SEPARATION OF POWERS WITH THE PRINCIPLES OF CHECKS AND BALANCES

The founding fathers of the American Constitution wanted to make every possible arrangement in the constitution to save Americans from Tyrannical rule. They were convinced that Montesquieu theory of separation of powers was a solution against Tyrannical rule. So the framers of the American constitution did not allow the accumulation of the powers of the government in the hands of any individual or institution.

1. According to Article-1 of the constitution, “All the legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and the House of Representatives. Organs of government in United States cannot give away voluntarily its powers to any other organ.
2. Article 2 provides that, “The executive powers shall be vested in the President of the United States of America”. American President is not responsible before the American Congress for the exercise of his executive powers.
3. Article 3 provides that, “The judicial powers of the United States shall be vested in one Supreme Court and in such inferior courts as the congress may from time to time ordain and establish.” Besides, adequate arrangements have been made in the constitution to make judiciary independent.

Thus we see that the three organs of government function separately and independently and the powers of the government is divided among the three organs of government.

Although, in theory the principle of separation of powers seems to be very good, but it is not only difficult but impossible to implement it. In order to decrease the severe impact of separation of powers the framers of US constitution incorporated the principle of Checks and Balances. Each organ remains independent and at the same time does not become a despot. Following provisions are based on the principle of checks and balances:-

1. Checks on the Congress:- Although by Article 1 of the constitution, legislative powers have been given to the congress yet while exercising these powers, Congress has to take into account the following checks (i) Congress can make laws only on those subjects which have been included in the federal list. (ii) President can exercise veto over the bills passed by the congress. (iii) The bills passed by the congress can be declared null and void by the exercise of its power of judicial review in case it violated the constitution.
2. Checks on the President :- All the executive powers have been given to the President, however while exercising these powers he has to take into consideration the following things:- (i) President has to take the approval of the Senate for money for running the administration (ii) President has to take the approval of the Senate on higher appointments and the treaties concluded with other countries. (iii)Although President is head of the forces, yet the declaration about war and peace is made by the congress. (iv) Senate can appoint Investigating Committees for investigating the acts of the President. (v) Any actions of the President which goes against the constitution can be declared illegal by the Supreme Court.
3. Checks on the Judiciary:-The Judiciary is also check by the President and the Congress- (i) The judges of the Supreme Court are appointed by the President with the approval of the Senate. (ii) The strength of the judges and their conditions of service are fixed by the congress. (iii) Besides the Supreme Court, other subordinate courts are established by the congress and the congress also frames their rules of procedures. (iv) Congress can remove the judges even before the expiry of their term by impeachment

The principle of checks and balances has prevented various organs from becoming despotic and absolute and at the same time created coordination among different organs of the government which is necessary for the smooth conduct of the administration.