# UNIT 3: LAW-MAKING

## Parliament and the Citizen

PROGRESS OF A BILL THROUGH PARLIAMENT
1st House→ 2ns House → Certification → Royal Assent → Proclamation

Why laws need to change

- Changing values
- Technology
- Protection of the community

Structure of State and Commonwealth Parliament

- State Parliament = Legislative Assembly ( lower house) + Legislative Council ( upper house) + Governor ( Queen's rep.)
- Commonwealth Parliament = The House of Representative (lower house) + The Senate (upper house) + GG (Queen's rep.)

STRENNGTHS AND WEAKNESSES OF PARLIAMENT AS A LAW-MAKING BODY

Methods of changing the law

INFORMAL

- petitions
- demonstrations
- media

FORMAL
= VLRC

Principles of the Australian parliamentary system:

- responsible government
- representative government
- principle of the separation of powers

## Role of the courts in law-making

STATUTORY INTERPRETATION
= when judges interpret the words or phrases in an act of parliament to give the words meaning.
EFFECTS ;

- Creates new precedent
- Words in an act are given meaning

REASONS:

- Mistakes in drafting the bill
- Changing nature of words
- Words within the act may be ambiguous
- The wording of an act may not encompass future circumstances

THE DOCTRINE OF PRECEDENT
The reasoning of the judges in cases heard in superior courts of record which is known as precedent, must be followed by all lower courts in the same hierarchy when deciding cases with similar

ABILITY OF JUDGES TO MAKE LAW

- distinguishing
- overruling
- reversing
- disapproving

## The Constitution and the Protection of Rights

DIVISION OF LAW-MAKING POWER

- residual powers
- specific powers ( concurrent and exclusive)
- impact of Section 109

PROTECTION OF RIGHTS

- structural protection
- express rights
- implied rights

REFERENDUM PROCESS

1. Bill
2. Proposed change put to the people; double majority
3. Royal assent
4. Relevant section of Constitution changed

Example; 1967 referendum on Aboriginals

RESTRICTIONS IMPOSED BY THE COMMONWEALTH CONSTITUTION

THE ROLE OF THE HIGH COURT

- S 76; interprets the words of the Constitution and gives meaning to them
- Roach v. Electoral Commissioner (2007)
- Brislan Case
- Franklin Dam Case

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