

How effective is the US system of checks and balances?

The system of checks and balances is one major element of the US governmental system of the “separation of powers”. The phrase “checks and balances” was coined by Montesquieu to describe a system where each branch of government under the separation of powers is able to monitor the activities of the others (hence checks) as well as being able to limit their powers in certain cases (hence balances).

When this system was implemented by the Founding Fathers in the US Constitution, it was envisaged that it would prevent any one branch of government exceeding its powers, and would therefore prevent tyranny and dictatorship. After escaping from UK rule, the Americans did not want to have to put up with another such system in their own country. Each branch of the federal government therefore has the powers and a duty to check on the other two branches and limit their powers if necessary.

The executive branch of government includes the President and his federal bureaucracy and they therefore have powers over the legislature (the House of Representatives and Senate) and the judiciary (the Supreme Court). The President’s biggest power over the legislature is the power of veto. Each January, the President recommends legislation in his State of the Union Address. He can then veto legislation which contradicts his views or expectations. Over the judiciary, the executive can nominate federal judges, and pardon criminals. These two powers are both controversial, as executive power over the judiciary may be seen to influence the outcomes of cases, and the power of pardon may be misused, for example in the case of President Ford pardoning President Nixon for crimes during the Watergate scandal. Therefore, these powers may seem to be overriding the principles of checks and balances.

The two chambers of the legislature arguably have the most powers of checks over the other two branches. These powers range from amending or blocking legislation, overriding the president’s veto (a very important power most often connected with Bill Clinton, who’s vetoes on two bills were overturned), ratification of foreign treaties, confirmation of Presidential appointments, investigation of the President, and ultimately, impeachment. The recent impeachment trial of Bill Clinton is one of the most widely remembered events in recent US politics. In 1974, President Nixon resigned over the Watergate scandal before being impeached, showing exactly the vast powers of the legislature, especially over the executive.

Finally, the judiciary has powers, although few in numbers, over the legislature and executive. The main power is called “judicial review”. Judicial review is a very powerful measure which allows the judiciary to investigate the activities of both congress and the executive, and to declare them unconstitutional. The job of interpreting the US Constitution falls upon the

judiciary, specifically the US Supreme Court, and this makes it a very powerful force in keeping the rest of the government in check. The judiciary also has a role in the impeachment process, which makes the President think twice before conducting any unconstitutional business.

All the powers of the branches of government over the others are called checks and balances, and it is this system, put into place in 1787, which has been working ever since then. The US Constitution itself is the oldest one still in use, and the forethought that was obviously put into it by the Founding Fathers means that it is still applicable today.

One of the main arguments in favour of checks and balances is that the system has been working for more than 200 years, and it's not about to fail now. Recent misdemeanours, such as Nixon's Watergate scandal or Clinton's affair with Lewinsky have shown that the system still works, and is able to protect the United States from tyrannical rule, high-class scandals, cover-ups, corruption and lies on the part of the government. The fact that it is very difficult to amend the Constitution (backed up by the fact that the last amendment was made in 1992) ensures that these protective measures cannot be removed or amended, and therefore this system is a workable solution for the future.

Another argument in favour is that the system encourages a spirit of bipartisanship – where two parties work together (normally the Democrat and Republican parties) in order to make government more effective and ease through legislation. Without this spirit, it would be immensely difficult for the executive to pass any laws at all, resulting in gridlock. For example, George W Bush used the idea of bipartisanship to get his education reforms passed in 2001-2002. However, Bill Clinton found out the difficult way of the result of ignoring the views of the opposition party when his healthcare reforms were defeated.

One of the main arguments against checks and balances is the one which uses evidence of past contradictions that should have strictly speaking not been allowed under the system, but were allowed to pass by with little or no resentment. For example, the wars in Korea and Vietnam in recent times have highlighted the ability of the executive to sometimes circumvent the system altogether. These wars were started and conducted without any formal approval from Congress. Normally, Congress must pass a declaration of war first.

Another important argument against the system stems from the view that sometimes, the system can actually encourage gridlock rather than helping to solve it. For example, in 1995, Bill Clinton faced a major gridlock with the passage of his federal budget. The executive and legislature were comprised of opposing parties, and this combined with the lack of bipartisanship led to parts of the government closing down when they ran out of money, until Clinton was able to manoeuvre through the mess and get the budget passed. This perfectly illustrates the fact that working together doesn't actually always work, and that opposing parties cannot be relied upon to play nicely.

Therefore, the system of checks and balances is ineffective and something more robust is required to make sure that sessions of Congress and Presidential terms do not reach an impasse.

In conclusion, the system of checks and balances is one that was implemented over 200 years ago by a group of people who had no idea what the union would look like after this period of time. Considering that even today, all three branches of government are frequently restricted by the Constitution and the checks and balances implemented within it, and that there has yet to be a tyranny or dictatorship within the US shows just how well the idea has survived. The infrequent lapse is inherent of any such system, and cannot be used as an effective argument for its ineffectiveness. Based on this, it can be concluded that the system is very effective and that there is no immediate need to amend or remove it. In fact, such wholesale constitutional reform is unlikely to ever happen, even if required.

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