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Lesson Two

US Legal System

In this lesson we will concentrate on discussing the American legal system which is based on the model of the **separation of powers** also known as *trias politica*.

Democratic states follow the model of **governance**, which originated in ancient times and was developed by French political philosopher of the enlightenment era - Baron de Montesquieu, known as **separation of powers**. Under this model, the state is divided into **branches** or **estates**, each with separate and independent powers and areas of responsibility. The normal division of estates is into the **executive**, the **legislature**, and the **judiciary**. Separation of powers is believed to protect liberty and democracy, and avoid tyranny.

However, no democratic system exists with an absolute separation of powers or an absolute lack of separation of powers. **Parliamentary democracies**, e.g. Poland, do not have distinct separation of powers. **The executive** (often a **prime minister**) and **the Cabinet** ("government") are drawn from **the legislature** (parliament). Although the **legislative** and **executive** branches are connected, in parliamentary systems there is usually a independent **judiciary**.

In the USA three branches are created in the Constitution.

The Legislature, composed of the House of Representatives and the Senate, is set up in Article 1. **Legislative power is vested in** the Congress of the United States. The Congress has the exclusive power **to legislate, to make laws** and in addition to these it has all other powers vested in the government by the Constitution.

The Executive, **composed of** the President, the Vice-President, and the Departments, is set up in Article 2. **Executive power is vested in** the President. The principal responsibility of the President is *to take care that the laws be faithfully executed*.

The Judiciary, composed of the federal courts and the Supreme Court, is set up in Article 3. **Judicial power** — the power **to decide cases and controversies**—**is vested in** the Supreme Court and **inferior courts** established by the Congress. The judges must **be appointed by** the President with the advice and **consent** of the Senate, **hold office** for life and receive **compensations** that may not be reduced during their continuance in office.

Each of these branches has certain powers, and each of these powers is limited, or checked, by another branch. The three branches should not be too far separated and should **have** constitutional **control over** each other. In the US the system of "**checks and balances**" is designed to allow each

branch **to restrain** abuse by each other branch. It prevents one branch from becoming **supreme**, and induces the branches to cooperate.

For example, the President **appoints** judges and departmental secretaries. But these appointments must be **approved** by the Senate. The Congress can **pass a law**, but the President can **veto** it. The Supreme Court can **rule a law to be unconstitutional**, but the Congress, with the States, can **amend** the Constitution.

The following are some of the powers of the three branches:

Legislative	Executive – the President	Judicial
<ul style="list-style-type: none"> • writes and enacts laws • sets the budget • declares war • appoints the heads of the executive branch • sometimes appoints judges • ratifies treaties 	<ul style="list-style-type: none"> • may veto laws • has command of the military • often appoints judges • has power to grant pardons to convicted criminals 	<ul style="list-style-type: none"> • determines whether a law is unconstitutional • interprets the laws • nullifies unconstitutional laws

Glossary

to amend the Constitution – wnosić poprawki do Konstytucji

to appoint sb as a... - mianować kogoś

to approve - zatwierdzić

a branch – dziedzina, gałąź

the Cabinet – rząd, Rada Ministrów

checks and balances - mechanizmy gwarantujące zachowanie równowagi politycznej

a compensation – wynagrodzenie, rekompensata

to compose (of) – składać się z

a consent- zgoda

to decide cases and controversies – rozstrzygać sprawy i kontrowersje

to enact law – uchwalić prawo

an estate – stan

the executive – władza wykonawcza

governance – rządy

to grant pardon - ułaskawić

to have control over – sprawować kontrolę nad

to hold an office – sprawować urząd

an inferior court – sąd niższej instancji

judicial – sądowy, sędziowski

the judiciary – władza sędziowska

to legislate – ustanawiać prawa

legislative - ustawodawczy

the legislature – władza ustawodawcza

to make laws – uchwalać prawa

to nullify – unieważnić, anulować

parliamentary democracy – demokracja parlamentarna

to pass a law – przyjąć ustawę
 prime minister - premier
 to ratify treaties – ratyfikować traktaty
 to rule a law to be unconstitutional – uznać prawo za niezgodne z konstytucją
 separation of powers – trójpodział władzy
 to set a budget – opracować budżet
 to vest (in) – sprawować (władzę)
 to veto - zawetować

EXERCISES

1. Reading Comprehension

(a) Answer shortly the following questions

1. What is the separation of powers?
2. Where are the three powers vested in the USA?
3. What does the Congress consist of ?
4. What is “checks and balances” system?

(b) Answer the question below using the following words in the correct form

declare appoint amend interpret veto grant set enact ratify nullify

What powers are vested in each branch in the USA?

The Congress (1)..... laws, (2)..... wars, (3).....the budget, and (4)..... treaties.

The President may (5)..... laws, (6)..... judges, (7)..... pardons to the convicts.

The Supreme Court (8)..... the laws, (9)..... the unconstitutional laws, (10)..... the Constitution.

2. Word Formation

1. Fill in the gaps in the table with words derived from the words given

verb	noun	noun (person)	adjective
to legislate	amendment 1. legislature 2.	-----	-----
to judge	1. 2. judgement		
	government	-----	compensatory 1. 2. governing
to veto		-----	-----

the executive		
1.nullity	-----	-----
2.		

(b) Now use the words from the table in the sentences below

The First (1)..... to the American Constitution says that Americans have the right to worship as they choose, speak as they wish or assemble peacefully.

On July 19, 2006, Bush used his (2)..... power for the first time in his presidency to (3)..... the Stem Cell Research Enhancement Act.

(4)..... power in the USA is vested in the Supreme Court.

Mr Elisabeth Carter received (5)..... from the government for the damage caused to her property.

A(6)..... (or *lawmaker*) is a person who writes and passes laws, especially someone who is a member of the (7).....

The (8)..... is the branch of government responsible for the day-to-day management of the state. In many countries, it is referred to simply as the (9).....

The election results were (10)..... because of voter fraud.

3. Prepositions

Use the correct preposition in the sentences below (where necessary)

The American legal system which is based on the model of the separation (1)..... powers.

The state is divided (2)..... three branches: legislative, executive, judicial.

Legislative power is vested (3)..... the Congress(4) the United States.

The Legislature is composed (5)..... the House of Representatives and Senate.

Congress has the exclusive power (6)..... make laws

The judges must be appointed (7)..... the President

The three branches should have constitutional control (8)..... each other.

The President of the USA may veto (9)..... laws and grant pardon (10)..... the convicts.

Answers

1. Reading Comprehension

(a)

1. Separation of powers is a democratic model of state in which governance is divided into three branches: the legislature/legislative, the executive and the judiciary/judicial. The branches are separate but control each other.

2. The legislative power is vested in the Congress; the executives power is vested in the President of the USA; the judicial power is vested in the Supreme Court and the inferior courts.

3. The Congress consists of the House of Representatives and the Senate.

4. "Checks and balances" is the system which prevents each branch of the US government from becoming supreme, induces the branches to cooperate, control each other and restrain abuse.

(b)

(1) enacts (2) declares (3) sets (4) ratifies (5) veto
(6)appoints (7) grants (8) interprets (9) nullifies (10) amends

2. Word Formation

(a)

verb	noun	noun (person)	adjective
to amend	amendment	-----	-----
to legislate	1.legislature władza ustawodawcza 2.legislation ustawodawstwo	legislator ustawodawca	legislative ustawodawczy
to judge	1.judiciary władza sądownicza 2.judgement orzeczenie	judge sędzia	judicial sądowniczy
to compensate	compensation	-----	compensatory odszkodowawczy
to govern	government	governor gubernator	1.governmental rządowy 2.governing rządzący
to veto	veto	-----	-----
to execute	the executive władza wykonawcza	executive pracownik szczebla kierowniczego	executive wykonawczy
to nullify	1.nullity nieważność 2.nullification unieważnienie	-----	-----

(b) (1) amendment (2) veto (3) veto (4) judicial (5) compensation (6) legislator
(7) legislature (8) executive (9) government (10) nullified

3. Prepositions

(1) of (2) into (3) in (4) of (5) of (6) to
(7) by (8) over (9) Ø (10) to