

**Case Study**

**The Activity of the Bicameral Parliaments.**

**Case Study: The United Kingdom of Great Britain and Northern  
Ireland**

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**Abstract:** Comparative research of various state legislative procedure presents a considerable theoretical and practical significance. It allows, on the one hand, the identification of legislation governing this legal institution and its analyzing and, for the other hand, the identification of the similarities and differences between these procedures. In this paper we analyze the activity of british parliament and the stages of the legislative procedure United Kingdom, country with bicameral parliaments. The study has considerable theoretical and practical significance, because by understanding the functioning of the legislative process, we can identify what is the role and how the bicameral parliaments contribute to the developing of policy making system. From the analysis that we do, we demonstrate that the structure, functioning and the roles of the two cameras are very different, House of Commons having broader powers regarding the legislative process to the House of Lords.

**Keywords:** legislative procedure; bicameralism; Parliament; political system; Westminster

**1. Introduction**

The element of historical order has served many times as a complementary factor that decided, in the end, the sovereign option of some peoples to one form or another of parliamentary organization.

Comparative research of legislative authority of different countries presents a considerable theoretical and practical importance. It allows, on one hand, the identification of legislation that rule this authority and its analysis, as to later identify similarities and differences between these authorities.

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The basic idea of democracy is that of consent. Starting with this idea, citizens are the most important actors of a democracy, considering that they chose representative to the Parliament, and later, a group formed out of these representatives compose the Government.

The parliamentary systems are based on the division of power between the legislative and the executive, which determines that the Government depends on the vote of the Parliament.

The division of power determines the existence of three types of parliamentary systems: (Cocosatu, 2012, p. 49) *Prime minister* parliamentarism (the premiership), *meeting* parliamentarism and *partitocratic* parliamentarism.

In the parliamentary system, the parties which are represented in Parliament must support the Government. According to the reports which shall be determined between the premier and the Cabinet that he leads, we can be in one of the following situations: the Prime-Minister is also the head of the ruling party; the Prime-Minister is not the head of the governance party, but has the power under law to dismiss ministers and the third situation, in which the Premier force is equal to that of a Minister.

## **2. Parliament's Role as a Representative of the Popular will**

The Institution of Parliament has distant origins. Iceland before the year 1000, Sicily in 1130, and England around the year 1300, knew the existence of meetings that were going to constitute, in the next century, the model of deliberative Assemblies.

Created at home, with a unique mission to consent to the establishment of the taxes, parliaments have arrived - in time - not only to control the way in which State funds were used, but the whole Government activity of the country (Duculescu, 2004, p. 74).

In the 18th century, the British Parliament – taking advantage of the weakness of the monarchs – imposed as a model of Government the parliamentary system, which introduced for the first time the responsibility of the Government to the deliberative Assembly. This model has been adopted in France and Belgium. The Constitution of the United States created a bicameral Parliament (the Congress), which balances the presidential power.

On condition that the principle of separation of powers has stated more as a creation of liberal thinking, the parliaments began to assume more important prerogatives related to the election of public officials, judges, and in some countries even the head of State (Avril, 1996, p. 2). Parliamentary systems are those which today controls most efficient the government activity, afford to replace them when they commit mistakes and even hold the head of State answerable, in the context of a procedure, which obviously involves a series of steps and guarantees.

The parliamentary system authority lies in the principle of national sovereignty, in the idea that Parliament represents the people himself and parliamentarians are its delegates, who may not delegate, in any case, their prerogatives to the officials of the State. The famous principle of Roman law “*delegata potestas non delegator*” opposes sending any parliamentary prerogatives to other institutions, chosen or named. The principle of the Parliament autonomy guarantees the legislative forum the fullness of action and decision in any field, Parliament being, however, in some States, the only body in a position to hold its members answerable. The exceptional power of the parliaments and the quality quite apart those that make up devolve from the concept of the representative mandate, the parliamentarian representing not “a small part” of the sovereignty of the nation, but this sovereignty itself, where the foundation of the rights and prerogatives of the parliamentarians, the independence of which they enjoy to be able to deal with the mandate in optimal conditions.

Option for unicameral or bicameral parliamentary system or constitutes, in any case, the result of some historical circumstances. As a rule, unicameralism is considered to be specific to the unitary States, reflecting the uniqueness of the State's political structure, while bicameralism is tied to the existence of the Federal States (Muraru & Tanasescu, 2001, p. 447). This rule is not absolute, as there were – and are - situations where unitary States such as France, Italy, Japan, Spain, Great Britain opted out due to historical circumstances, the bicameral system. Although very rare, and the situations in which States have adopted the principle of unicameralism, such as, for example, the case of the Republic of Cameroon in 1972.

Great Britain, which is one of the countries with bicameral parliamentary system, has got this formula due to some historical reasons, determined by the breaking away of what later was called the “House of Commons”, of the great councils convened by the monarchs for the resolution and in particular issues related to the

payment of the contributions required for the unfolding of the wars (Harvey, Bather, 1997, p. 19).

### **3. The Analysis of Legal Procedure in the United Kingdom of Great Britain and Northern Ireland**

The political evolution of Great Britain offers a classical example of passing from absolute monarchy to a constitutional one, being considered one of the typical countries for the parliamentary type governing system. The Parliament is the essence of the British regime and the foundation of its political stability, being characterized by a conciliatory spirit, although its bipolar nature, political decisions are the fruit of a laborious process of conciliation.

Legislative function entails voting laws of parliamentary or governmental origin. British legal system recognizes two categories of laws: public and private. Public laws determine the measures whose object is to change the general law or the distribution of budgetary amounts, administration of justice, etc. Public laws are initiated by the Government or members of the House of Commons who are members of the Government (Ionescu, 2008, p. 102).

The private laws are to establish subjective rights belonging to individuals or legal entities. They are introduced in Parliament in the form of a petition submitted by the persons or entities, most often promoted by local authorities (Ionescu, 2008). As regards to the legislative process, almost all of the UK legislation is proposed by the Government and most of it results from the promises made during the election campaign of the political party that won the last elections.

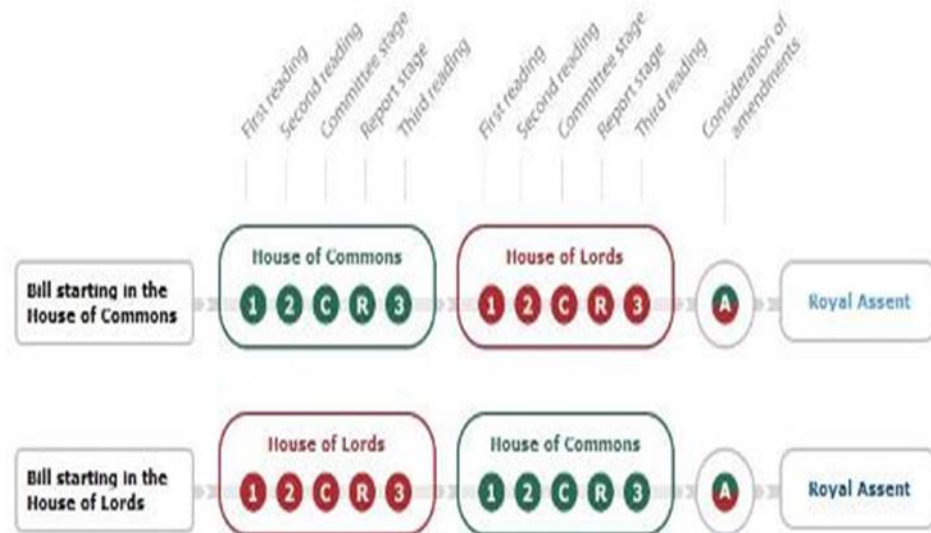
Britain's commitments in the European Union may lead to new legislation. Also, campaigns or interest groups, citizens can notify the Government of problems, most often through the media. Moreover, certain events, such as unexpected crises, acts of terrorism, natural disasters, etc. can generate the need to amend the legislation.

Identifying a problem is one thing, and deciding what to do to solve them is another thing. Thus, not all the problems necessarily lead to new legislation. Most times, no matter where a political idea comes from, it does not go far if it does not enjoy the support of a minister. Even a minister is not enough support for an idea to become law because they have the opportunity to consult with experts, interest groups and the ability to communicate with people directly affected by those plans.

Most often, they are invited to express their views on the idea that in a “green paper”.

After consultation, the ministers aim at convincing government colleagues to support this idea. The ideas are discussed in the cabinet committee composed of ministers of the entire government and chaired by a senior member of the cabinet. Even with the approval of the cabinet, a proposal should be selected by the committee responsible for drafting the Government's legislative program. Legislative Committee makes the final decision on whether a proposal will be submitted to Parliament for consideration.

At the beginning of each annual session of the Parliament, the Queen announces in a speech at the opening session, the main bills (the Bills) to be considered. The legislative process is the result of collaboration between the two chambers, whereas all legislation must be approved by both chambers. But the most important role is held by the House of Commons. In the British system, the legislative procedure comprises several steps to be taken so the House of Commons and House of Lords (see Fig. no.1).



**Figure no. 1 Steps of legislative procedure in the UK**

Source: Parliament of UK, <http://www.parliament.uk/about/how/laws/passage-bill/commons/coms-commons-first-reading/>, last visited on 20.10.2015

a. First read

In this stage, a bill is inserted by simply reading its title by a minister and made available to all MPs.<sup>1</sup> It also sets the date for the next reading and the bill is first published as a work of the House of Commons.<sup>2</sup>

b. Second read

The second reading involves debate of general principles of the bill by all members of the House (of Commons or Lords). The House of Commons votes at the end of this stage whether or not the bill can proceed to the next step. In the House of Lords the bill goes to the next stage without being voted.<sup>3</sup>

c. The Commission Phase

If the most important provisions are approved in their essential lines, the project is referred to the Committee of the entire room or to a committee (Standing Committee) for a thorough discussion of each article / clause and amendments. The minister responsible for the project is a committee member. Any member may make amendments. Also, the opposition may require modification of articles or propose amendments.

The final form of the Commission is subject to detailed examination by all members of the House of Commons. In this case they can make new amendments that are then voted. To avoid unjustified delays of the procedure for adoption of the project by endless discussion from the opposition, the government may propose a motion to limit the duration of the work, voted by the whole House. This is called “guillotine” (Ionescu: 2008, 480).

If the bill was amended, before going to the next stage, it is reprinted.

d. Report Phase

Any changes made by the Commission is reported and discussed by the Chamber, which is invited to consider the bill as a whole, to approve changes made by the Commission and consider any proposed changes. Also, new amendments may be proposed.

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<sup>1</sup> Parliament of UK, <http://www.parliament.uk/education/about-your-parliament/how-laws-are-made/> visited on 21.10.2015.

<sup>2</sup> Parliament of UK, <http://www.parliament.uk/about/how/laws/passage-bill/commons/coms-commons-first-reading/>, visited on 21.10.2015.

<sup>3</sup> Parliament of UK, <http://www.parliament.uk/about/how/laws/passage-bill/commons/coms-commons-second-reading/>, visited on 21.10.2015.

e. Third read

A bill began in the House of Commons and approved in the previous stage, is sent to the House of Lords, which follows the same steps above.

Unlike the House of Commons, amendments can be made in the framework of the third reading in the House of Lords. In this case, the bill began in the House of Commons and House of Lords amended returns at the first to analyze the new amendments. If no amendments have been made, it proceeds to the next step.

A bill began in the House of Lords, is transmitted to the House of Commons to proceed with the first reading.

f. Taking into consideration amendments

Once the bill has passed the third reading in both chambers is transmitted to the first Chamber to consider the proposed amendments.

If the House of Commons made amendments, the House of Lords must review and approve or reject them or make new amendments. If it does not approve the amendments made by the House of Commons or propose new amendments, the bill is returned to the latter.

A bill can be sent from one room to another until both chambers reach agreement on the final form<sup>1</sup>. This process is called “Ping Pong”<sup>2</sup>.

If both chambers fail to reach a mutual agreement, the bill does not enter into force. In certain circumstances, the House of Commons can use an Act of Parliament to approve the bill without the consent of the House of Lords in the next session.

g. Royal Agreement

Before publication, the Crown must promulgate the law. All this establishes if the project becomes law immediately, at a later date specified in the law or on a date fixed by the Crown (Commencement Order).

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<sup>2</sup> Parliament of UK, <http://www.parliament.uk/about/how/laws/passage-bill/commons/coms-consideration-of-amendments/>, visited on 21.10.2015.

#### 4. Conclusions

The Parliament is the essence of the British regime and the foundation of its political stability, being characterized by a conciliatory spirit, although it is of bipolar nature, the political decisions are the fruit of a laborious process of conciliation.

In conclusion, the British government is assumed by most people in his interest. On the other hand, according to the British model governance must be made as much in the interest of many citizens. Thus, in the spirit of these principles, we can observe the involvement of citizens in the legislative process.

The Legislative procedure in UK it refers to the voting of laws of parliamentary government proposal. However, the procedure for passing laws is different. Note that the bills in the UK can be introduced by the Government, members of the House of Commons or House of Lords, but also by private individuals or organizations.

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