



Prifysgol Cymru
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University of Wales
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BMCX3000: LEGAL SYSTEM

Unit 6:

Legislative Power

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LEARNING OUTCOMES

- Explain the functions, composition, elections and procedures of the House of Commons
- Describe the functions, composition and membership of the House of Lords, including criticisms of its unelected status
- Describe the relationship between the House of Commons and the House of Lords
- Describe how Acts of Parliament are approved in the House of Commons and the House of Lords
- Understand the structure of an Act of Parliament
- Explain the purpose of secondary legislation and the main types of secondary legislation
- Describe the controls on secondary legislation
- Explain how taxation is authorised and scrutinised by Parliament
- Describe the functions of parliamentary committees, and
- Outline the purpose of parliamentary questions and debates.

SEPARATION OF POWERS

Legislature
(Parliament)

Executive
(Government)

Judiciary
(Courts)

WHAT IS THE LEGISLATURE?

- Main function is to create laws
- 4 Legislatures in UK
 - UK Parliament (Westminster)
 - Senedd (Welsh Parliament)
 - Scottish Parliament
 - Northern Ireland Assembly



UK PARLIAMENT STRUCTURE

- Located in London.
- Bicameral (2 chambers):
 - House of Lords
 - House of Commons
- And the King in Parliament

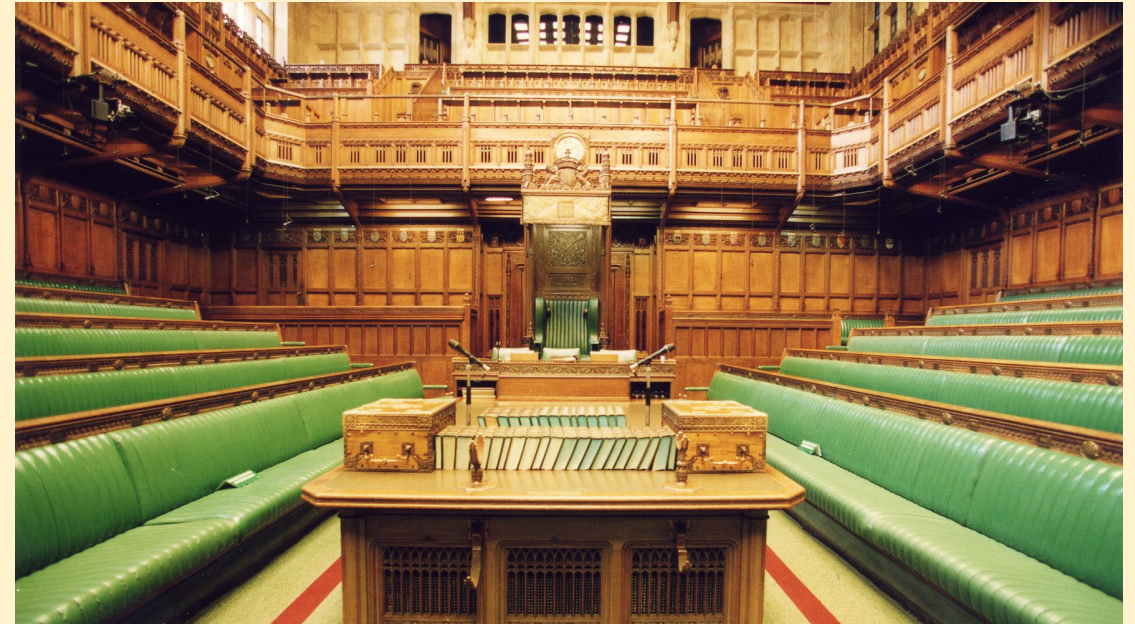


ACTIVITY 1: HOUSES OF COMMONS

- What do you already know about the House of Commons?
 1. How many MPs are elected to the HoC?
 2. How often are elections to the HoC?
 3. How is the Prime Minister chosen? (Who is the PM?)
 4. How is the leader of opposition appointed? (Who is it?)
 5. Do prisoners have the right to vote in UK elections?
 6. What is the formal record of the House of Commons?
 7. Do Members of Parliament get paid for their work?

HOUSE OF COMMONS

- Three functions:
- 1. Make the law
- 2. Taxation
- 3. Authorising expenditure
- 650 elected members
- Regulated itself



HOUSE OF COMMONS: OPERATIONS

- HoC regulates its own procedure via:
 - custom and practice;
 - Standing Orders (created by resolutions (formal votes));
 - rulings from the Speaker (chair); and
 - statute (e.g. PA 1911 and PA 1949).
- Several key officers:
 - Speaker of House of Commons
 - Leader of the House
- Formal record = Hansard
- Official opposition: largest minority party – scrutinises the activities of government
- MPs are paid a salary, and role holders typically receive a 'top up' for their additional duties

HOUSE OF LORDS

- Number of functions which mirror HoC
- Legislative functions: scrutinise and approve bills
- Scrutinise executive: restraining force
- 800 members (peers) – not elected
 - Life peers (by King) (most common)
 - Hereditary peers (Inherited title) (92)
 - Lords Spiritual (26)
- Most affiliated with major parties. Smaller parties represented, but can be 'cross bencher'



ACTIVITY 2: REFORMING HOL

- Arguments surrounding reforming the House of Lords have existed for well over a century! In breakout groups, discuss the pros and cons of the House of Lords, and create a 30 second position statement whether the HoLs should be maintained or not.
- Groups 1 and 3: argue in favour of reform
- Groups 2 and 4: argue against reform

RELATIONSHIP BETWEEN HOUSES

- Both houses can introduce legislation, but HoL main role is to review and revise HoC legislative workings
- Recent years HoL more willing to raise matters seen as important
- HoL defeats of gov bill increased
- Generally, HoL seen as less political
- Relationship governed by custom and practice
- **Salsbury convention:** HoL will not oppose legislation formed from manifesto
- **Parliament Acts 1911 and 1949:**

MONARCHY AND LEGISLATION

- The Monarchy open Parliament
- King's Speech
- Created by Parliament
- All legislation made in Parliament must obtain Royal Assent



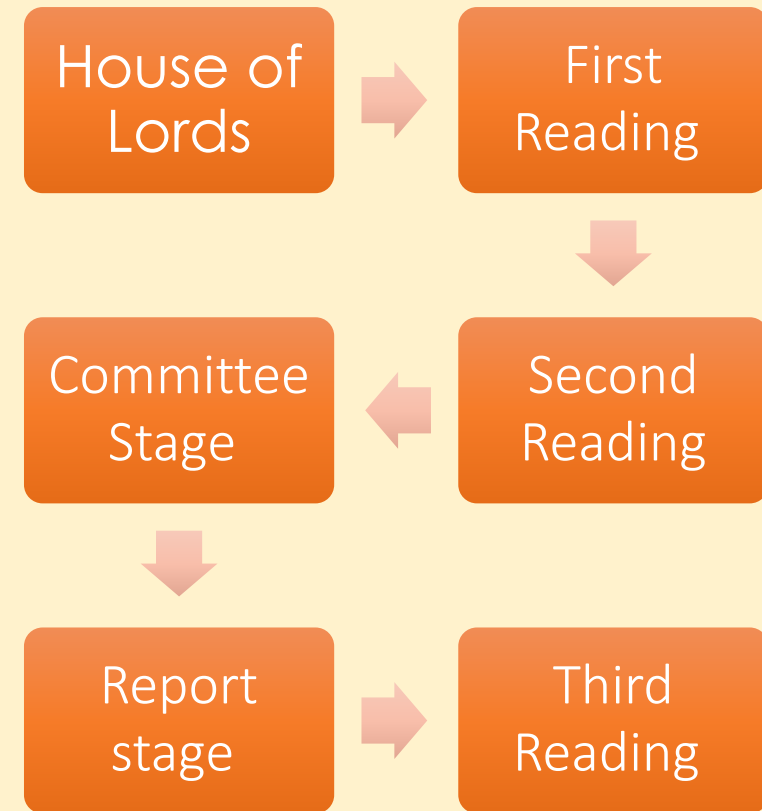
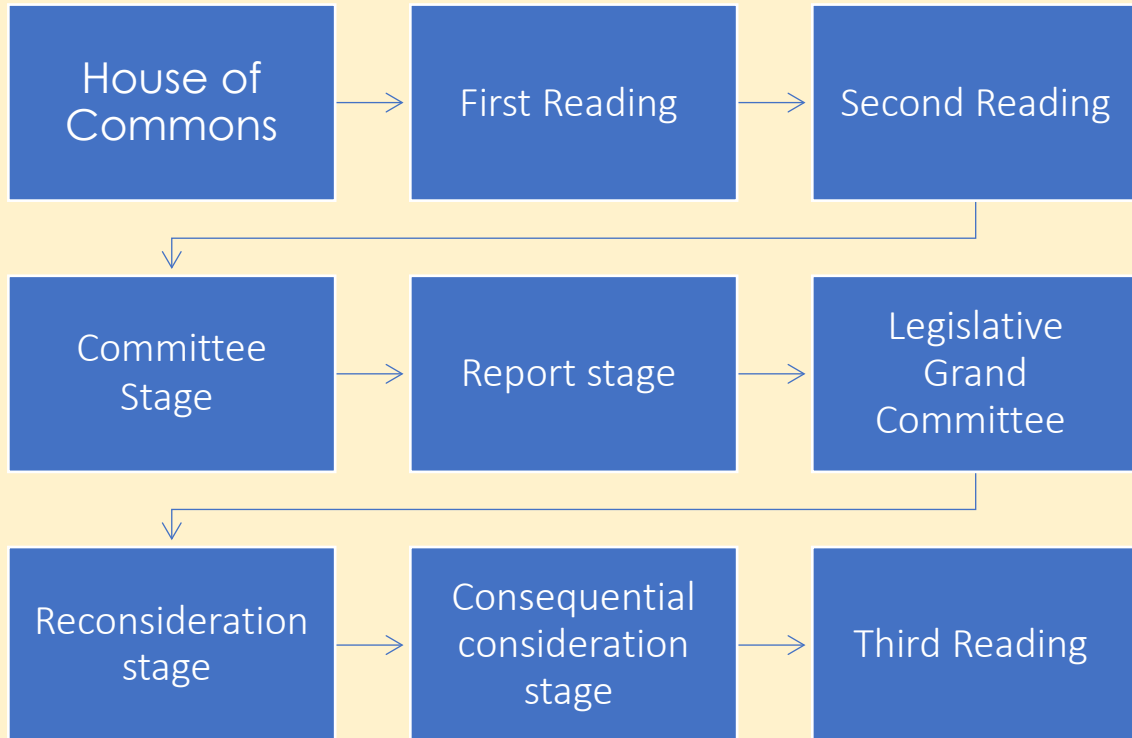
PRIMARY LEGISLATION

- Acts of Parliament
(Statutes)
- Pre-legislative process:
Green papers
- Become white papers

BILLS AND ACTS

- Each act starts as a **bill** → amended and voted on by both houses
- Final version of bill becomes an act only after approved by both houses, and King → **Royal Assent**
- Most important body of law in UK
- Categorising bills:
 - Subject matter: 1. Public, 2. Private, 3. Hybrid
 - Originator: 1. Government, 2. Private member's bill.

PROCEDURE FOR CREATING ACT OF PARLIAMENT



STRUCTURE OF LEGISLATION (1)

Short title

Theft Act 1968

1968 CHAPTER 60

Citation: chapter number – each year's statute book is made up of chapters. Each chapter is a new statute.

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The long title – provides some detail on the purpose of the statute.

An Act to revise the law of England and Wales as to theft and similar or associated offences, and in connection therewith to make provision as to criminal proceedings by one party to a marriage against the other, and to make certain amendments extending beyond England and Wales in the Post Office Act 1953 and other enactments; and for other purposes connected therewith.

Date of Royal Assent – this is not the same as the date at which the statute comes into effect. [26th July 1968]

STRUCTURE OF LEGISLATION (2)

Notes

- ¹ Act amended as to mode of trial by Magistrates' Courts Act 1980 (c.43), Sch. 1 para. 28, and ss. 31 (general limit on power of magistrates' court to impose imprisonment), 32 (penalties on summary conviction of offences triable either way) and 34 (mitigation of penalties) of that Act apply
- ² Criminal Law Act 1977 (c.45), s. 32(1) (other provisions as to maximum fines) applies

Extent

Preamble: England, Wales

Definition of "theft"

✅ Law In Force

Section
number

1.— Basic definition of theft.

Subsection
number

(1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and "thief" and "steal" shall be construed accordingly.

SECONDARY LEGISLATION

- Huge volume of delegated legislation (secondary or subordinate)
- Primary responsibility for legislation sits with Parliament – Primary acts not suited to detailed regulations.
- Approve sections in acts, which empower someone to create more detailed secondary/delegated legislation
 - The act that empowers – enabling act
 - Usually delegated to a minister, assisted by civil servant
 - Can delegate to local authorities or other bodies
 - Court rules delegated to judges

DELEGATED LEGISLATION

- Statutory instruments
- Orders in Council
- Bye-laws
- Key advantages:
 - Speed, technical, and flexible
- Key limitations:
 - Volume, poor quality, obscure

CONTROL OVER DELEGATED LEGISLATION

- Parliamentary control
 - Publication
 - Laying before parliament
 - Parliamentary committees
- Judicial control
 - Subject to judicial review
 - Challenge legality of delegated legislation (*Ultra vires*)

TAXATION

- Taxation is a primary function of Parliament to oversee the expenditure of money by the executive in the discharge of its functions
- Budgeting speech
- A number of committees-
 - 1. Select committee in the house of commons.
 - 2. Select committee in the house of lords.
 - 3. Joint committees

SCRUTINISING ACTIVITY

- Various committees important in holding Parliament to account:
 - Select committees (HoC)
 - Select committees (HoL)
 - Joint committees
- Parliamentary questions
 - Questions to ministers
- Debates

ACTIVITY 3: SCRUTINISING GOVERNMENT

- One of Parliament's core roles is to scrutinise the actions of Government and ministers. In your groups discuss:
 - Does Parliament have adequate mechanisms to scrutinise the actions of ministers?
 - Is the ability to call a minister/PM before Parliament to answer questions effective?

KNOWLEDGE CHECK (1)

- Parliament consists of two chambers and the King?
- True
- False

KNOWLEDGE CHECK (2)

- The House of Lords is an elected chambers?
- True
- False

KNOWLEDGE CHECK (3)

- Members of the HoL can vote in elections?
- True
- False

KNOWLEDGE CHECK (4)

- The House of Commons is the dominant chamber?
- True
- False

KNOWLEDGE CHECK (5)

- Acts of Parliament can be subject to judicial review?
- True
- False

Summary

Parliament.



House of Commons and House of Lords.



Parliamentary debates/questions.



Secondary legislation.

THANK YOU!

Any Questions?