



Parliamentary Sovereignty-Control of the Constitution?

King of the Remote Control

- ✘ According to **Dicey**, Parliament can make or unmake any law it chooses.
- ✘ As **Jennings** pointed out though, it is subject to **practical limitations**. Parliament could pass a law saying that Rome was to become part of the UK, and this statute would become a valid part of the legal system. However, this doesn't mean that the Italian people would go along with the plan!
- ✘ There is also the debate about the extent to which Parliament can bind future Parliaments. (Can one holder of the remote control make a commitment to sit through *The Nutcracker*, which is binding if one someone else takes over the control and discovers that Real Madrid are playing Manchester United?)
- ✘ **Constitutional Statutes**-e.g. Magna Carta, European Communities Act 1972, Human Rights Act 1998. These are **not subject to implied repeal** so can only be amended or repealed intentionally. **But they can be intentionally repealed**. See the **Thoburn** case.
- ✘ **European Law**-For the moment this takes precedence but only by virtue of the European Communities Act 1972. Parliament has resolved to repeal this and is free to do so.
- ✘ **Human Rights Act**-This **does not give judges any power to 'strike down' primary legislation**. The courts will try to interpret legislation so that it is harmony with the HRA, but if this isn't possible, all they can do is issue a **declaration of incompatibility**. i.e. Remind the remote control holder that they *said* that they were going to sit through the ballet.....but it is up to Parliament to decide whether it is going to change the channel or sit down and watch the match!

- ✎ **BUT** Parliament does have to operate in the real world. The most powerful chamber (House of Commons) is answerable to the electorate. Also in extreme circumstances, there is always the risk of civil disobedience, protests or even revolution. Whilst Parliament is King of the Remote Control, it still has to negotiate and collaborate with other actors in the Constitutional system, including those who vote and pay taxes!

