5. Separating and Balancing Powers

This chapter examines the division of powers between the executive, legislative, and judicial branches of government. It considers the debate as to whether, why, and how separation of powers should occur in the UK’s constitutional system. Political constitutionalists tend to downplay the role of courts, while legal constitutionalists tend to be keen on using the idea of separation of powers to bolster the importance of the courts as a major ‘check and balance’ on the institutions that carry out the other two functions (legislative and executive). The discussions also cover the separation of power between the Crown and Parliament; judicial analysis of separation of powers; and interactions between Parliament, the executive, and judges. The ‘Westminster model’ is also explored.
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