law takes priority over the British domestic law, and judges should apply EU if they face a conflict with the act of Parliament. Clearly, the British domestic law and the EU law coexisted, this implies that the UK gets a significance from the EU law.

Oakland (2002) informs that, the common law, the Statues law, and the European Union law are the three essential sources of the British law. The common law is the oldest since it originated to the rules and principles of the old settlers of the land. Statues law refers to the acts of Parliament which is made up by the Houses of Parliament. This source forms most of the British law as it is created by its Parliament and signed by its Monarch. The EU law becomes a part of the British law, when Britain agreed to be a member of the European Economic Community. The EU law has supremacy over the other forms of the British sources of law.

The British domestic law is made by the British representatives, which means that it is specific for the land, fills the requirement of the citizens, and new to suit the society changes. Unlike the EU law which is more general and open to many centuries around the world. Despite the fact that Britain helped in creating the EU law, the precedence of the EU law over the British domestic law carries a sort of ambiguity about the sources of the British judgments.

1.4.3.The British Court System

The courts are the main part of the British judiciary branch, those courts are classified from the highest to the lower courts. Arden (2016) highlights that: the structure of the United kingdom courts is somehow complicated, but it can be organized in a way illustrating the actual route of appeal. The British final court of appeal is the Supreme Court. Under the final court two senior courts are classified, the Court of Appeal and the High Court. The former hears appeals from the High Court and the Crown Court. The latter includes three divisions: the Queen's Bench, the Family and the Chancery. The Crown Court itself deals with cases from the Magistrates' Courts.

1.4.3.1The Supreme Court

The Supreme Court is the final appeal court in the entire United Kingdom. It hears appeals on debatable legal issues of the greatest public importance for the whole UK in civil cases, and for England and Wales, and Northern Ireland in criminal cases. The Supreme Court

was established in 2009 replacing the Appellate Committee of the house of lords ,which was acting as the highest court of appeal of Britain. Its creation symbolise the separation of powers between the judiciary and legislative. In Scotland, appeals hear from the High Court in criminal case; the High Court is the Scotland's supreme criminal court.

1.4.3.2.The Court of Appeal

Below the Supreme Court, the senior Courts of England and Wales, which are the Court of Appeal and the High Court. The Court of Appeal hears appeals of civil and criminal matters. The civil Division hears all significant civil and family justice from the High Court ,and sometimes hears appeals from the County Court. In the other hand, the criminal Division hears appeals from the Crown Court.

1.4.3.3.The High Court

This Court has three Divisions,: the Queen's Bench , the Family, and the Chancery, and hears the more complicated civil and family appeals at first instance. The Queen's Bench Division is the largest of the other three Divisions, and it includes number of specialist courts: the Admiralty, the Commercial, the Mercantile, the Technology & Construction, and the Administrative Courts. The Family Division for family law issues as well as the Chancery Division for the civil matters at the lower level.

1.4.3.4. The Crown Court

Bellow the Court of Appeal is the Crown Court. This sits in locations across England and Wales and handles serious criminal cases (such as murder, rape, and robbery) that are transferred from the Magistrates' Courts. All criminal cases are heard in Magistrates' Courts at first instance; less serious cases and those involving juveniles are tried there; some civil cases, including family proceedings; and serious cases are transferred to the Crown Court. Civil rulings of the magistrates' courts may then be appealed to the County Courts.

1.4.4. Leadership of the judiciary

The role of leadership in the judiciary branch has a specific feature which is the leadership responsibility that is divided between more than one judge. The most important leader among them is the Lord Chief Justice. This officer is the Head of the Judiciary of England and Wales and Northern Ireland. This officer replaces the Lord Chancellor after the establishment of

the Constitutional Reform Act 2005. When she was illustrating the Constitutional Reform Act 2005 reforms, Woodhouse (2007) states that " It also fundamentally revises the office of lord chancellor so that its holder no longer sits as a judge or takes the role of the head of the judiciary, this latter responsibility is now passing to the lord chief justice"(p.155).The owner of this office has appropriate skills and the necessary requirements allowing him or her to lead the other judges in the best way, in addition to that; the Lord Chief Justice has a variety of responsibilities in the judiciary branch.

1.4.5. The Role of the Judiciary Branch

The judiciary branch has a variety of functions, whereas three main functions are mentioned. This branch acts as the guardian of the law, taking the responsibility of applying its rules without fear or favor, as well as securing individual liberties and ensuring that governments and people comply with the spirit of the constitution. Moreover, it interprets the law, determining its meaning and how it is applied in specific situations. Additionally, it adjudicates disputes between individuals, adjudicating in controversies within the limits of the law. As Watts (2003) pointed out, the three key roles of the British judiciary are, solving problems which occurred among people; explaining law and how it applied to citizens; carries out the responsibility of protecting law.

The judiciary branch is the third part of the British political system. Its main part is the courts where judges protect the citizens and guarantee their rights. Being at the end of the political system makes this branch more sensitive as it is the place where the British law is represented and applied.

Conclusion

The first chapter has dealt with the three branches of the British political system in addition to its Monarch as they are the significant points which illustrate the extent of the separation of powers in the state. Specifically, it determines the main individuals, the particular organizations and the essential functions of each power focusing on those elements which have a relationship with the doctrine of separation of powers. It starts with the Monarch, the legislative branch, the executive branch to end up with the judiciary branch. The chapter also presents quick hints about the fusion between the powers of the United kingdom.

CHAPTER TWO

The Three Branches of the US Government

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Introduction

US political system is designed to defend freedom, liberties and rights. Thus, it is considered the model of democracy for its special concern to achieve stability, security and more importantly liberal democracies. For safeguarding them, American government from the beginning of its establishment as a new independent country relied on various strategies in order to apply different democratic principles which are provided the key tools for structuring America under democratic standards. In a political side, the division of its political institutions is the main feature of American governmental system.

The framework of American government is politically organized by official, legal and creative document which is named US Constitution - the most important document in American politics - Even it was drafted in 1787 and came into force in 1789, it still serves the nation for over two hundred years. Under its Constitution, the US takes the form of a constitutional and republic country. Also, it well known as a federal and democratic government which contained fifty non divided States. According to US Constitution, there are three distinct branches for ensuring the separation of powers.

2.1. The Legislative Branch

Article one is the longest part of the US Constitution. It establishes the national government's legislative branch and determines its power through making laws. This branch takes the form of the United States Congress composed mainly with the two houses as it is stated in article one, section one that the Congress shall be divided into two legislative bodies in which the first one is the House of Representatives and the second one is the Senate.

Article one, section one of the Constitution begins by stating that “ All legislative powers herein granted shall be vested in a Congress of the United States. ” Because the legislative organ entrusted with the function to pass law, the Founding Fathers gave a great interest to this branch. That is why they agree that no single institution should have too much political responsibilities. It is clear that they granted legislative power mainly to the Congress (Davies & McKeever, 2006).

This means that US Constitution gave a great importance since it placed as the first branch of government. This choice was made intentionally by the framers. According to them, if politics is about who gets what, when, how, then it is firstly very important to consider those who decide these things which is the Congress.

Davies and McKeever (2006) illustrated the design of Congress when they wrote, “ the framers created the Congress in the form of a bicameral body” (p. 211). This means that, it is composed of two chambers. Consequently, its internal organization leads to a fragmentation which has its roots in the Constitution. It is clear that, the only reason behind dividing the Congress into two houses is the fact of its a great power. As a result, the fear of Founding Fathers disappeared since the powers distributed among them thus the legislative branch will never be a dangerous arm in US government.

As Cavalli (2013) cited James Madison writing in the Federalist- Paper (1777) when he states the purpose of bicameralism:

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. (p. 146)

From the above quotation, James Madison does not only agrees with the necessity of legislative body predominance specially in republic country but also he agrees with the division of powerful branch since it was the only solution to the problem of power. Thus, the differences between them were to be in their term, in the method of apportionment and in distributing the roles between them. However, they work separately in some cases but they share some responsibilities in other ones.

2.1.1. The House of Representatives

According to the explanation provided by Dictionary of American Government: “ The United States House of Representatives is one of the two chambers of the Congress...The House is often considered to be the lower house ” (Watts, 2010, p. 139).

2.1.1.1. The Qualifications of the House Representatives' Elector

Arnheim (2009) restates article one, section two of US Constitution which is determined the qualifications of the House Representatives' elector. It declared that “ ...who shall not have attained to the age of twenty five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.” For more explanation, this article demanded three requirements which are needed to those who are planning to be member in the House of Representatives. Firstly, each representative must be at least twenty-five years old. Secondly, for at least seven years he

enjoined the American citizenship. Thirdly, during the period of election he is living in the constituency where the voting district that each representative represent is situated.

2.1.1.2. The Election of the House of Representatives' Candidates

America gave its governmental authority into its people. Consequently, from the beginning of its appearance as a new independent country it adopted the political form as a republic nation. Thus, The House of Representatives is designed as a democratic institution directed for American people. For keeping its members related to people closely only “ by being directly elected by the voters, by frequent elections every two years, by representing relatively small, local constituencies, apportioned by population” (Davies&McKeever,2006,p.105-106). In other words, US citizens of each constituency have the right to select the appropriate representative. The election process is held every two years. As a result, members serve two year terms which are renewable indefinitely. Their period is short enough may be it is to make them take in their consideration the voter's needs.

In the Constitution, the House of Representatives has an important political value as it is the first institution to represent American citizens. Madison in the Federalist paper insists upon all of American people are involved in the House of Representatives to represent them clearly and directly that is he says that “ it should have an immediate dependence on, and an intimate sympathy with the people”(Faber,2011,p.37). Federalists and Madison discussed some specific expectations about the lower house. The first prediction is that as long as each American who has the qualifications to be a member of the House of Representatives, different parts of society will be represented in blend of the best and brightest representative. The second one is that the Representatives have the role to satisfy the needs of the people rather than their own.

2.1.1.3. The Apportionment of the House of Representatives' Members

Watts (2010) explained the apportionment of the lower house which is clarified clearly in article one, section two of the US Constitution. Inevitably, the number of people who are inhabiting in US is the only responsible behind determining the number of representatives inside this body. Their number recently is four hundred thirty five member. Every ten years, the Constitution requires that it should be an official count in order to gathering information about the population in the US. Actually, the number of Representatives is fixed by the state's population.

2.1.1.4. The leadership of the House of Representatives

During the gathering of the member's party, the majority members in the lower chamber conducted the process of choosing who will be the leader of House Representatives. It is not necessary that the chosen person as The Speaker of the House has a certain qualities. In contrast, it is enough that he was experienced participant in the party office (Watts, 2010).

In “Politics in the USA” Vile (2007) stated Speaker's role as the president officer who has the responsibility of regulating the procedures of the House through imposing rules for controlling and organizing the house work. For example, recognizing those wish to speak from the floor. Also, determining to which committee proposed legislation shall be sent. It seems that being a Speaker of the House is not an easy task. For effective management, skillfulness is a required ability that the Speaker should have.

2.1.1.5. The Function of the House of Representatives

The power to initiate revenue bills, impeach federal officials and elect the President in case of an Electoral College tie are the exclusive functions which assigned to this legislative body. By using the website Study (<https://www.study.com>) the information about initiation the revenue bills as an exclusive responsibility is collected. The existence of revenue bills cannot be initiated by the Senate. In contrast, the House of Representatives should initiate them firstly. After that, the upper house has the power to suggest amendments. According to the American Constitution this power is giving to this lower legislative body under the article one, section seven, clause one which states: “ All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.” This part is named as the origination clause which refers to bills explicitly related to taxation. The power of purse is also the synonymous with the restricted power of originating the revenue bills.

The second exclusive responsibility is the impeachment. According to Dictionary of American Government it is “the process by which Congress can remove officers of the national government, including the president...any member of the house may initiate impeachment...it requires a fifty per cent vote to impeach.”(Watts, 2010, pp. 142-143). Andrew Johson, Richard Nixon and Bill Clinton was American Presidents who were subjected to impeachment by the House of Representatives. For a political reason the first President was impeached in 1868 whereas the second one was impeached in 1974 because of Watergate scandal. In 1998/99, the perjury and obstruction of justice was leading to impeachment of the third President

(Davies&McKeeever,2006). Finally, the lower chamber has the power to elect the President of US in the event that no candidate receives an electors college.

2.1.2. The Senate

In addition to the House of Representative there is another legislative body which is the Senate. It is considered as the upper house in US Congress. In the US, the Senate is more dominant than the House Representatives and the Senators are more prestigious. It has the higher status for the reason that the candidates for being a future President or Vice President are more coming from the Senate less than whom are coming from the lower house. The aim of creation the Senate is clarified in Federalist- Paper (1777) numbers 62 and 63 in which Faber (2011) cited the explanation of Madison “ The Senate is to represent the states in the national government...It is to serve primarily as a check on the passions of the people...It also ensures protection for the states as well as the people” (p. 79). For more explanation to this quotation, the creation of the Senate indicates its importance by adding certain great strengths to the system of US as it is a federal republic one and enhancing extra security into American citizens.

2.1.2.1. The Qualifications of the Senators

Article one, Section three, Clause three defined the required conditions which should be provided in any appointed person. It states :“ No person shall be a Senator who shall not have attained to the Age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected ,be an inhabitant of that State for which he shall be chosen.” Reaching the age thirty is the desired age for each person appointed to the Senate. Furthermore, the nine years are the determined period of having American citizenship. The actual living in the Constituency during the period of selecting his or her is last qualification. Obviously, these three requirements makes the person eligible in the Senate appointment.

2.1.2.2. The Senate Membership

The choice of the Senators will be through the appointment of state legislatures. Thus, the Senate members are originally elected indirectly. Their whole numbers are one hundred as long as each state has the right to choose only two Senators regardless its population number. The first one with a long experience in his or her position is called the Senior Senator whereas the second one is called the Junior Senator. Both serve six-year term (Falon Jr,2013). In this sense, in Congress each state has only two senators work inside the Senate . Regardless to the size of states whether they are small or large. It is clear that, the selecting of Senate members do

not based on the number American people . The indirect selection of the Senators and the long term of upper house members who hold their position for six year are the significant differences between the upper and lower house of legislative branch.

2.1.2.3. Presiding Over the Senate

Arnheim (2009) restated the American Constitution saying in article one, section three about the Senate leadership: “ The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.” that is what US Constitution says about the leadership of the Senate. It is clear that the Vice President has the role to be the president of the Senate. However, because he or she is so busy he or she do not practice this job. Consequently, as a solution to the absence of Vice President because of his or her extra heavy tasks the pro tempore who holds this responsibility instead of Vice President. Thus, it appears that this executive member exercises a legislative function because of holding position in the Capitol but he or she cannot vote in the Senate only in instances where there is a tie .

2.1.2.4. The Function of the Senate

Even the Senate shares some responsibilities with the House of Representatives, it is particularly invested with the authority of advice and consent. According to article two, section two, clause - two says that “ he, [The President,] shall have power by and with the advice and consent of the Senate to make treaties, provided two -thirds of the senators present concur”. This power makes the Senate capable of rejecting the treaty, or ratifying it, or recommending further articles for more explanation (Rawle, 1825). Also, the previous article adds “and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court...” Clearly, the appointment of the President for those who are mentioned in this Clause should be followed by the advising and consenting of the Senate (Arnheim, 2009). Based on the above, each chamber in this bicameral system has distinct roles and responsibilities. In fact, the American legislative body is composed not only from the Senate but also by the House of Representatives.

2.1.3. The powers of Congress

As it is shown previously, the two legislative houses either the House of Representatives or the Senate are mainly considered the composition of US Congress. Actually, both of them are not only practice their own particular duties, but also they have their own specific features. In addition, their structure is completely different from each other. However,

they are working collectively and sharing some business together for accomplishing their tasks. US Congress has various functions in which Section eight of Article one goes on to specify the enumerated powers of Congress (Davies & McKeever, 2006).

Firstly, US Congress is responsible for laying and collecting taxes, duties, imposts, and excises. Those powers were as it is mentioned by Rawls (1825). For more illustration, the US Congress has the authority to levy taxes which is granted to this legislative branch not only to enhance the military forces but also to enhance the social security. In addition, for paying the debts of the US. It is obvious that the performance of Congress to the previous power was not aimlessly. On the contrary, it vested for purposes. Secondly, borrowing money on the credit of the US is another role was granted to the Congress. Back to the history, US citizens were unsatisfied with their country since it was spending too much money during the war period which led the United States in debated to other countries. For reducing the claims of Americans citizens, it was foreseen that many public creditors, whether distant or domestic, would be satisfied with the assumption or recognition of the principal and the payment of the interest.

Commerce Clause outlines the third power. According to US Constitution “ The Congress shall have power...To regulate commerce with foreign nation and among the several states. ” The text of Constitution makes clear that only the legislature bears regulation of commerce through controlling both international and internal commerce (Savage, 2011). In addition, Congress has the power of declaring war. According to Rawls whatever the reason behind engaging in the war either for defense or for supporting of the rights both wisdom and humanity are widely demanded as long as the war has great damages. Consequently, US Constitution provides the Congress the responsibility of declaring war so far this involvement in the armed situation was been by a formal declaration.

Finally, in addition to the previous mentioned powers the Congress still has another function. According to US Constitution in article one, section eight US Congress has the power “ to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” As Fallon Jr (2013) cited the Chief Justice John Marshall held that the word “necessary” has not the real meaning of “absolutely necessary”. In this sense, the usefulness of making laws by the Congress will achieved as long as the purpose of a valid federal is obtained. To illustrate more, the US Constitution grants to Congress enumerated powers in which the Constitution listed the specific functions that should be done only by Congress. It has the power to pass legislation in other areas in consideration to the necessary and proper clause. Due to this provision, the powers of Congress could be expanded, especially when national laws come into

conflict with state laws. Finally, in addition to the above mentioned authorities it still another functions was granted to the Congress such as: the power to coining money , establishing post offices and maintaining a navy.

In the end, there are specific restrictions imposed on the Congress. Savage (2011) addressed Constitutional limitations which set certain limits to those powers. It was prohibited Congress to interfere in religion, the freedom of both the speech and the press. Also, it was forbidden to practice ending life, depriving liberty, or despoiling property without respecting the legal procedures. The most controversial issue when Congress wields significant but limited power. However, this limitation is so acceptable to prohibit Congress from making law that limit individual liberties since the United States supporting democracy in which safeguarding individual rights is one significant feature of its democratic strategy.

To conclude this part, the legislative arm is considered one of the most predominant branches which is outlined under the article one of the US Constitution. Thus, it described as the heart of its political system in which the new government created it in a specific design for achieving the American political aim through establishing this branch in a bicameral basic consists of the House of Representatives which involved of four hundred and thirty five Representatives who are elected by the people of each state for two-years terms. This lower house is led by the Speaker of the House and is granted some exclusive powers. As well as the Senate is the second house in US Congress which composed of two per state Senators are selected by the majority vote for six- years. This upper house has the ability to conduct its functions exclusively. Under the Article one, Section eight numerous powers assigned to US Congress but the Section nine listed the limitations which placed on its exercising of power.

2.2The Executive Branch

The American government has another distinct body which is the executive branch. It executes laws that Congress makes. Back to US history, because of a great number of lessons that American nation was taken from its experience with England's monarch. A long and hard debate was discussed by the founder of US Constitution about the form that the nation's executive should take. However, they decided a strong executive was needed not only for excluding law but also for enforcing it. Over time, the executive has emerged a clear central focus within the separated system of US government (Davies & Mckeever, 2006).

The presidency of the US is often referred to as the most powerful office in the world and holds a special place with American citizens as long as the President and Vice President are the only office-holders inside US government of course with the help of numerous assistants work as federal employees. In American government, there are two main executive members hold their position in executive branch.

2.2.1. The President

Article two, section one of the US Constitution illustrates that the US President is the head of the executive branch. It determines, “ the executive power shall be vested in a President of the United States of America.” So, US Constitution attributes almost executive power in the hand of one individual who is the American President. Recently, the US President is widely characterized by the quality of strongest responsible around the world. Fallon Jr (2013) cited the Federalist number seventy “ Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws ” (p. 253) . Faber(2011) asserted that President can be a great and a successful leader only if he possesses personal qualities; for example, having strong vision for the country's future, communicating effectively, and managing the crisis skillfully.

2.2.1.1. The Candidates' Conditions

According to the US Constitution, article two, section one lays down the requirements for eligibility. It says:

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the Office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Through reading the previous part from the US Constitution, it seems that there are three qualifications for person who want to participate in the presidential election. Firstly, his age must be at least thirty five years. Secondly, he must be a natural born citizen. Thirdly, he must have lived in the US for at least fourteen years (Arnheim,2009). From the above mentioned article, candidates for president of the US must acquire those three basic constitutional requirements. Thus, anyone who meets these qualifications can declare their candidacy for president.

2.2.1.2. The Presidential Election

Electing the American President is an official process since the elections are the implementation of democracy. US as a democratic country in which the political right of election is advocated. Originally, on Tuesday after the first Monday of November is the fixed date of American presidential election (Watts, 2010).

In US, every eligible citizen has the election duty through participation freely in choosing national leadership of American government. American presidential election is a process which follows series of stages. The way of selecting the appropriate candidates to participate in the competition of selecting the US President is called the primaries and caucuses stage. After that, the national convention of each party is the second stage when in the end only one presidential nominee will be selected by each party during its national convention (Davies&McKeeever,2006).

The next step is the general election campaigning. In this stage, the nominees meet directly with US people in order to gain their support. During this political competition each nominee explains his future planning and illustrates his interest toward America and its citizens. After that, the general election is started when the whole US people directed toward the election centers for voting on the American President. In fact, it is a matter of admiration of both the specific view and the significant political program behind the winning of a specific nominee instead of the others. Although one candidate won the popular vote, it is not the end of the election process (Faber,2011).

The Founder designed a unique method for electing presidents which called the Electoral College. Arnheim (2009) indicated that article two, section one was governed the system for electing the President and he suggests the reason of establishing this process when he says, “ because of The Farmers of the Constitution did not trust the ordinary people, they invented a new form of validating exclusive leadership.” The idea behind this quotation is that the creation of the Electoral College mechanism is to enhance more security during selecting the appropriate person who will be the future US President. As a result, corruption and presidential misbehavior will be avoided since the human tendency may destroy the government organization instead the Electors votes are more accurate than US people votes.

Fallon Jr (2013) explained the indirect method of selecting American President. In the US, the Founding Fathers established the Electoral College in which the selection of US

president is held by the elector – they are elected by the American people of each state in order to select the suitable candidate to be the head of both the state and the government. Therefore, the actual selection of the American President is done by the elector in the College. However, this process is contrary to the democracy which America enforced its principle in its Constitution instead Americans rights to select their President freely and individually is completely absent. The most controversial issue at this process is that even though the candidate does not win the popular vote, he succeeds in being the US President thanks to the vote of elector in the Electoral College. Normally, who wins the popular vote he gains the presidency instead of losing it.

Finally, four years is the determined period of American President to work as an executive member when he also has the right to participate again in the next presidential election. It is important to note that the US President acts in response to American population which is considered as the main characteristic of this political process as Faber (2011) cited Woodrow Wilson points out why the President can be expected to be responsive to the people “No one else represents the people as a whole, exercising a national choice...The nation as a whole has chosen him...He is the representative of no constituency, but of the whole people” (p. 120). In fact, American presidential election is a complicated political process and it is different from many republic countries around the world. US President is elected directly and indirectly as well as.

2.2.1.3. The Powers of the President

Article two, section two of US Constitution outlines the constitutional powers that US President has. the first function is the commander in chief which is mentioned at the beginning “The President shall be Commander in Chief of the Army and Navy of the United States”. Through this responsibility he has the power of the defense on his country (Jones,2016). Also, the President has the authority of appointment of all national officers; for example, consuls, public ministers, ambassadors, judges of Supreme Court (Rawle,1825).

In Addition, US president has the role of treaty making. According to US Constitution article two, section two which says that “He shall have power, by and with the advice and consent of the Senate, to make Treaties”. America in its relation with other foreign country, the US President negotiates treaties with foreign power but must be ratified by two third of the Senate (Jones,2016). Furthermore, as Davies and McKeever (2006) discussed the American President legislative roles as it is mentioned in US Constitution. Also, the above mentioned article in its third section is dealing with the duty of American President to provide

the Congress with information of the State of the Union; Nevertheless, the head of state cannot call for special sessions of Congress or for adjournment. Furthermore, the authority of veto power is a legislative role which is exercised by an executive member. It is granted to US President as it is determined in US Constitution article one, section seven in which he has the power to approve on all bills that the Congress make.

According to US Constitution, the American President has numerous functions such as: the commander in chief, the appointment power of all national officer and treaty making. In addition, he practices other legislative role; for example, the veto power. It is notable that the US Constitution holds a great number of responsibilities on the hand of the highest and the most powerful individual who is the American President.

2.2.2. The Vice President

The Vice President ranks as second member who holds high position in executive branch of course after the president of US. He or she must fulfill the same criteria of the President's qualifications. Also, Vice Presidential candidates run together with presidential candidates. That is means the latter choose their nominees to serve as Vice President and he or she elected indirectly to a four year- terms by the Electors College (Jones, 2016).

2.2.2.1. The Role of Vice President

Making comparison between the roles of US President and Vice President, it seems that the latter roles are fewer than the former ;nevertheless, his or her function has a great significance. He or she works hand in hand with the President for many reasons. Working relationship is strong. It refers to the congressional experience of the Vice President which leads to recover the political weakness of US President especially in legislature field. Also, the experienced Vice Present is rapidly chosen by the President since he does not have enough information in the field of foreign policy.

However, the Vice President replaces the president in the following cases: the death, the incapacity, the impeachment and resignation. In fact , the Vice President's desire to be the future president of America is the only secret behind his over engagement in order to achieve his political goal (Jones,2016). The next examples will justify the above mentioned roles. The American President Clinton had chosen Al Gore as his Vice President for his perfect advice to him in many political issues and back to the history, only nine Vice Presidents have reached to the first highest office of presidency, four presidents died in office, four were assassinated and

one resigned (Vile,2007). In addition, Vice President presiding over the US Senate. It is a congressional role when he or she is placing the head of the Congress upper chamber. This power is completely contradicts with the doctrine of separation of powers when an executive member exercises power in legislative body. Originally, no member holds position in executive branch participates in Congress. However, this role perhaps the well-known overlap of powers among executive and legislative branch.

Finally, besides both of executive members there are also other officers who are working in order to help the presidency to perform their difficult tasks. This institution is named bureaucracy. Much work is done inside it by a huge number of federal employees as assistance to the executive branch when it does its heavily responsibilities.

2.3. The Judicial Branch

The third branch of US government is the judicial branch; it is described as the least dangerous branch. This makes the constitutional designers to empower the judicial independence. under article three with its three sections, the US Constitution creates the judicial branch in simple explanation.

2.3.1. Constitutional Creation of Judicial Branch

After the independence of America, some legislators and other leaders of the new independent country had a desire to create their own judicial system different from the old regime of Europe. Consequently, the application of any English law was prohibited. Thus, many supporters of the new change agree with the riddance of American courts from the validity of English law (Greenhouse,2012).

Also, they have a conviction that the judicial power is an essential part which helps in the completeness of US Government, otherwise it is still lacking one of the most important body and that is what was Rawle (1825) agree with. Subsequently, even though making laws and executing them are the two great processes of government, avoiding the incorrect application of law will be achieved unless with the presence of judiciary branch designed according to American criteria. Therefore, US Constitution establishes a complete judiciary system which could exercise its constitutional powers only it was separated and independent. The judiciary branch is established not as a supplementary component but as a necessary one.

The American Constitution says much about the legislature and executive branches in which Article one and two deal with them in expanded details. In contrast, it has a little to say about the judicial branch in which Article three deals with it briefly.

2.3.2. The Structure of Judicial Branch

After the framers' announcement about the birth of a new American, the third article of US Constitution deals with the judicial branch. In his book “ Politics in USA” Vile (2007) explained the reality of the United States judicial system for its known with a great complexity. In one hand , generally speaking, this system operate into parallel systems of courts that cover the range of civil and criminal cases. There are the state court systems, establish under individual state Constitution, and the federal judicial system which has gained an importance. In other hand, politically speaking, as the Constitution specifies the Article three to outline only the federal judiciary because of US is a federal government – the constitutional authority is divided between the central government and the regional government – and it could not be effective unless it had courts to help enforce its laws.

Recently, in the federal court system there are three levels. At the bottom of the pyramid are the district courts where the dispute is resolved by analyzing the events through using legal laws for determining who is wrong and who is right. District courts include the district judge and magistrate judges. The whole number of district courts is ninety four one.

Above the district courts there are thirteen appellate courts-they are also called the US Courts of Appeals- which only consist of three judges. Their judiciary role is to decide if the application of law was correct or not. The current judiciary structure of appellate courts take the following form in which the ninety four federal judicial districts are organized into twelve regional circuits, each of which has a court of appeals.

At the apex of the federal court there is a Supreme Court. The first sentence of article three says:“ The judicial Power of The United States, shall be vested in one Supreme Court.” So, US Constitution itself says that the power of judicial branch is in the hand of the US Supreme Court, and that this court is separated from both the legislature and the executive (Watts, 2010). According to Davies and McKeever illustration the article three regards the US Supreme Court the highest judicial body in America. Also, it is the final court of appeal from the lower federal courts and the court systems of the fifty States in all cases involving the Constitution or federal law.

Back to US history, in the first Judiciary Act the member of Supreme Court was only six one chief and five associate justice. After that their number is changed as following: in 1807 they were seven, in 1837 they were nine, in 1863 they were ten and again in 1866 their number were seven . Till 1869, their number settled at the present number which is nine one chief and eight associate justice(Greenhouse, 2012).

2.3.3. The Characteristics of the Judicial Branch

As mentioned above, the judicial branch of US government is composed of federal courts. This body has many interesting features. Savage (2011) states the first one which is the appointment of the judges is done by the US President and it should followed by the consent of US Senate. Article two says: “He shall appoint ...judges of the Supreme Court.” It seems that article two of the US Constitution granted the President the power to appoint the federal judges. In fact, their appointment cannot be completed only with the consent of US Senate. However, the previous article shows the controversial question of judicial independence. The American President is the responsible in the appointment process of judicial branch even though he is a member in executive branch. Also, the Senate which is a legislative body has the power of confirmation for judges appointment. That means, there is cooperation between the judiciary branch and the others two.

As long as they are appointed not elected, they are independent. This characteristic makes them able to apply law and decide cases freely without fear from external factors such as: political pressure or powerful persons. Also, the appointment of the federal judges does not limited by determined period .They hold their offices under life tonsure and this merit is guaranteed during a good behavior. As the second sentence of article three, section one states:“ The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior”. The language about “ holding good behavior” means that they should conduct in correct way by avoiding misbehaviors and should be faithful to, and maintain professional competence in the law. The original fact about the merit of life tenure is that the federal judges serve no fixed term except from death, disability or retirement (Greenhouse, 2012).

In addition, article three -which established the judicial branch, leaves Congress significant discretion- . Vile (2007) dealt with the congressional powers which is given to legislative branch to exercise some powers upon judiciary organ. Congress has the power to determine the structure of federal judiciary. Furthermore, it has the role to establish both the district courts and courts of appeals. At the same time Congress cannot be stripped to Supreme

Court jurisdiction authority. The federal judge can be removed from offices via impeachment when they have been wrongly behaved. In this case, by a majority vote of the lower house judges may charge and the US Senate may remove judges from member of judicial branch forever. The interference between the legislative and judiciary branch may be caused some tension with the ideal of judicial independence.

2.3.4. The Powers of Judicial Branch

The federal courts' most important powers is that of judicial review. It includes the power for interpret US Constitution and to determine whether the laws are respected the Constitution or not. As Savage(2011) cited Marbury V that Madison wrote in the Federalist Paper “ the weakest branch of the new system would assume this critical responsibility, the court would be the particular guardian of the terms of the written constitution”. This quotation reflects the best known power of the Supreme Court which is the judicial review. It makes the Supreme Court plays a very important role in the American government.

Even though nothing was said in Article three about the court role, constitutional interpretation is the first role of the highest court. Because US Constitution's term written in old-fashioned language, wrong punctuation, and ambiguous meaning (Davies & McKeever, 2006). Ambiguity in this legal document makes its understanding not an easy task. Its words are so vague in which one word may have more than one possible meaning and multiple conceptions. Since it was written by old English Language, it contributed in the difficulty of getting the accurate meaning of its words. Many sentences and parts of US Constitution are unclear that is why more complexity faced the process of comprehension the oval meaning. As a result, it is the responsibility of US Supreme Court for interpreting US Constitution meaning and determining the exact constitutional intention.

Also, any judges have the function to declare a law unconstitutional. The Constitution makes no explicit mention of this power, but many of those who drafted its language made clear their belief that the judicial must include the power to nullify statutes enacted by the states as well as by Congress that controversy the Constitution as a Supreme law (Savage, 2011). The Supreme Court was empowered to announce about any action or law of the both branches to be unconstitutional if they violate one or more clause of the Constitution, the Court will decide that they are unconstitutional . Surely, their action or law are null and void (Vile, 2007). It is clear that the right to declare legislative and executive actions unconstitutional does not make the court more powerful than the other two branches but the real intention of the Founding Father is

to make the three levels of US federal courts system enjoy the check over the legislative branch during the process of making laws.

Thanks to these responsibilities, the judicial branch has a great importance in American government particularly in the political field. Generally, this third American organ has its special constitutional design in order to make America has its own judiciary system and exercises its power in distinct way without any interference with the other two branches.

Conclusion

For preventing only one powerful branch in US government, America divided its government into three distinct branches as following: the legislative, executive and judicial branch. According to US Constitution their powers are completely separated. There is no interference or overlap between them. Consequently, each branch practices its defined power as it is mentioned in the American Constitution. However, these branches can collaborate with each other thanks to the system of checks and balances.

CHAPTER THREE

The Comparative Study about UK and US Models of Separation of Powers

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Introduction

Universally, the best form of governance is the division of power in the government. This type is widely recognized and accepted in many countries around the world. The following branches of government: the legislature, the executive and judicial are granted their own role. This division is an essential element in the theory of separation of powers. Thus, each branch should perform its power separately.

Since the UK and US are the selected model for this comparative study, chapter three will deal with the way of application of the doctrine of separation of powers, and identifying the factors that help to shape, in particular, the similarities and differences in these two countries. They both adopt what Montesquieu was calling for, but they in fact share some common enforcement and they are different in others.

3.1. Overview about the Doctrine of Separation of Powers

The separation of powers is one of the structural principles of democratic societies. It can be defined as a constitutional doctrine that divides a democratic state into autonomous institutions or branches of government which are responsible for performing a specific function. Typically, the government is separated into three basic institutions: the legislative, the executive and the judiciary institution. According to this model, the legislative introduces laws, the executive enforces laws, and the laws are interpreted by the judiciary. The fully formed concept of separation of powers has developed throughout history; furthermore, this theory has shaped new forms and groups in the field of government organization. Although the doctrine has several advantages to the authority and its people, it faces a huge criticism concerning specific points. Some of the important features of the doctrine of separation of power are its origin, purpose, and shortcomings.

It may be useful to approach the principle of separation of powers by looking to its origins through history. In his book "The Politics", Aristotle was the first who introduced the idea of the separation of powers. It was not a complete system, but a new foundation for scholars to be developed and built. Even though John Locke contributed in developing this concept, the origin of separation of power is most associated with the French political philosopher Baron de Montesquieu. Montesquieu was the founding father of the separation of power as a system where he was the first scholar who illustrates this system. Indeed the foundation of this principle returns back to the eighteenth century when the government's parts divided into three powers

discussed in his book "The Spirit of Laws". In addition to the deep analysis of the division of powers principle, the book discusses several historical and political ideas. In their article Separation of Power: Analysis of Theory and Practice, Drs .Mughees and Zaib mentioned that during the 18 c, the French political philosopher Baron de Montesquieu gave birth to the idea of separation of powers as a complete doctrine. Montesquieu has brought to countries a new system of how to construct government in which power shared between three branches rather than concentrated it in one branch

The separation of power method is usually regarded as one of the fundamental models which carry out a great number of benefits. Actually, the significant aim of separation of powers is to place the function of each branch by which the legislative makes laws, the executive executes laws, and it is interpreted by the judiciary. By so doing ,the institution accomplishes its missions with no input from the other institutions considering the mutual check and balance between the three parts. Another advantage of it is to determine individuals ' responsibilities ,and to prohibits personals from exercising in more than one institution. The separation of powers does not only prohibit autocracy and authoritarianism but also it fights for equality, freedom and liberty. As well as that it has a powerful affection in eliminating the risk of centralizing power in one branch, but it opts for dividing it between the different branches. Such a division is necessary for a healthy democracy and it helps to combat the abuse of power. Thus, the separation of powers has many other aims to government and its individuals.

However, despite the various advantages the separation of powers carried, it received many criticism through time. The first negative reaction this model faced is that the three bodies works under a system of check and balance so it required a degree of interconnection and supervision between them. That interconnection and supervision contrasts the exclusion of functions and tasks between institutions the separation of powers reinforced. Another common criticism is the separation of power has no precise supported value. For some ,the primary aim of the separation of power is to divide power between the three branches whereas others argue that its purpose is to save the rule of laws and liberty. Others view that the ensuring of the efficiency in government is the fundamental value of the separation of powers. Also, it is a source of ambiguity concerning the term of "separation of powers" itself. First, the word 'separation' can be classified into distinct levels; partial for allowing some interaction or absolute for preventing involvement between the bodies. Second, the word power can refer either to institutions (executive legislative judiciary) or to the function those institution accomplish . According to Kavanagh "...the phrase 'separation of powers' has been used to refer to a wide array of different ideas (not all of which are compatible)..."(2016 p.221 .223). Despite the fact that 'separation of

powers' is a strict organised doctrine, it is not considered as a complete system free from criticism.

If the conceptual roots of 'separation of powers' return back to the Aristotle age , John Locke and Montesquieu were the first who advanced it into a system. Usually the separation of power specifies a corresponding identified function to the three processes : legislative, executive ,judiciary ;each branch limited with its tasks and individuals. Moreover, it has a beneficial influence against abuse and corruption in government. The theory gets an international acceptance ,and it offers effectiveness to some extent ; still, it received a certain amount of criticism . Recently, countries show the need to practise the separation of powers' theory to construct a strong constitutional government .

3.2. The Implementation of Separation of Powers in UK and US

As it has been explored in the first two chapters, both of the UK and US divided their political system into three institutions – legislative, executive, and judiciary. Both of UK and US applied the separation of powers theory, but each country has experienced this principle in a specific way.

3.2.1. The Relationship Between Legislative and Executive in UK and US

The British Prime Minister, the leading executive official, and his or her influence on the relationship between the legislative and the executive powers. Mainly, The Prime Minister is the head of the Government, and the header of the party which wins the majority of votes in the general election. By so doing, the owner of this office represents a sort of fusion between the Parliament and Government. As Oakland (2002) acknowledged: the Monarch appointed the Prime Minister who is usually the head of the majority party in the House of Commons. This officer power stemmed from majority support in Parliament; the of hiring and firing ministers; the head of the party in the country; and control over policy-making. The Prime Minister has a post in the House of Commons, where he or she may be questioned and held accountable for government action. Actually, the PM is the connection between the Government and Parliament.

Oakland shows the multiple roles of the Prime Minister in both Government and Parliament. That is, the function of the Prime Minister based on an overlap between the two powers. Since the PM responsibilities have no strict area within the British constitution, those responsibilities remain determining by both powers. As long as this officer hold more than one position in the British system, he or she contrasts the main aspects of the separation of powers. It

is well known that, in addition to separating powers individually, the separation of power focuses on separating the branches of a system in the function side. However, the Prime Minister is a member who breaks these two significant elements by having a seat in both bodies, also he or she exercises in the two branches.

In practice, Rishi Sunak was a member of Parliament .Currently, he serves the position of the Prime Minister of the United Kingdom and he is the Leader of the Conservative Party since October 2022. Also he is the Lord of the Treasury, Minister for the Civil Service, and Minister for the Union. It is clear that this member exists in more than one institution, and he has a variety of functions in them. So the Prime Minister demonstrates the overlap between the Parliament and executive branches.

As it is mentioned in chapter I, the Prime Minister is one of the most important and powerful positions in the state. As he or she is the head of the Government and the large number of responsibilities he or she has. Yet the power and position this office carries is regarded as the main element which represents the absence of material distinction between legislative and executive. As a matter of fact, there are a considerable number of reasons which shaped the Prime Minister position and roles. In other words, the PM situation is the result of other elements within the state itself.

In addition to the Prime Minister situation ,it was also noticed that the British System includes many other aspects in which 'fusion' appeared to have been chosen over the 'separation of powers' .Surely, the Cabinet members considered an illustration of the inapplicability of separation between the legislative and the executive bodies. Some of the ministers of Parliament , probably members of Parliament, appointed by the Prime Minister to construct the Cabinet of the State. Subsequently, those appointed individuals serve a position in both legislative (ministers) and executive(members of Cabinet) institution.

Dos Santos Maciel (2019) puts in: "As long as the cabinet is made from the Commons, this closed relationship between these two branches will remain" (p.154). This quotation shows how the connection between the legislative and executive is built. Simply, she determined the source which makes the Government and the Parliament overlapped. Being members in two institutions gives them the right to apply check and balance between the two organs. However, the Cabinet members functions in the Parliament represents other apparent violations on the principle of 'Separation of power'.

As the Cabinet are members of the Parliament, the executive has a kind of power in law-making process. Since the members of Cabinet are selected by their ability, experience, and age, they are qualified enough to introduce a bill in the Parliament. It is important to understand that the executive shares the power of making law with the legislative branch. However, the interference between them clarifies the lack of transparency between those two institutions. The Parliament gives the executive branch the power to legislate considering that its members are from the ministers of Parliament (Dos Santos Maciel ,2019).

Another explanation to the British legislative- executive connection, is the parliamentary scrutiny role of the Commons. That is, the house of Commons holds the executive work into account. Scrutiny the business of Government, discussing its actions absorb most of the Commons' time. Because the Commons observe and examine the executive process, this shows the effectiveness check and control of the legislative on the executive. Simply, the Parliament contributes in the Government actions and decision. According to Dos Santos Maciel (2019) parliamentary scrutiny is the part of working which gives the House of Commons the ability to challenge and debate the Government's work. An illustration of this ability is the weekly meeting of the PM and the Commons where the Prime Minister discusses matters about the executive branch with the ministers of Parliament.

It is well known that the legislative organ is the important branch of the British system. However, this organ lost the capacity to introduce Bills by its own. The executive contributes in making legislation is a limitation to Parliament. Most of the Bills created by ministers who construct the Cabinet are preferred by Government since they are introduced by its members who know all of its matters . Another thing we must consider in that the Parliament on the executive branch is a limitation to the Government, because it is checked by another institution which is supposed to be equal to it. However, some scholars believe that the link between the legislative and the executive branch is the merit of the British system. Bagehot, for example, (1873) viewed that : " The efficient secret of the English Constitution may be described as the close union, the nearly complete fusion, of the executive and legislative powers"(p44) .

As for American legislative- executive relationship, returning back to its history, in the US political system the legislative branch was the most dominant branch; Whereas, the executive body was less powerful than legislative one. Concerning those two branches, US Constitution in the first article states: "All legislative powers herein granted shall be vested in a Congress". In the same way, the second one establishes that " The executive powers shall be vested in a president". From the previous two articles, it is clear that the Montesquieu's theory

finds its highest recognition. According to Sharp, the design of those two branches is deeply influenced by separation of powers system and the real reason behind distribution the responsibilities between them due to the statement of reasons for separation of powers. In his book “ The Classical American Doctrine of the Separation of Powers” (1940) Sharp cited Montesquieu's statement:

when the legislative and executive powers are united in the same person, or in the same body of magistracy, there can be then no liberty, because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to executive them in a tyrannical manner. (p390)

For more explanation, liberty will be lost if the two branches does not separate. Then, the fear, anxious and worry will replace the freedom. Specific grants of pure separation is given to legislative authority, such as article one, section five which mandates that either the House of Representatives or the Senate have their own power to determine their members' requirements, to organize the legislative election process and to make the suitable laws for governing their own proceeding. To further assure the separation of the branches, any individual is prohibited any member who holds position in legislative organ meanwhile he serves in executive one.

Under the US Constitution, the relation between the two branches is entirely separate. No one who is a member in executive branch could work in Congress (Levi, 1976). That means the US President, Vice President, any of the department or agency head cannot be serving member of the legislature and the opposite is correct in which any serving member of Congress could not hold any executive office. US President cannot prematurely end a Congress and call new elections. Also, Congress cannot remove members of executive branch only in the case of a committed a high crime. The Vice President would immediately replace the American President when the latter is subjected to impeachment .

However, in practice the concept of separation of powers is better understood as the doctrine of shared powers. Those shared powers are what checks and balances are all about. It is a system whereby each branch of federal government would check and balance the other two. This is more specially for the legislative and executive in which both of them complete each other. Legislative is a useless political institution without its integrity with the executive branch and vice versa.

To illustrate more, for making US a workable government it is better to integrate those two branches instead of adopting a pure separation. In fact, US Constitution does not stress

total separation since the executive power in contemporary states increasingly becomes the predominant branch and that makes it politically the center of America as being an institution where the power concentration is focused on the US President as he the head of the state and the government. Executive and legislative branch are interdependence through the interaction among them. For example, the US President has a congressional power in the form of the veto, for article one, section seven of the Constitution insists upon the American President's signature on all bills before becoming laws as a necessary step make by legislative body. This presidential procedure should be respected by the Congress; otherwise, they will be refused.

The US President is given the veto power- it is a presidential congressional power on legislative branch- prevention the Congress from being too powerful institution is the real objective behind this power. A regular veto occurs when the President returns the legislation to the House in which is originated. In fact, all acts make by Congress can subject to the President veto because he has the power either to accept or reject them. Through the veto power, the President can influence on legislators to modify the bill as he demands. On other side, blocking an act from the US President can be prevented when Congress exercises its power to override the presidential veto.

Also, the president of US Senate is the Vice President . Furthermore, even though US President possesses authority of making treaties, this authority required the consent of the Senate. In addition, the US President is in need to the legislative body when he practices his power as commander in chief. Going to war and maintaining the military are needed the agreement of Congress. Finally, the legislative branch checks the executive body through the impeachment.

In keeping with the aim of the theory of separation of powers, which is prohibited the over concentration of power only on one branch of government in ways that threaten basic rights. Additionally, it ensures that the government is work in effective way through applying the principle of separation of powers. Despite the fact that, the checks were real enough, Bilchitz and Landau (2018) agree that it do not have a negative purpose because it proves that US that the separation of powers is the basic principle of US Constitution.

The British and American legislative-executive relationship is completely different. The relationship between the British executive and legislative branches based on a fusion and overlap. Simply, there is a strong connection between these two branches. The Prime Minister situation , the Cabinet members situation, and the parliamentary scrutiny of the House of Commons are the main connecting link between the legislative and executive. The relation

between the two organs represents in which extend the British system applies the rules of 'Separation of power'. The United Kingdom has no clear separation of powers and the link between its legislative and executive power is a good example of that.

In contrast, the relationship between the American executive and legislative branches is based on complete separation. The elements of separation of powers are respected in which they illustrated through the division of their function without any interference between them. Both hold their responsibilities independently. The US model believed that this doctrine will not be achieved only through the interdependent between legislative and executive. In US government, the misuse or abuse of power will be prevented only if the powers of those two branches are separated.

3.2.2.The Relationship Between the Judiciary and the other Two Branches in UK and US

The first thing we have to understand is that the British judiciary branch power considered the weakest power among the other two branches, but it is important. Overall, the British Supreme Court was not a court at all, but a parliamentary committee : the Appellate Committee of the House of Lords. Until 2005, when the constitutional reform act 2005 ,the British Supreme Court created replacing the Appellate Committee of the House of Lords. In addition to the creation of the new Supreme Court, the act reforms the Lord Chancellor role who was an important member in all of the three parts. If the meaning of 'Separation of powers' is the division between the three organs of the state, the creation of the new court and the reforms of the Lord Chancellor role can examining the relationship between the judiciary and other two branches.

As an application to the act 2005 , UK establishes a new court named the Supreme Court; it replaced the Appellate Committee of the house lords .In another word ,the Supreme Court maintains the power of the Appellate Committee without any interference from the upper house. The British Government attempts to create a complete divided judicial institution even though it received a huge criticism. The government persisted with its plans in spite of all the controversy and opposition, and the Supreme Court was established in 2009 (Iyer,2018). In 2009, the supreme court was fully established with its own building in Middlesex Guildhall , on the other side of Parliament Square, and it started its work with its own membership. An essential thing about the British courts is that the Supreme Court is the final court of appeal for all the three courts of the state (the court of England and wales, the court of North Ireland ,the court of Scotland).

Actually, the law lords was acting as the highest court of appeal in Britain as well as sat in the Parliament. As the Life Peers, law lords was having the ability to vote and speak in legislative matter in the House of Lords. Moreover, most of the Supreme Court justices was previous top judges "Law Lords". Since they hold their titles in the judiciary branch ,they preclude from sitting or voting in the House of Lords. That is, law lords cannot hold a position in both judiciary and legislative bodies. During passage in Parliament, Lord Chris who was a member of Parliament, he told that

The time has come for the UK's highest court to move out from under the shadow of the legislature [...] As the key objective is to achieve a full and transparent separation between the judiciary and the legislature, it follows that justices of the supreme court, other holders of full-time judicial office, or retired justices of the supreme court who continue to sit, will no longer be entitled to sit or to vote in the House of Lords, or to participate in the work of Parliament for as long as they hold their judicial appointment.[...] the Supreme Court will be administered as a distinct constitutional entity.(2004)

As a matter of fact, establishing a new separate Supreme Court and its judges ensures that there was a true sense of separation between the judiciary and legislative.

Then, the examination of the legislative-judiciary relationship from the reforms of the Lord Chancellor role. The lord chancellor, also called Lord High Chancellor or Lord Keeper of the Great Seal. The lord chancellor office is one of the oldest offices in the state ,he was appointed by the Monarch on an advice from the prime minister. This officer was the speaker of the House of Lords, and the head of the judiciary of England and Wales. So he was a link between legislative and judiciary. The constitutional reform act 2005 abolishes the lord chancellor to sit as judge or takes the responsibilities of head of the judiciary.

A key element of the act was to prohibit the judiciary role of Lord Chancellor, and to stripe him from the Parliament. His power as the head of the judiciary of England and Wales ceased; it given to the Lord Chief Justice. Additionally, he no longer has the right to sit in the House of Lords. Following the application of the 2005 reform, this role has been redefined .The position of the speaker of the house of lords passed to a new appointed member who carried the Lords Speaker title .By so doing , the chancellor lost his role in the legislative branch completely. Previously, judicial appointments were made on the advice of the Lord Chancellor. But, after the Constitutional Reform Act 2005, an independent Judicial Appointments Commission created where the candidates are presented. Then ,the Commission proposes candidates to the Lord

Chancellor. As a result, the latter appoints judges based on the recommendation of the Judicial Appointments Commission.

Benwell and Gay (2011) described the lord chancellor as the following:

The Constitutional Reform Act 2005 removed the judicial functions of the Lord Chancellor and his former role as head of the judiciary is now filled by the Lord Chief Justice. The Lord Chancellor no longer sits as Speaker of the House of Lords, which now elects its own Speaker. This was intended to create a more formal separation of powers .(p.8)

The Lord Chancellor was a unique office in the United kingdom. He was have an executive position, in addition to his judicial and legislative roles. The Lord Chancellor was a senior minister in the Cabinet with a variety of responsibilities. This officer was a bridge between the three branches of UK. Since he serves a post in all of the branches, the modification happens to his Department can determines the nature of relationship between courts and Government. Again, those changes occurs to the Lord Chancellor's Department in 2005.

The Secretary of State for justice in the UK, is a ministerial head of the Ministry of Justice, and it developed through different stages. The British Government raised the proposal to replace the Lord Chancellor's Department with a Department of Constitutional Affairs (DCA). The time passed and the DCA was not feasible. Since 2005, the Department of Constitutional Affairs canceled and its roles gives to a new Ministry of Justice. As a result, office of Secretary of State for Justice has been held in conjunction with the office of Lord Chancellor. So the judiciary is a separate branch from the executive branch even though they exchange a sense of partnership. According to Salzberger (1993), "Moreover, the judiciary is also structurally dependent upon the government -the executive- through the powers of appointment and promotion, as well as other administrative components"(p.353).

In United States, the judicial branch enjoyed a central role in the working of the nation. It performs its power completely separated from both the legislative and executive. As Sharp (1940) cited Montesquieu's statemant of resons for separation of powers "Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers."(p.390) In reality, The independence of this government arm is the main feature of American judiciary system. Being an independent branch is very important to protect American government. That is what the drafter of US Constitution believed in the independence of the

third branch because it was so essential for safeguarding the American citizens from a potential excesses of the others (Greenhouse, 2012). Judicial independence is clearly adopted in order to protect this branch from any kind of interference.

Despite the fact that, US Constitution enshrined firmly the independence of US judiciary, The ability of this branch to check the legislature is also enhanced by the power of judicial review which is considered one of the significant power over Congress. It occurs when the Supreme Court declare act of Congress to be unconstitutional, therefore, null and void. According to Mollers (2013) in 1935, the US Supreme court had annulled two laws for being unconstitutional because of overly -far- reaching and vague delegation.

Even though, independent judges protect US citizens, it is a significant matter to protect people from a court that is too powerful and at the same time US government be an effective and workable one (Savage, 2010). It is true that American Constitution granted the judges the merit of life time as they have good behavior but for ensuring that there are some checks on judicial power build in the Constitution. Impeachment is one of these checks which is offers some security that if judges are acting in an illegal way; they can removed from the position. According to the US Constitution, another share power between legislative and judiciary is happened when the Congress establishes federal courts to hear cases involving the Constitution and federal laws.

Regarding the relation between the judiciary and executive, the doctrine of separation of power has played an extremely significant role in defining their scope in which the framer desire for establishing an efficient is achieved through the strict separation between them. This is what the author Jone (2016) demonstrated in his book *The American Presidency* that the US judiciary and executive exercise their powers separately without any overlap between them. In certain respect, both branches are completely independent.

Notably, because of the US Constitution's creation to the system of separate institution that share powers both branches are interrelated to each other. In one hand, the American Supreme Court similarly has the same power of judicial review over the executive branch. In this case the court has the ability to declare actions of any member of the executive branch to be unconstitutional. In other hand, the US President nominates all federal judges either to the Trail Court, Appeal Court or Supreme Court.

The creation of the new Supreme Court and the reform of the Lord Chancellor role were an important illustration of the separation between legislative and judiciary. Recently, the Parliament has no interference on the judicial responsibilities after the creation of a new Supreme Court. Simply, the courts power is independent from the legislative power. Also, the reforms of roles of the Lord Chancellor support the division between the two branches. Mainly, reforming his roles emphasizes the membership independence of legislative and judiciary. The British courts are no longer a part of the Parliament also their membership are no longer related to the executive. The 2005 act was the core of the real separation of the judicial institution. Consequently, the judiciary is independent from the legislative and executive, and it can be said that they have a partnership relationship as they are organs of the state. In the same way, the American establishment of judicial independence lets the US judicial system conducts its power separately and the judges practice their role individually and freely. The interference among the judiciary branch with the other two branches is totally non-existent neither from the legislative branch nor from the executive one. But somehow, it cannot be denied the slight connection between them which is the result of twin doctrine of checks and balances.

As reviled by the comparative study, there are differences and similarities between the British and the American models. The United Kingdom has no strict application to the doctrine of separation of powers whereas the United States has a strict application to it. Undoubtedly, The UK legislative and executive bodies are overlapped , on the contrary; the US legislative and executive bodies are separated. To show that, the British Parliament and Government collaborated in both function and individual, but the US Congress and American Presidency functionally and individually divided. Similarly, both the British and American judicial branches are independent from the other two branches. In fact, the British independent judicial has a partnership relation with the legislative and executive. Indeed the separation is not pure since the separation of powers doctrine is compromised with the notion of checks and balances in which the three arms of US government share some interdependence.

The following tables can simplify the whole comparative study between UK and US models:

Table 3.1. The UK Model of Separation of Powers

Institution	Legislative	Executive	Judiciary
Power	Legislative power+ parliamentary	Executive power + making law	Judicial power

	scrutiny		
Official	Lords + Commons (PM + Cabinet)	PM + Cabinet (ministers)	Judges
Dependent/ independent	Dependent	Dependent	Independent

Table 3.2. The US Model of Separation of Powers

Institution	Legislative	Executive	Judiciary
Power	Legislative power	Executive power	Judicial power
Official	Senators+ Representatives	President+ Vice President	Judges
Dependent/ independent	Independent	Independent	Independent

Table 3.3. A Comparative between UK and US Models of Separation of powers

Models	UK model	US model
Differences	Dependent legislative and executive	Independent legislative and executive
Similarities	Independent judiciary	

3.3. The Factors behind the Differences and Similarities

From the above comparison ,the similarities and the differences between UK and US models do not come out of the blue. Historical, constitutional, and political factors are the most essential factors which contribute in those forms of experiencing the doctrine of the separation of powers.

3.3.1. The Historical Factor

Britain was the strongest country around the world as it dominated the world-wide colonies. Its rules and decisions were based on the Great Charter (Magna Carta). The United Kingdom was imposing its power on its colonies such as political the system, the economy, and the culture. Its Government was mixed in a way all of its parts collaborated. As a result of that, Britain was criticized about its inability to achieve the main feature of a strong state. As long as

its citizens keep challenging many conflicts, why it does not use its authority to solve those problems. Many of the British colonies were influenced by the British organization and thoughts after their independence. Some countries follow the same method, but others invented their own way by establishing their structure taking benefits from the British system weakness.

Back to the US history, separation of powers was asserted as the basic principle in its constitution which is applied as a reaction against the British political system because the colonial government did not embody this principle. During the revolutionary period, the American politicians and statesmen were known previously about the separation of powers theory. It was generally accepted by them as a fundamental political basic. The Founding Fathers agreed that America a new government should take the form of a triple set of authorities - governor, court, and legislative assembly- They have a desire of creating new political design completely different from UK (Fairlie, 1923).

After 1776, as the new American states began to replace their colonial charters, strong language favoring separation of powers was a regular feature. The idea of allocation the powers of government among three distinct branches was the objective. It was well known in different ancient American Constitution; For example, Jefferson with the establishment of Virginia Constitution June 29, 1776 wrote “ The legislative, executive, judiciary department shall be separate and distinct, so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of the mat the same time. ” (Vile, 1967). In that Constitution, the principle of separation of powers was greatly influenced and had a great impact on Jefferson's draft of separation of powers which is expressed obviously.

For achieving the political aim of the American government – which is making it do its work in effective and efficient way; the Founding Fathers of US Constitution implemented Montesquieu's theory in less restrict method. They advocated the cooperation and collaboration between the three branches instead of pure separation. Furthermore, they focused on the independence of the government in which all government was independent by creating separate legislative, executive and judiciary while controlling their function.

3.3.2. The Constitutional Factor

The United Kingdom is one of the peculiar countries around the world. As it is one of those counties which have no written codified constitution. That is why the majority of its law is in a form of acts of Parliament. The principle of the separation of powers has been a significant

part of the content of the British constitution. Since it has no formal constitution, it has no formal separation of powers. Many aspects added to the British constitution since it is not strict and changeable. The membership and the powers are not imposed, as a result of that a sort of fusion spread between the British organs.

US Constitution was effectively the founding text of the newly independent country. It provides mainly the framework for the key institutions and processes of national politics (Davies & McKeever, 2006). The US Constitution is the collected and the authoritative set of rules of American government and politics is divided into seven Articles. However, it was written in a concise way which offers only little information. Consequently, the provisions within the US Constitution are deeply rooted; therefore, they are protected from the arbitrary change. Inside the content of US Constitution, the principle of the separation of powers has been the basic tenet of the constitutional design of the United States. It cannot deny the fact that in US Constitution the power should not be concentrated only on one branch; in contrast, it should be allocated among the three branches of US government.

3.3.3. The Political System Factor

It is well known that Britain has a parliamentary system, which include the House of Lords and the House of Commons. Commonly, ministers serve the Prime minister roles and the Cabinet roles. This nature of the system forces the ministers of Parliament to exercise in both legislative and executive institutions. That is why the system of the state itself can determine its unfaithfulness in the application of the principle of separation of powers. Barber (2012), acknowledged that most fundamentally, parliamentary systems were based on a fusion of powers, not a separation of powers. Like the United Kingdom, it has a parliamentary system, where the separation of powers should not be applied.

America invented the presidential system for providing an alternative to the parliament form of government. US political system is a presidential one in which the American President is elected by the people to hold the Presidency Office as the chief leader. This system advocates that all three branches- executive, legislative, and judiciary- are constitutionally independent and no branch can dismiss or dissolve any other and at the same time each is given specific powers to check and balance the others (Watts, 2010). Among the three organs of US government, both separation of powers and also a system of checks and balances are required in its politics as long as it adopted the presidential system.

Besides the historical, constitutional, political system factors, there are other factors that force those two countries to implement that doctrine in a such way.

Conclusion

This chapter highlighted an overview about the theory of separation of powers. Then, it identified the similarities and differences between the British and the American implementation of the separation of powers; Whereas, the last section has dealt with the factors which led to numerous common and distinct features between them.

Whatever the reasons behind the similarities and differences in the application of separation of power and no matter whether this application was complete or not, the essential issue is to what extent United Kingdom and United States are able to reach their political objectives.

General Conclusion

The current work attempted to identify the legislative, executive, and judiciary branch of both countries UK and US. Also, it compares between the British and American implementation of separation of powers doctrine. The theoretical chapters contain two best insights. The first insight is that the British monarch is the head of the whole country, but it somehow connects the three branches of UK system. The second one is that the USA from the beginning of its independence, its Constitution advocated to force separate branches in order to protect the governmental system from possible misuse of power.

The main findings of the practical part are that in the UK there is no complete separation of powers whereas in the US there is a rigid form of the separation of powers. Consequently, they are not exactly the same in performance. This is due to the fact that the UK political system is parliamentary and has an unwritten constitution, whereas The US political system is presidential and has a written constitution. This distinction primarily refers to their historical background.

Following the previous findings, the hypotheses which are formulated confirmed that in the UK there is a fusion between its three powers; however, in the US there is a separation of powers among its three branches. Data for this study were collected using: books, articles, and websites.

After conducting this study, we realized the following interpretations: the first interpretation concerns the United Kingdom it states that it is one of the countries which does not separate its political institution. The organization of the British system had to be different in the way of applying the doctrine of separation of powers. As a matter of fact, illustrating the British design which was associated with no complete division and the function of its organs highlights the main purpose of applying that principle; which is the collaboration for better achievement in the state. This objective of applying the doctrine allows the three organs somehow work simultaneously. Simply in the UK, there is a mixed government with a weak separation of powers; the powers and individuals are largely(courts), but not entirely (Parliament and government), separated, and checks and balances are applied between the branches.

Concerning the second interpretation about US, it was noted that America is an exceptional country characterized by its strict division of its political institutions. The design of the US government and its political system had to be special as the purpose of implementing the doctrine of separation of powers. Indeed understanding the objectives of the US structure of

separated powers and the role and the responsibilities of each branch in fulfilling the desirable purpose presented in the essence of separating to unify the whole government. The political significance of separated powers is characterized as a positive political principle through establishing the legal environment inside United States in which the three political agents must work separately in order to achieve their goals which actually served the ultimate aim of unification of the American government. In other words, the branches were separate, they were part of one workable government.

Separation of powers doctrine has not been adopted completely by some countries because this mechanism has proved to be not that successful as it was supposed to be. Even though the concept is quite effective in theory, its applicability is considered as a failure. In contemporary world, the doctrine cannot be fully executed in its rigidity since it can create a situation in which each organ can get in conflict and deadlocks with other two organs. However, it should be practiced in a modified form through applying checks and balances. In this manner, the best interest of citizens and a workable government can be achieved.

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ملخص

نظرية فصل السلطات، هو مبدأ صاغه العالم الفرنسي مونتسكيو سنة 1784، ينص على أن السلطة ليست حكرا على شخص واحد أو مجموعة من الأشخاص أو هيئة معينة. فقد لقي هذا المبدأ على مر التاريخ إقبال واسعا من قبل باحثي العلوم السياسية. كرس هذا البحث لدراسة تطبيق فصل السلطات لكل من بريطانيا والولايات المتحدة الأمريكية و يهدف إلى المقارنة بين طريقة بريطانيا و الولايات المتحدة الأمريكية لتطبيق مبدأ الفصل بين السلطات، فاعتمدنا في ذلك على منهج المقارنة الوصفية. أهم نتائج هذه المقارنة كانت كالتالي: يختلف تجسيد مبدأ الفصل بين السلطات في بريطانيا وأمريكا حيث يختلفان في بعض النقاط ويتركبان في نقاط أخرى، المملكة المتحدة ليست صارمة في الفصل بين مهام السلطات وذلك لان السلطة التشريعية والتنفيذية غير منفصلتان بينما سلطاتها القضائية مستقلة. أما بالنسبة للولايات المتحدة الامريكية فيتميز نظامها بالصرامة، فكل سلطة مستقلة عن الأخرى وتنفرد بمهامها. فهذه المخارج هي امتدادا لعوامل تاريخية سياسية ودستورية. ولأن هذه النتائج من شأنها رفع الوعي حول الفصل بين السلطات، ندعو أن تكون هناك دراسات جديدة تبحث في طرق تيسير تطبيق هذا المبدأ.

كلمات مفتاحية: السلطة التنفيذية، السلطة القضائية، السلطة التشريعية، الفصل بين السلطات، المملكة المتحدة. الولايات المتحدة.