

Parliamentary Sovereignty

Principles of the Constitution

✦ Two basic principles govern the Constitution:

➡ ✦ The Rule of Law

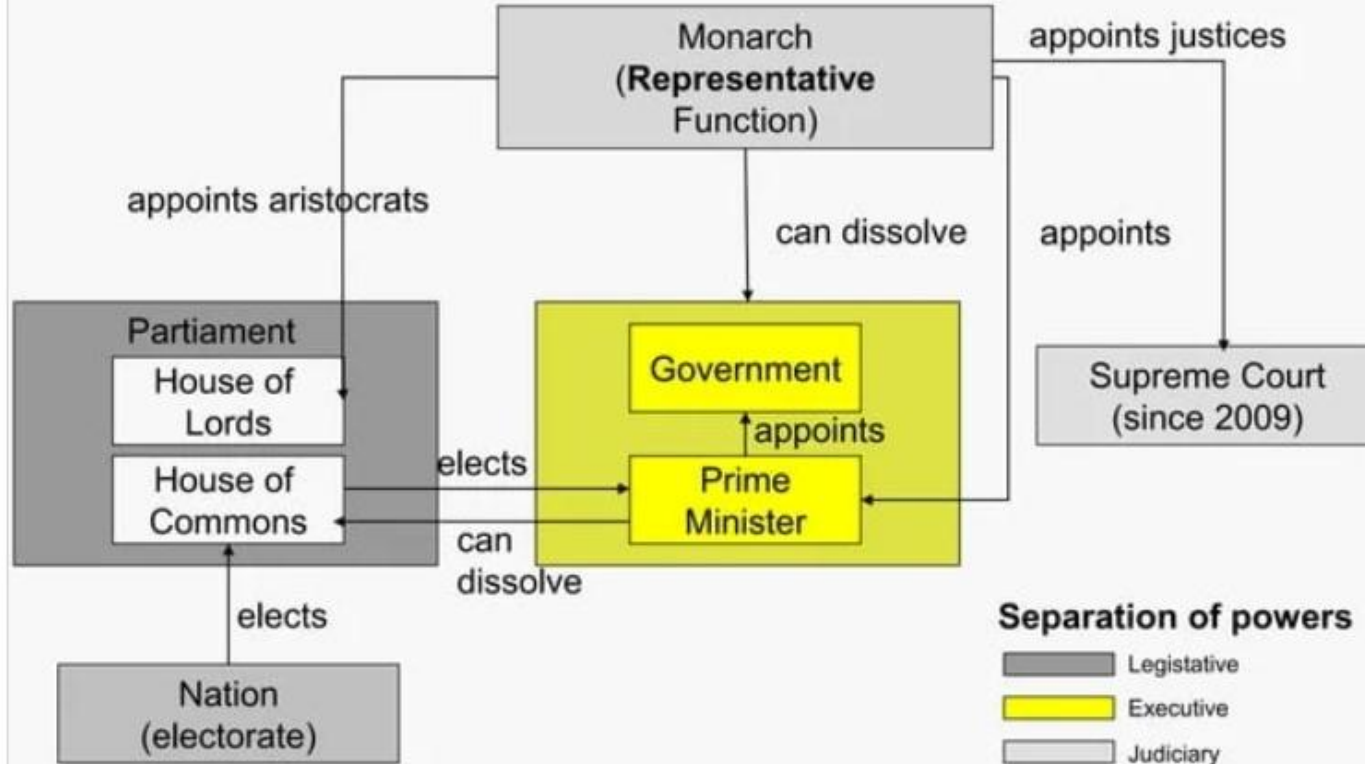
➡ ✦ The Supremacy of Parliament



The British Constitution

- ✦ A constitution is a set of laws on how a country is governed.
- ✦ The British Constitution is unwritten
- ✦ It is referred to as an **uncodified constitution**.
- ✦ Amendments to constitution are made by a majority support in both Houses of Parliament to be followed by the Royal Assent.

Parliamentary monarchy in the United Kingdom



The House of Lords



- ▶ This is the "*Upper House*" of the British Parliament.
- ▶ It consists of about 750 members most of whom are *Life Peers*, or people who have been elected for services rendered to the nation.
- ▶ The house of lords is currently a non-elected chamber.
- ▶ The member of the House of Lords consist of Lords Spiritual and Lords Temporal.
- ▶ Law Lords also sit as Lords Temporal.
- ▶ All the bills from the House of Commons are approved quickly by the Lords,
- ▶ The House of Lords use of his prerogative in exceptional cases.



The House of Lords

- ✦ Parliament's second chamber.
- ✦ Role: 'double check' new laws.
- ✦ About 800 members. Not elected.
- ✦ No power to stop a new law but can delay it (veto lost in 1911)
- ✦ Bills must go through both Houses before becoming 'Acts' (laws).



The House of Lords Debated

- ✦ unelected
- ✦ unaccountable
- ✦ Too much power
- ✦ mostly live in London, the east and the south east
- ✦ Experience & expertise
 - ✦ Retired generals, trade union leaders, academics and judges
- ✦ Stability



House of Commons

- ✦ The most powerful of the two houses.
- ✦ 659 elected members. (427 green seats)
- ✦ Members are called MPs.
- ✦ The Commons is the most important place for discussing policies and making laws.

Parliamentary Sovereignty

The supremacy of Parliament was established in the 17th century. In 1689 the Bill of Rights was enacted, which deemed Parliament to be the supreme law-maker.

Article IX states ‘the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.’”



PARLIAMENTARY SOVEREIGNTY

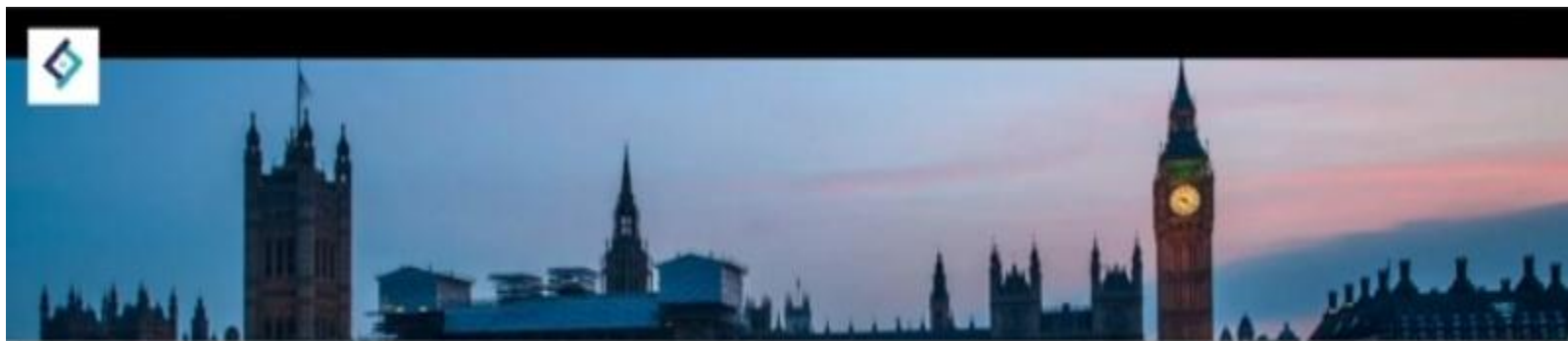
Meaning of Parliamentary Sovereignty:

* According to Prof. AV Dicey in his book, "An Introduction to the Study of the Constitution", which was published in 1885, defined the term as the right of Parliament to make or unmake any law whatever; and, further, that no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament.



Parliamentary Sovereignty

- **The Doctrine of Parliamentary Sovereignty provides the fundamental legal premise of the UK Constitution.**
- **The Doctrine means that an Act of Parliament must be obeyed by the courts, that later Acts prevail over earlier ones and that rules made by external bodies cannot override Acts of Parliament.**
- **It does not follow that Parliament is supreme political, although the line between legal and political sovereignty is often blurred.**



Foundations of Parliamentary Sovereignty

- **Parliamentary Sovereignty rests on frail foundations:**
 - **Without a codified constitution it is impossible to be sure as to its legal basis other than as an evolving practice which is usually said to depend on the 1688 revolution.**
 - **It is possible to maintain that the common law is really supreme.**
 - **The question of ultimate source of the power cannot be answered within the legal system along but depends on public acceptance.**

Parliamentary Sovereignty/Supremacy

Definition - Dicey (19th Century):

1. Parliament can
legislate on any
subject-matter:

*Act of Settlement
1700*

2. No Parliament can be
bound by any previous
Parliament, nor can a
Parliament pass any Act
that will bind a later
Parliament

But - *Act of Settlement
1700*; See also the next
slide

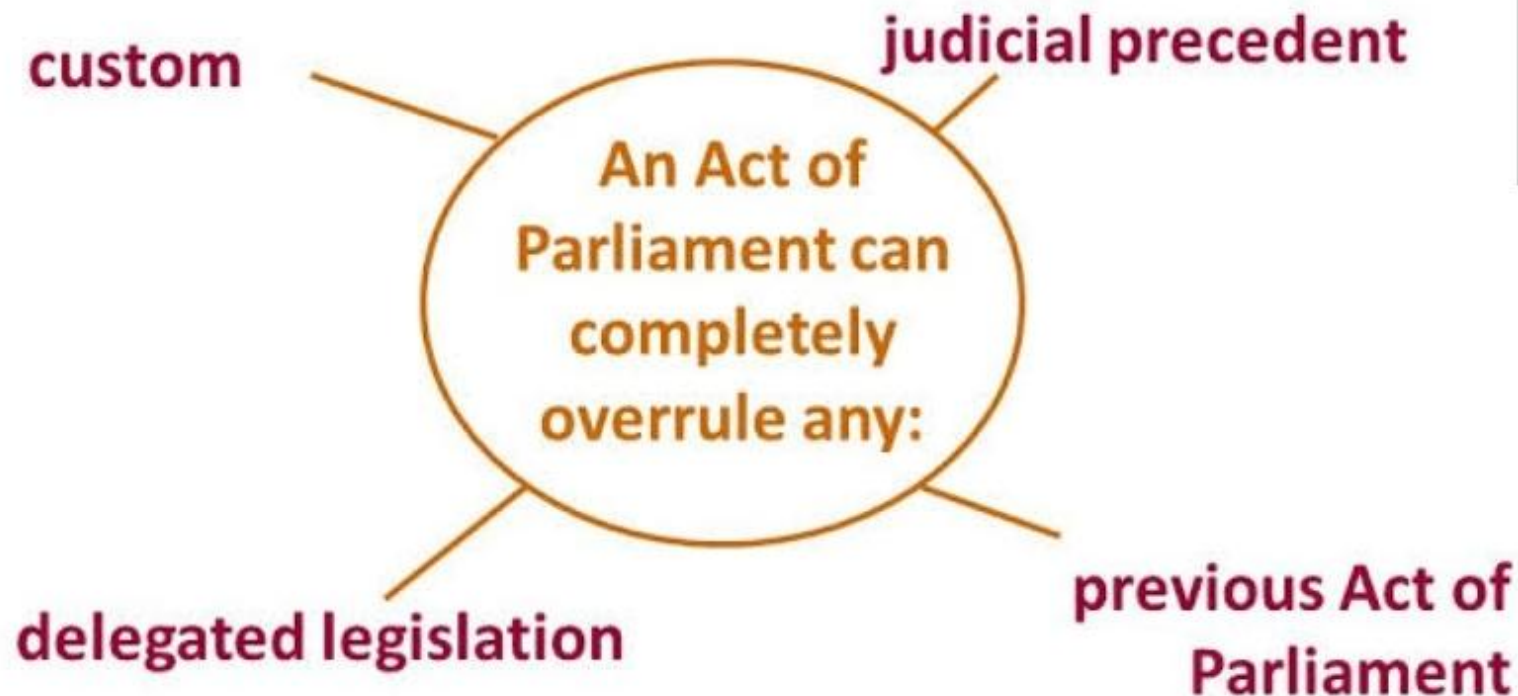
3. No other body
has the right to
overrule or set
aside an Act of
Parliament

Even if there was
fraud in making it -
*British Railways
Board v Pickin*



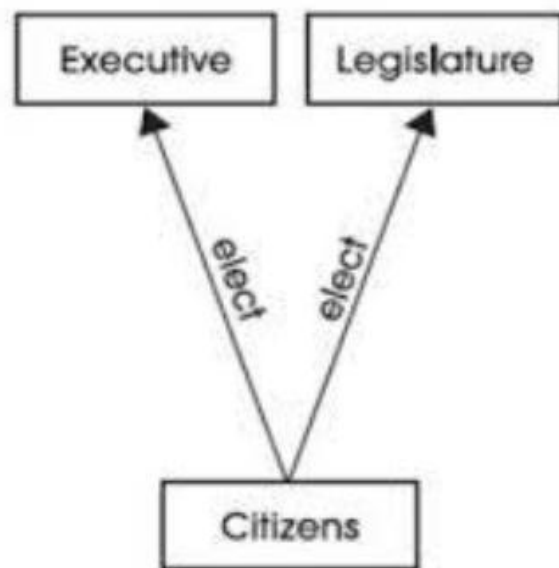
Parliamentary Sovereignty/Supremacy

Parliamentary law is sovereign over all other forms of law in England and Wales

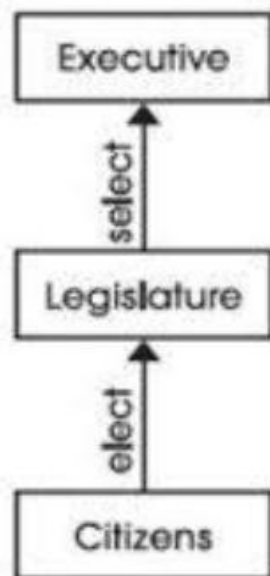


DIFFERENCES FROM A PARLIAMENTARY SYSTEM

Presidential Democracy



Parliamentary Democracy





IN THE ABSENCE OF WRITTEN CONSTITUTION,
THE ULTIMATE LAW-MAKING POWER LIES WITH
PARLIAMENT AND THE CROWN.

LEGISLATURE

PASS THE LAW

PASS THE LAW

EXECUTIVE

MINISTER ACCOUNTABLE TO
PARLIAMENT FOR ANYTHING HE DOES

JUDICIARY

JUDGES CAN ONLY
INTERPRET THE LAW

COURTS CANNOT CHALLENGE
THE VALIDITY OF THE ACT
UNCHALLENGEABLE



JUDICIARY



EXECUTIVE



DOCTRINE OF
IMPLIED REPEAL

NO PARLIAMENT CAN BE
BOUND BY ITS PREDECESSOR
NOR BIND ITS SUCCESSOR

MAKE OR UNMAKE
ANY LAW

FREE TO LEGISLATE
RETROSPECTIVELY