



# Parliamentary Law Making

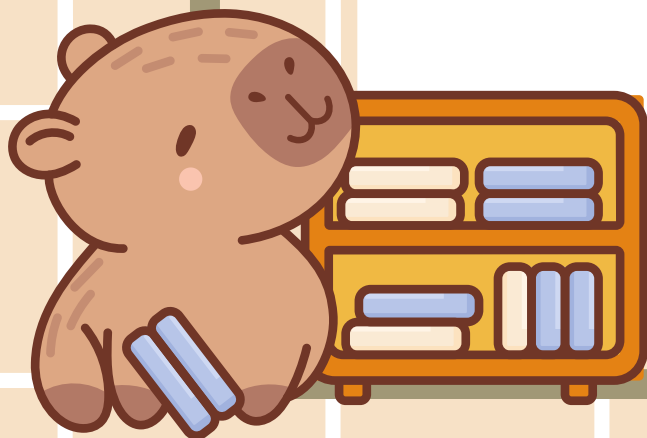
# Introduction

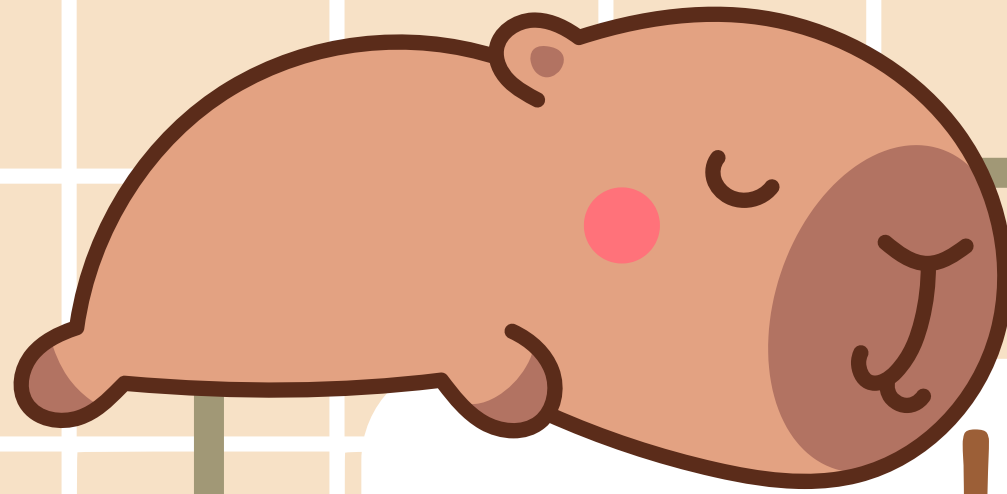
UK Parliament Consists of:

- House of Commons
- House of Lords
- King/Queen [ornamental now!]

They all act together:

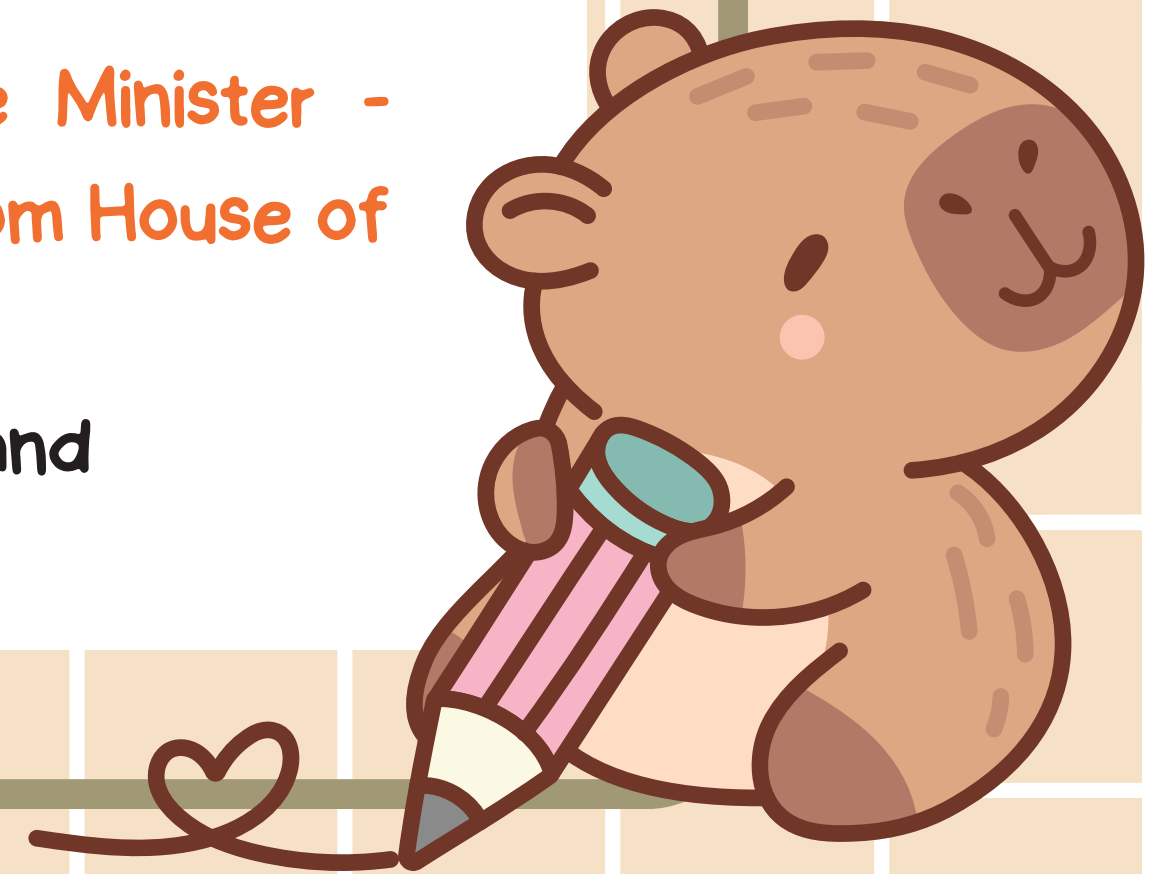
- Members of House of Commons are elected
- Members of House of Lords – either hereditary peers or appointed life peers
- King/Queen – give his/her assent before a law becomes an Act of Parliament





# Legislative Process

- In 2020 House of Lords consisted of:
  - Maximum 92 hereditary peers (title passed down through their family)
  - About 660 life peers (nominated by Prime Minister - mostly former politicians who have retired from House of Commons)
  - 26 most senior bishops in the Church of England



# Pre-Legislative Process



- **Green Paper** – suggests ideas for public discussion before making formal policies
- **White Paper** – outlines official policies or plans for future laws and decisions



# White Paper & Green Paper



- If government is unsure of what law to introduce on a topic – it may issue Green Paper
- Responsible/relevant minister issues the Green Paper
- **Green Paper:**
  - Is a consultative document
  - It contains the government's views with proposals for law reform
- Interested people can comment to relevant state body [ministry or such!] in order to:
  - To suggest necessary changes to government's proposals

# White Paper & Green Paper



- If government has firm views on a topic – it can bypass Green Paper stage and directly go for White Paper stage
- Advance notice of further legislation is given through White Paper
- White Paper allows for consultation from experts before new law is actually framed
- Why is a White Paper important sometimes?
  - Governments face criticism if they respond in a 'knee-jerk' manner to incidents by passing laws abruptly without proper research
  - Example: Dangerous Dogs Act 1991



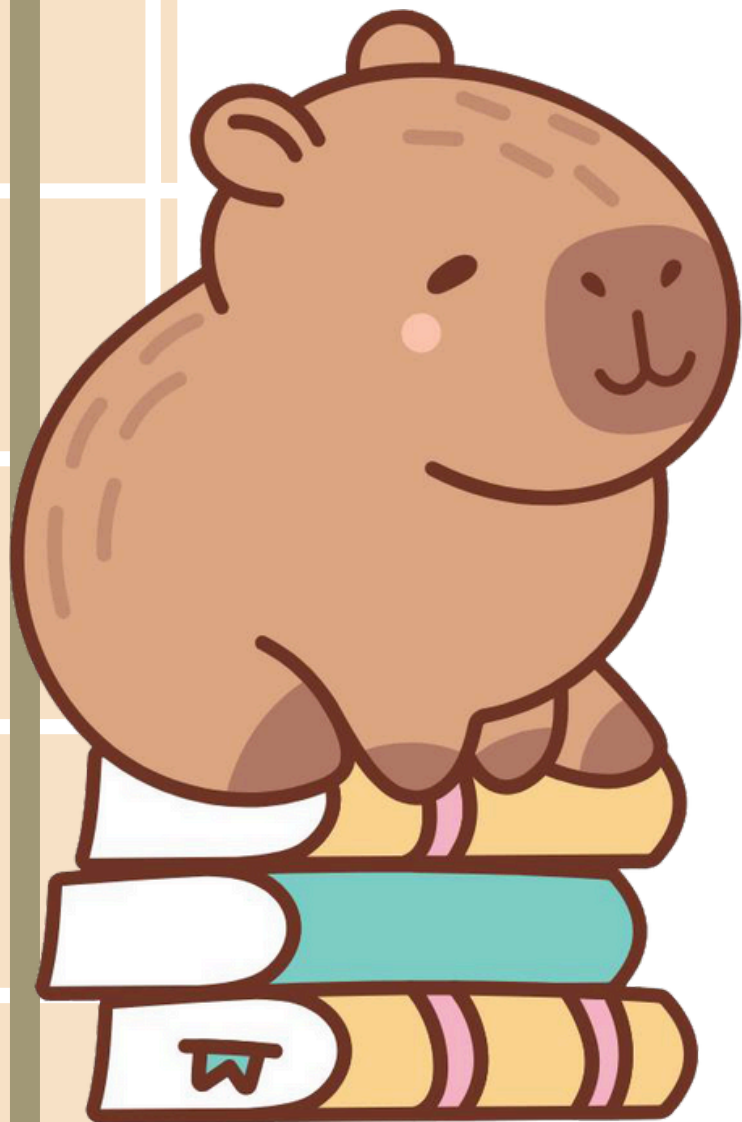
# White Paper & Green Paper



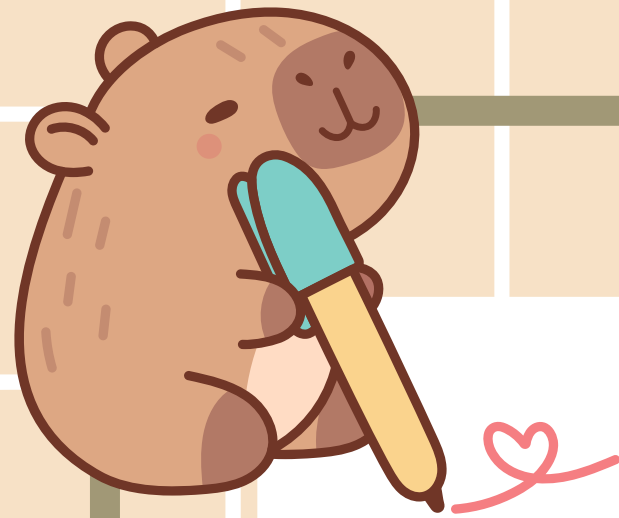
- Examples of Green Papers transitioning into White Papers in recent years include:
  - Corporation Governance Reform
    - Green Paper submitted in 2017
    - White Paper submitted in 2018
  - Open Public Services
    - Green Paper submitted in 2011
    - White Paper submitted in 2012

# Bills

- A bill becomes an Act of Parliament (legislation) – only if it gets approval from necessary stages
- There are 04 types of bills in the UK:
  - Government Bills
  - Private Members' Bills
  - Public Bills
  - Private Bills

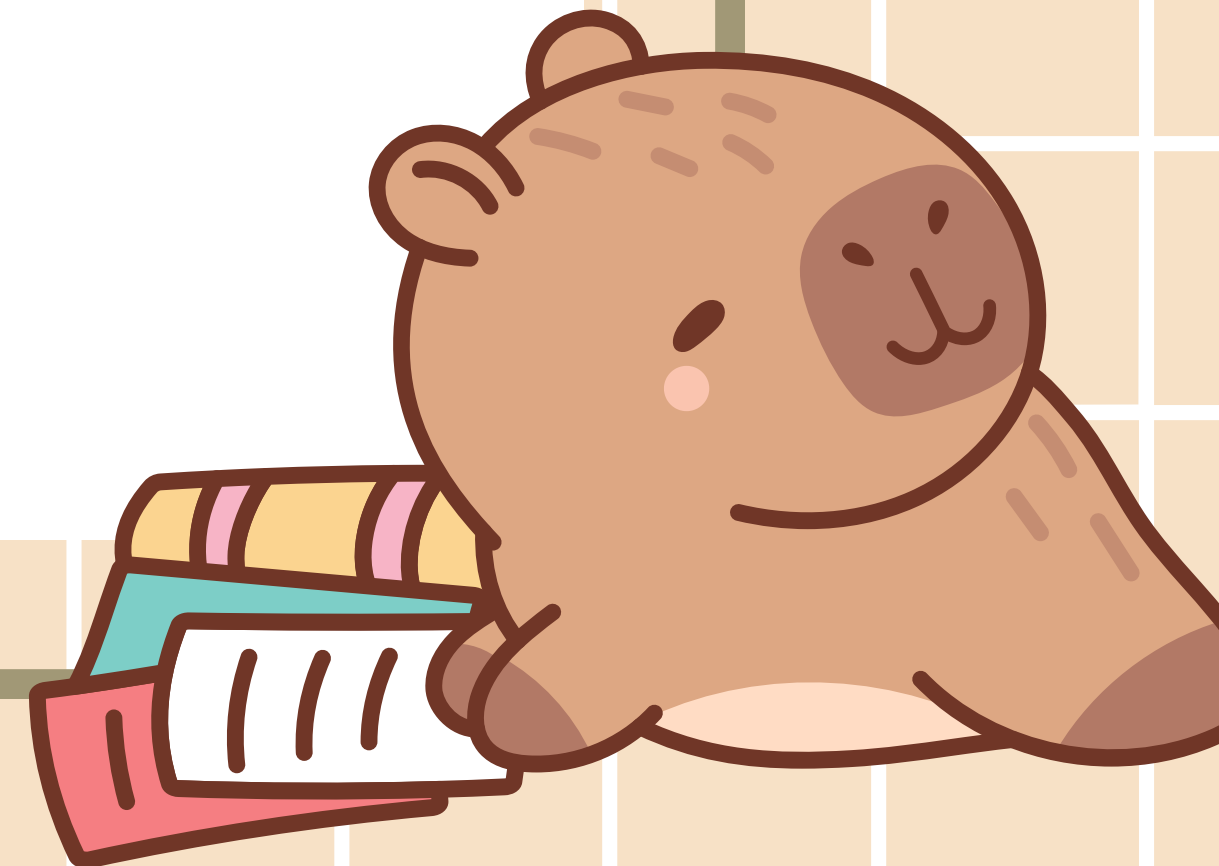


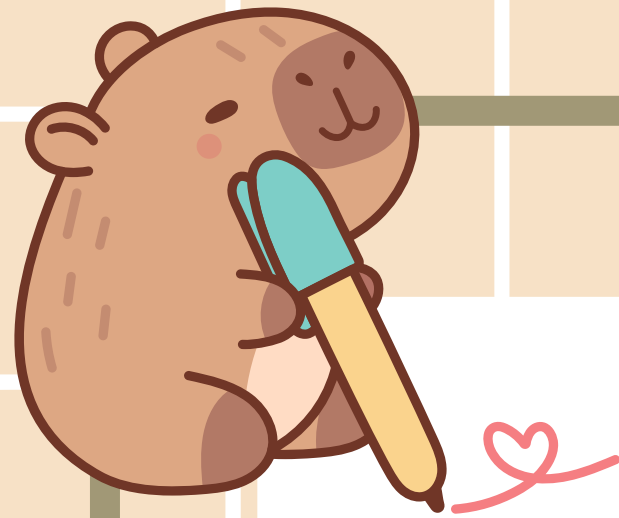




# Government Bills

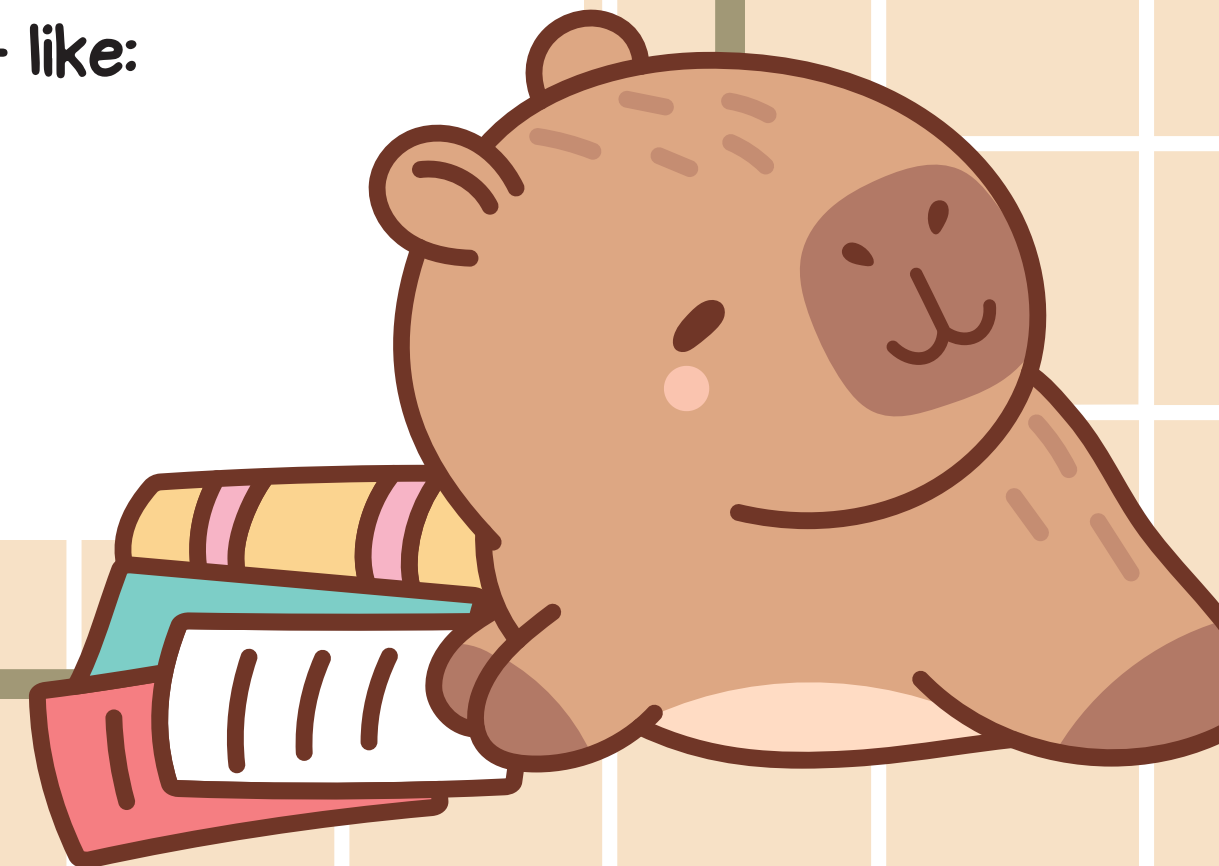
- These bills can be sponsored by individual MPs
- Parliamentary process allows for a ballot during each session - where:
  - 20 private members are selected
  - These private members take turn in presenting bills
- Time of debate is limited – 6 or 7 members in the ballot have realistic chances of introducing bills on chosen topics
- Few bills become law
- Some laws passed this way were:
  - Abortion Act 1967
  - Marriage Act 1994
  - Household Waste Recycling Act 2003





## Govt. Bills: 10-minute Rule

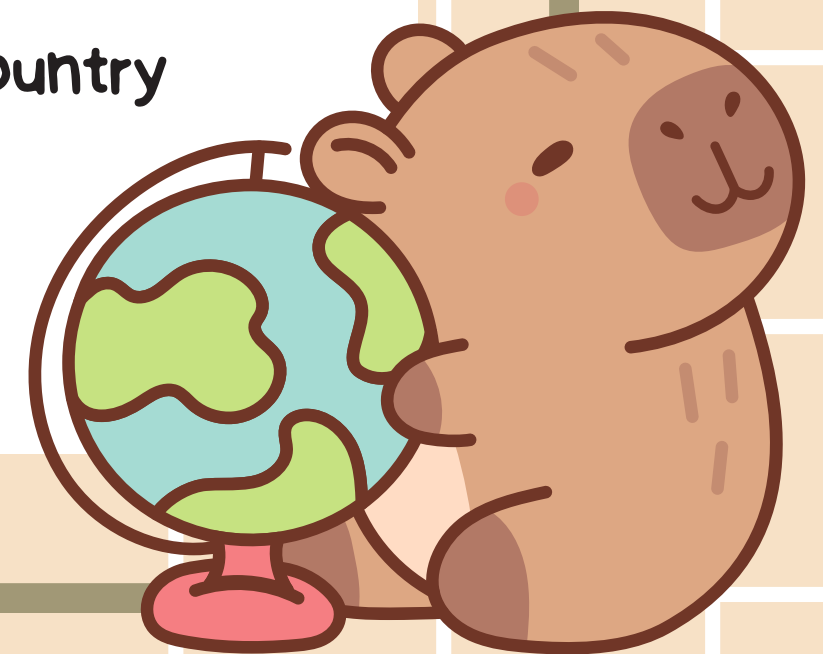
- Backbenchers can try introducing bills through the 'ten-minute rule'
- The rule allows any MPs to make speeches of up to 10 minutes supporting the introduction of new legislation
- This method is rarely successful
- Some acts have been introduced through this method – like:
  - Bail (Amendment) Act 1993





# Public Bills

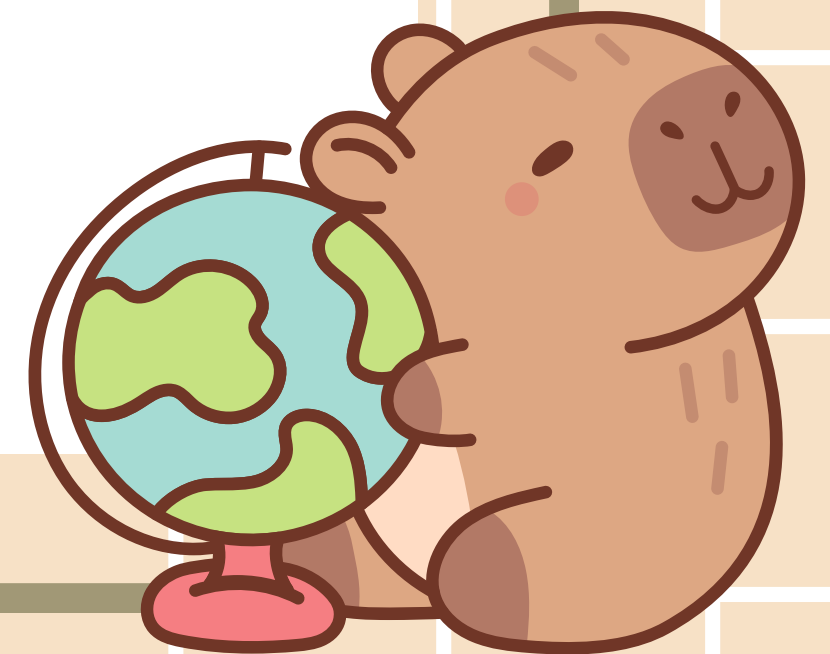
- Public policy affecting either whole country or large sections of it
- Most government bills fall into this category
- Example:
  - Constitutional Reform Act 2005
  - Legal Services Act 2007
- Not all government bills are aimed at changing law for entire country





# Private Bills

- Bills designed to pass law affecting only individual people or corporations
- Example:
  - University College London Act 1996





# Process in Parliament



- Bills go through a complex process to become laws (Acts of Parliament)
- Bill may start in either House of Commons or House of Lords
- Exeption:
  - Finance Bills – these must always start first at House of Commons



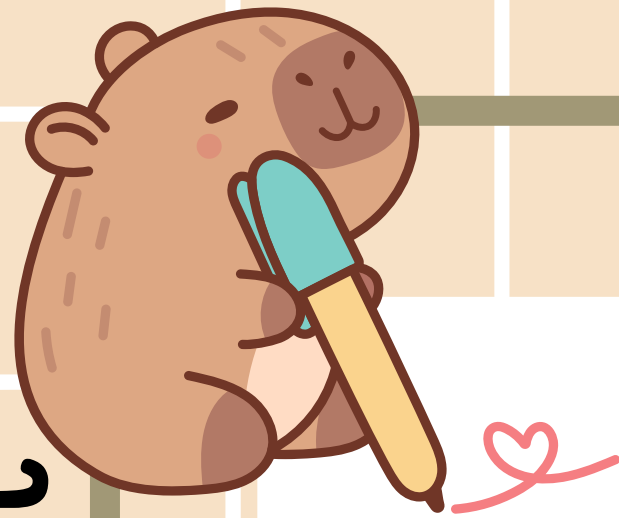
# From a Bill to an Act

- First Reading
- Second Reading
- Committee Stage
- Report Stage
- Third Reading
- Same Procedures at the Other House
- Royal Assent
- Commencement of Act



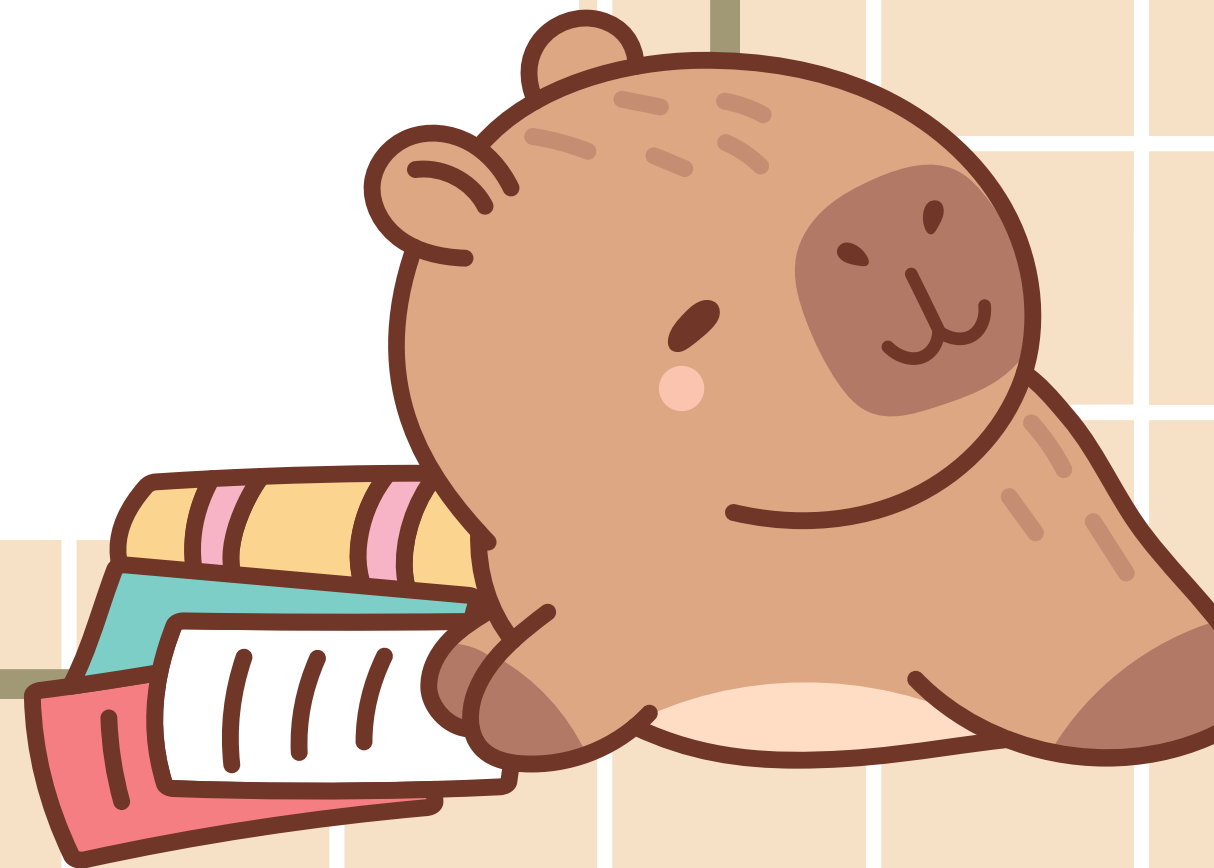


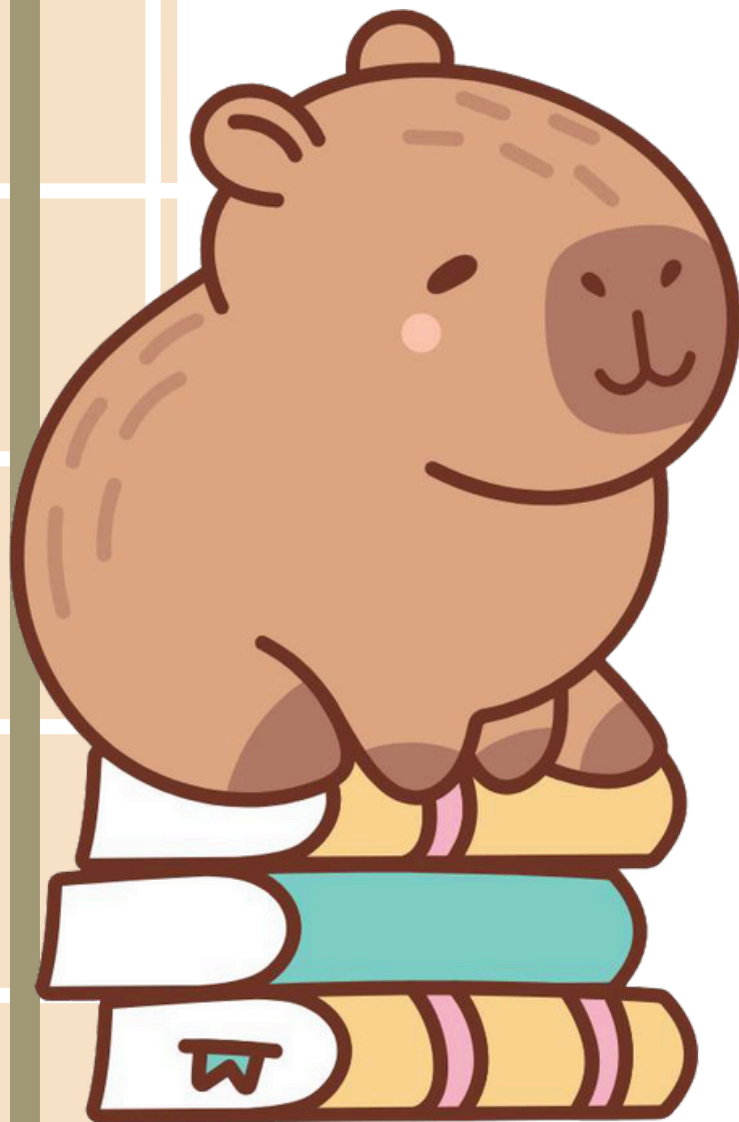
# Process in Parliament



## First Reading

- Formal Procedure
- Name and Main Aims of Bill read out
- There may be Discussion on it
- But no Voting

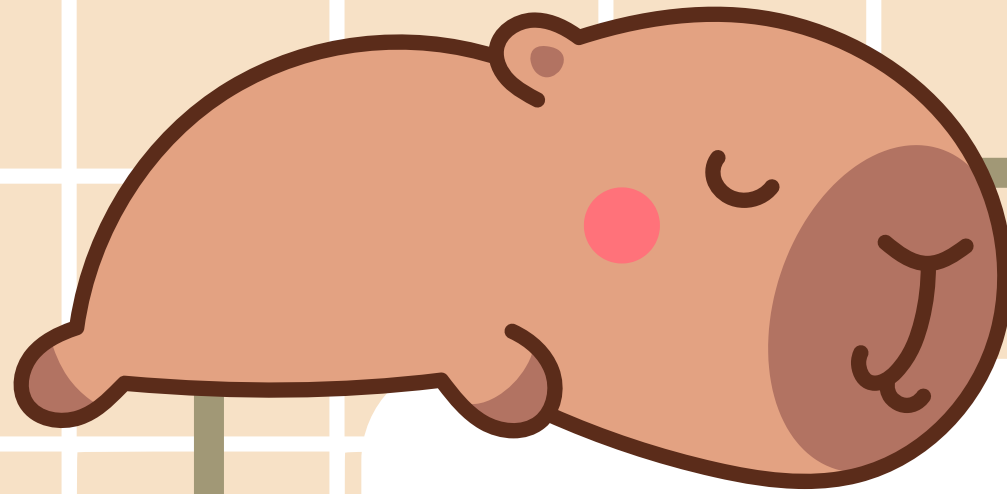




## Second Reading

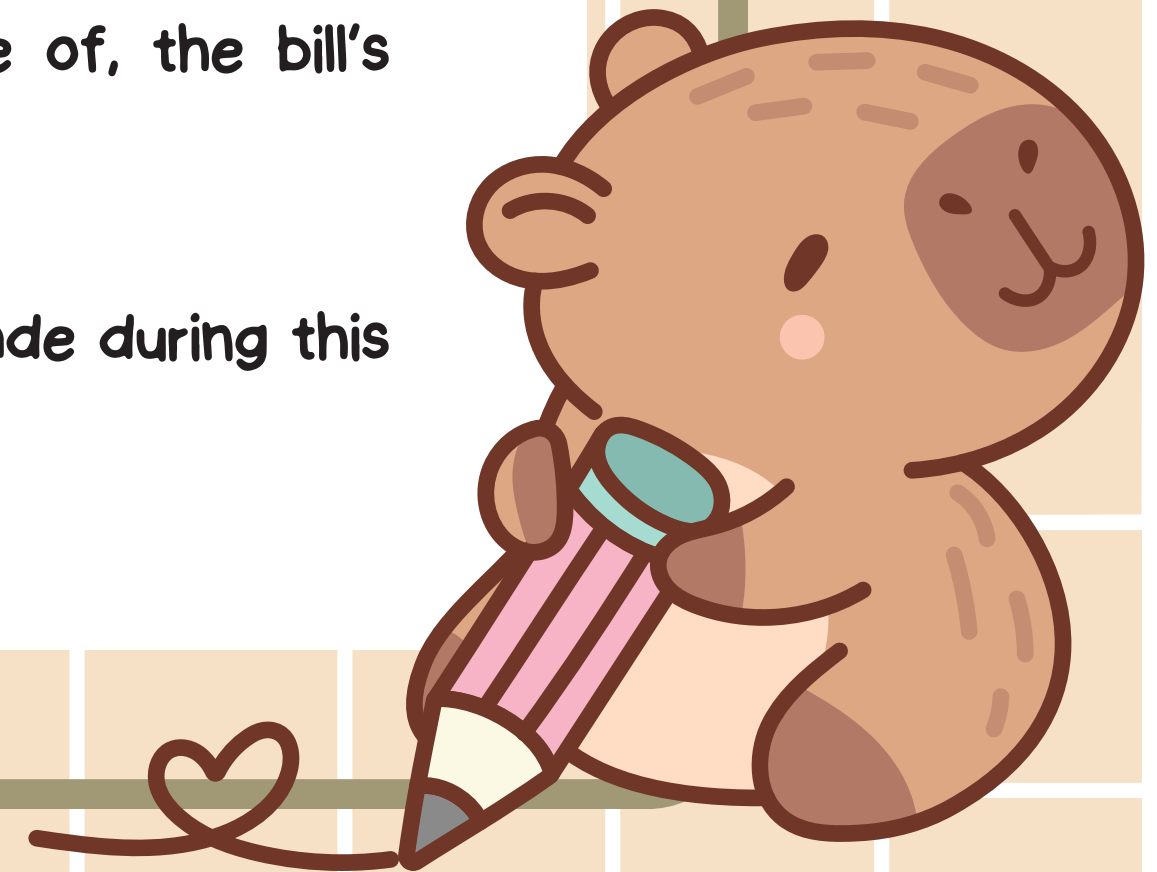


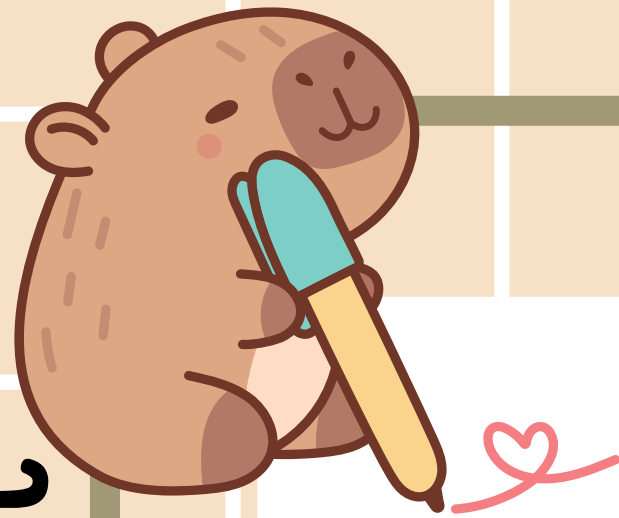
- Main debate on whole bill
- MPs deliberate the principles behind the bill
- Debate focuses on main principles rather than smaller details
- MPs wishing to speak in debate must catch Speaker's eye
- Speaker controls all debates – no one may speak without being called by the Speaker
- Voting called out at the end of debate – can be verbal or formal



## Committee Stage

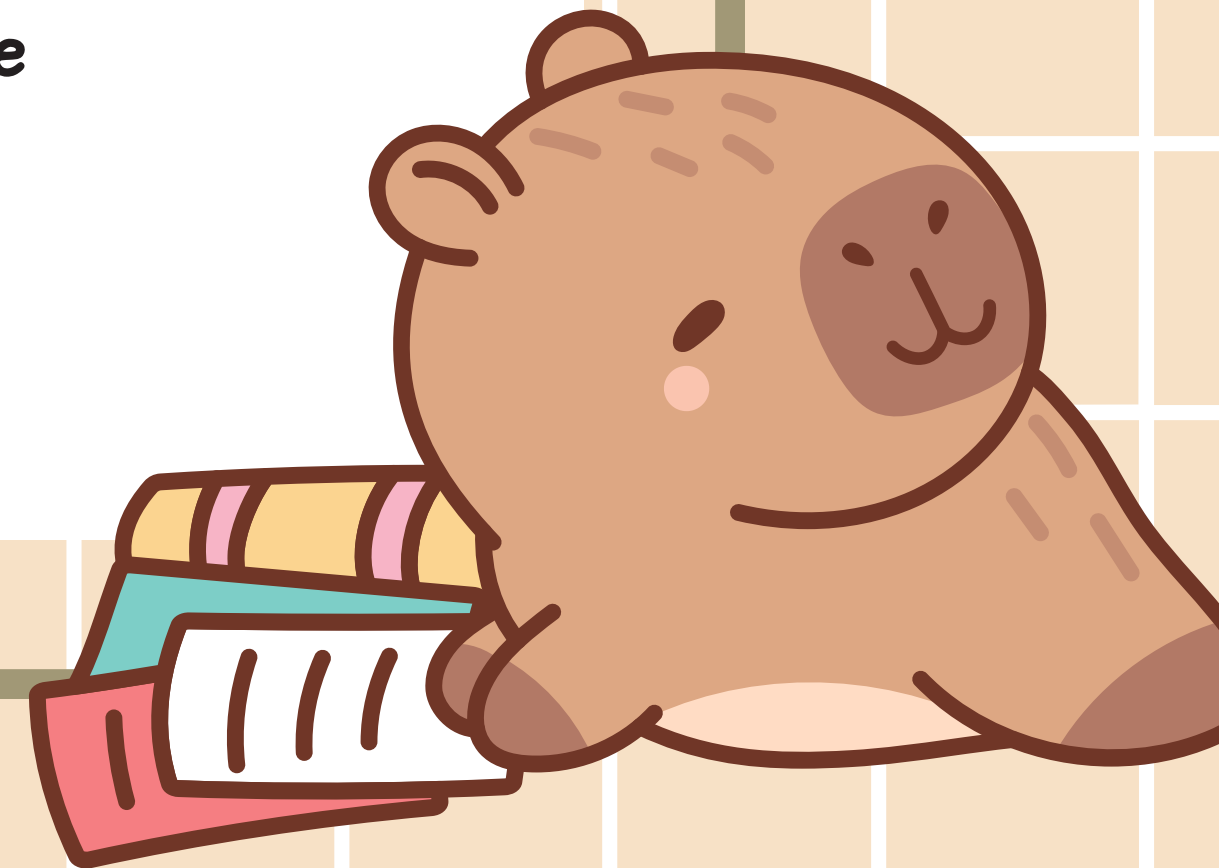
- Bill proceeds to Committee Stage once it passes Second Reading
- Here, each clause of bill is examined in detail
- Undertaken by Standing Committee of 16-50 MPs
- MPs chosen specifically for that purpose
- These MPs usually have special interest in, or knowledge of, the bill's subject
- For finance bills – Whole House sits in committee
- Amendments (changes) to various words or clauses are made during this stage
- Bill may be voted on and passed

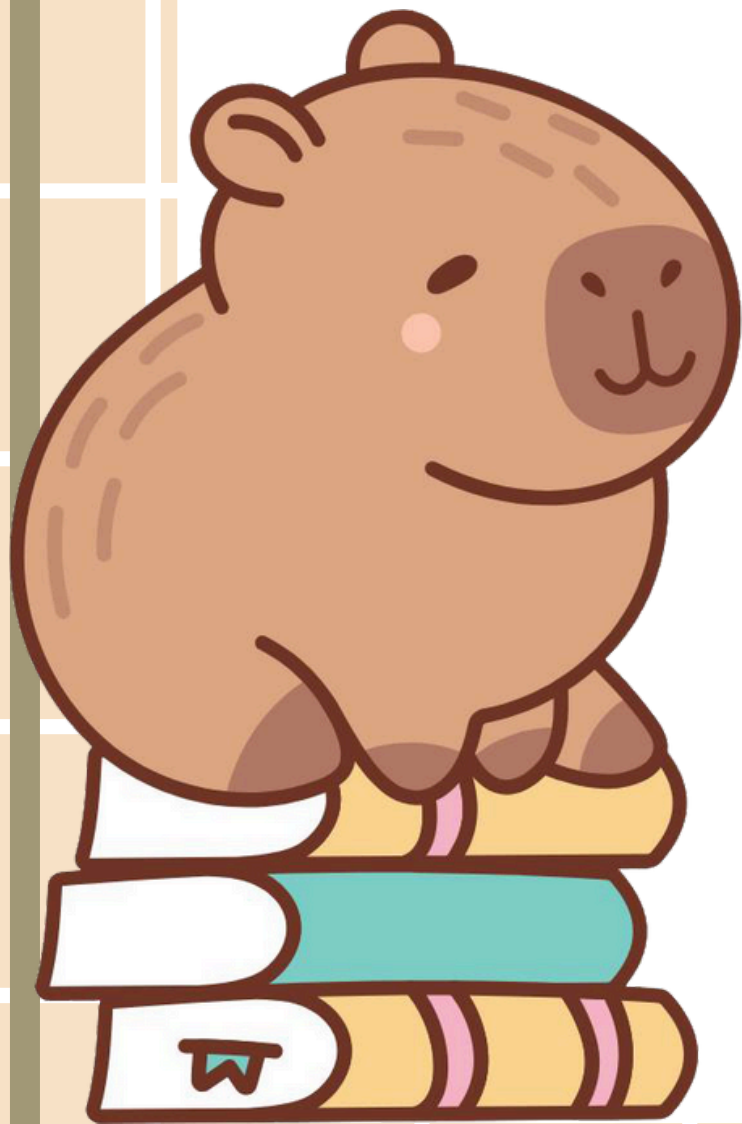




## Report Stage

- Committee reports back to House on any amendments to bill
- Amendments are debated in the House, and:
  - Either accepted or rejected
  - Further amendments can be added
- If bill has no amendments - there will be no Report Stage
- Instead, bill will continue straight to Third Reading



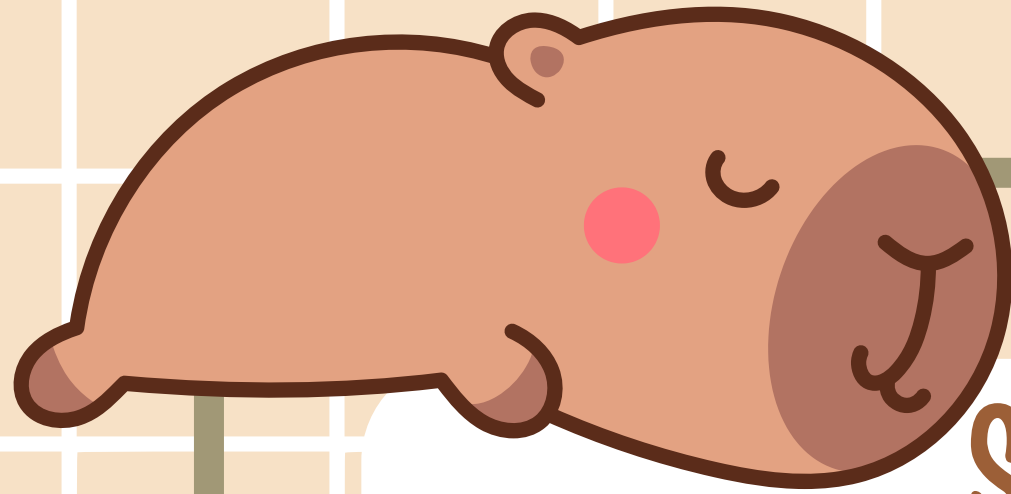


## Third Reading

- Final vote on the bill
- Almost a formality – since bill will unlikely fail at this stage
- Usually no debate or vote



# Process in Parliament

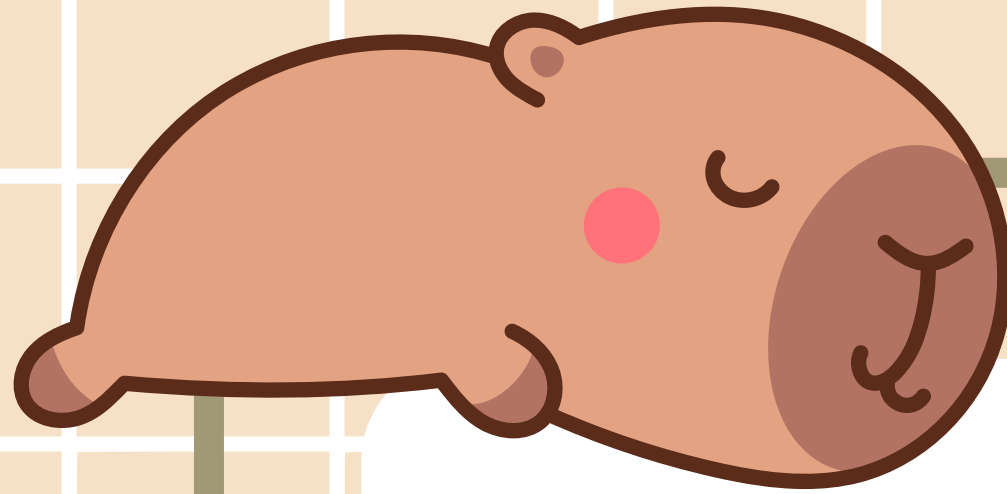


## Same Process in the Other House

- Bills that start at House of Commons go through similar stages in House of Lords – and bills that start in House of Lords go through similar stages in House of Commons
- If House of Lords makes amendments to the bill – it goes back to House of Commons to consider these changes
- If House of Commons do not accept the changes – the amendment will go back to House of Lords for reconsideration
- if House of Lords insists on the amendment – it is sent back to House of Commons
- This can result bills going back and forth between both houses – this is called 'ping-pong'
- By the end a bill must be agreed by both Houses

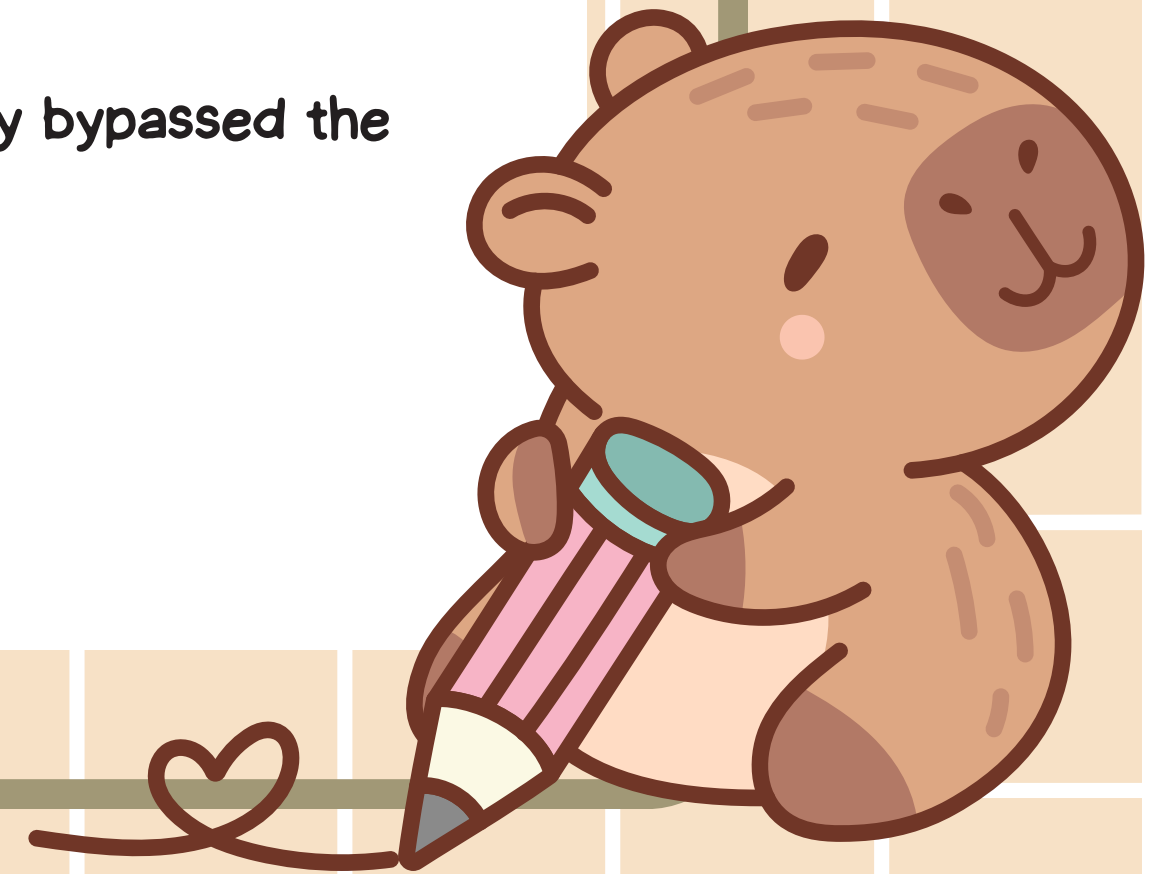


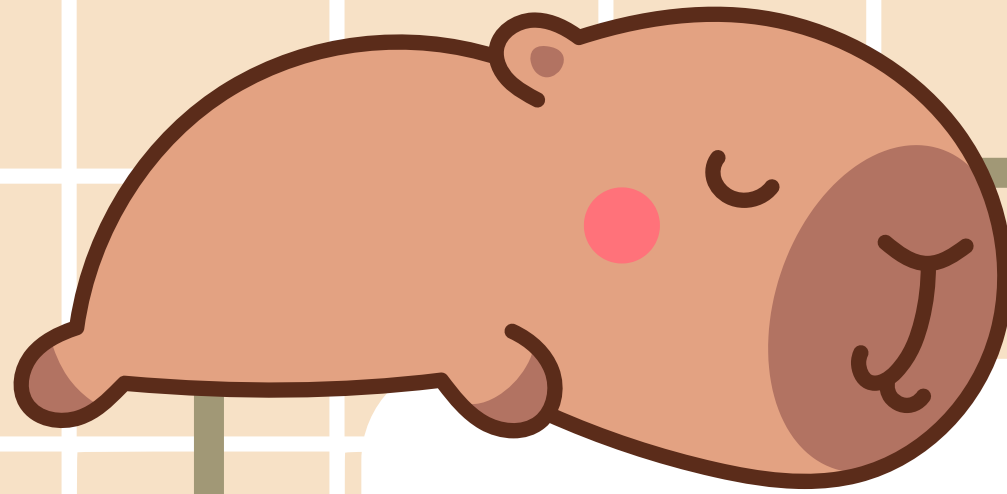




## Parliament Acts 1911 & 1949

- Parliament Acts 1911 & 1949 limits House of Lords' power to reject bills from House of Commons
- The Acts allow bills to become law even if House of Lords rejects them
- This limitation on House of Lords is because it is not an elected body
- House of Lords' function is refining the law [by making the legal language better, etc.] rather than to oppose the will of House of Commons
- There were only 04 occasions where House of Commons' actually bypassed the authority of House of Lords to approve bills – these were on:
  - War Crimes Act 1991
  - European Parliamentary Elections Act 1999
  - Sexual Offences (Amendment) Act 2000
  - Hunting Act 2004

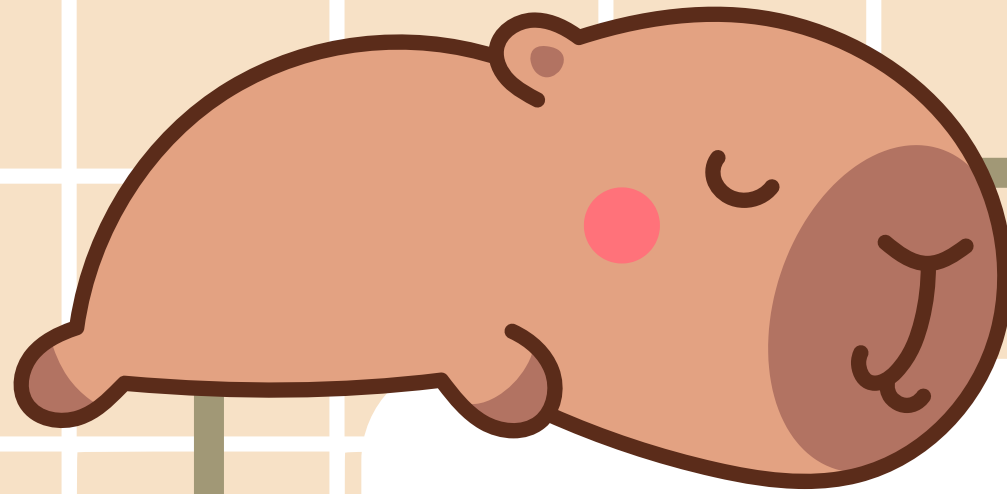




## Royal Assent

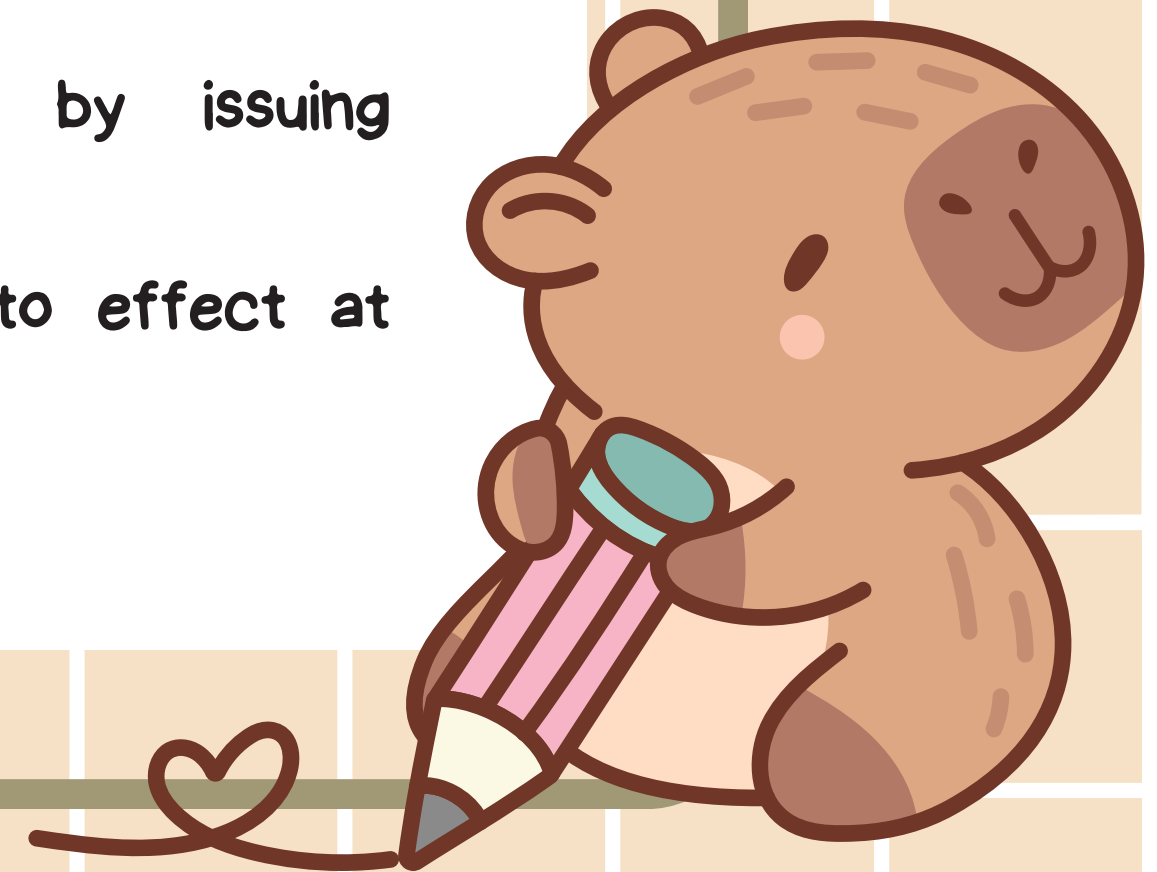
- Final Stage
- Monarch gives formal approval to bill
- The bill becomes an Act of Parliament after this
- Monarch's approval is now a formality
- Under Royal Assent Act 1967:
  - Monarch will not even have the text of bills which they are assenting
- Monarch will receive only the short title
- Last time the Monarch refused to assent was in 1707





## Commencement of an Act

- Act of Parliament comes into force on midnight of the day after Royal Assent – unless a date of effect is spelled out in the Act
- The Act itself will state the date of enforcement or commencement or pass responsibility to a government minister to set commencement date
- Responsible Minister can bring Act into force by issuing commencement order by delegated legislation
- Sometimes different sections of Act are brought into effect at different times – but this can cause uncertainty



# Adv. & Disadv.

## Advantages of Law Making in Parliament

- Law is made by elected representatives – meaning it is democratic
- Acts of parliament can reform whole areas of law in one new Act
- Acts can set broad policies & establish delegated legislation
- Bills mostly proposed after consultation
- Law made by parliament is certain cannot be challenged by judges

## Disadvantages of Law Making in Parliament

- Government & parliament do not always have time or inclination to deal with all proposed reforms
- The process of bill becoming an Act can take several months
- Government is in control of parliamentary timetable and allows little time for Private Members’ Bill
- Acts are often long and complicated
- Law can become even more complicated
- Act may in several cases not come into force after it completes parliamentary stages

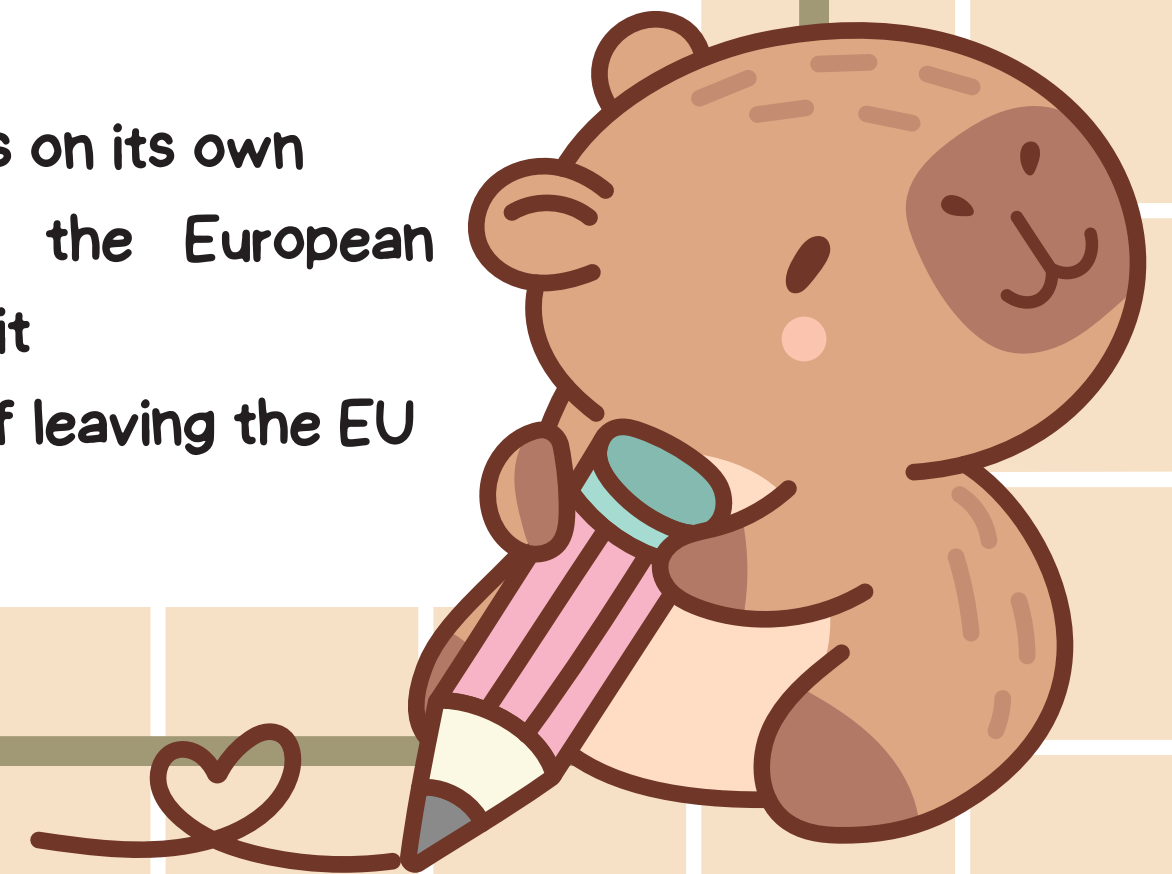
# Parliamentary Supremacy

- Dicey gave the most recognized definition of Parliamentary Supremacy
- He made 03 points, which are:
  - Parliament can legislate on any subject matter it wants
  - No parliament can be bound on any previous parliament, nor can a parliament pass any Act that will bind a later parliament
  - No other body has the right to override or set aside an Act of Parliament



# Parliamentary Supremacy - Definition

- Parliament has the highest authority to make or change laws
- Example: UK leaving the European Union (Brexit)
- Case: R (Miller) v Secretary of State for Exiting the European Union (2016)
  - Government wanted to trigger Article 50 (to leave the EU) without Parliament's approval
  - This was challenged in court
  - UK Supreme Court said the government could not do this on its own
  - Leaving the EU would change rights created by the European Communities Act 1972, so only Parliament could approve it
  - Parliament had to pass a new Act to start the process of leaving the EU





# Parliamentary Supremacy - Limitations

- Parliament's power has some limits
- These limits were created by Parliament itself
- Main limits come from:
  - Human Rights Act 1998 – laws must respect human rights
  - Devolution – power shared with Scotland, Wales, and Northern Ireland
  - EU membership – (before Brexit) some EU laws were above UK laws



# Parliamentary Supremacy – Limitations

## Effect of the Human Rights Act 1998

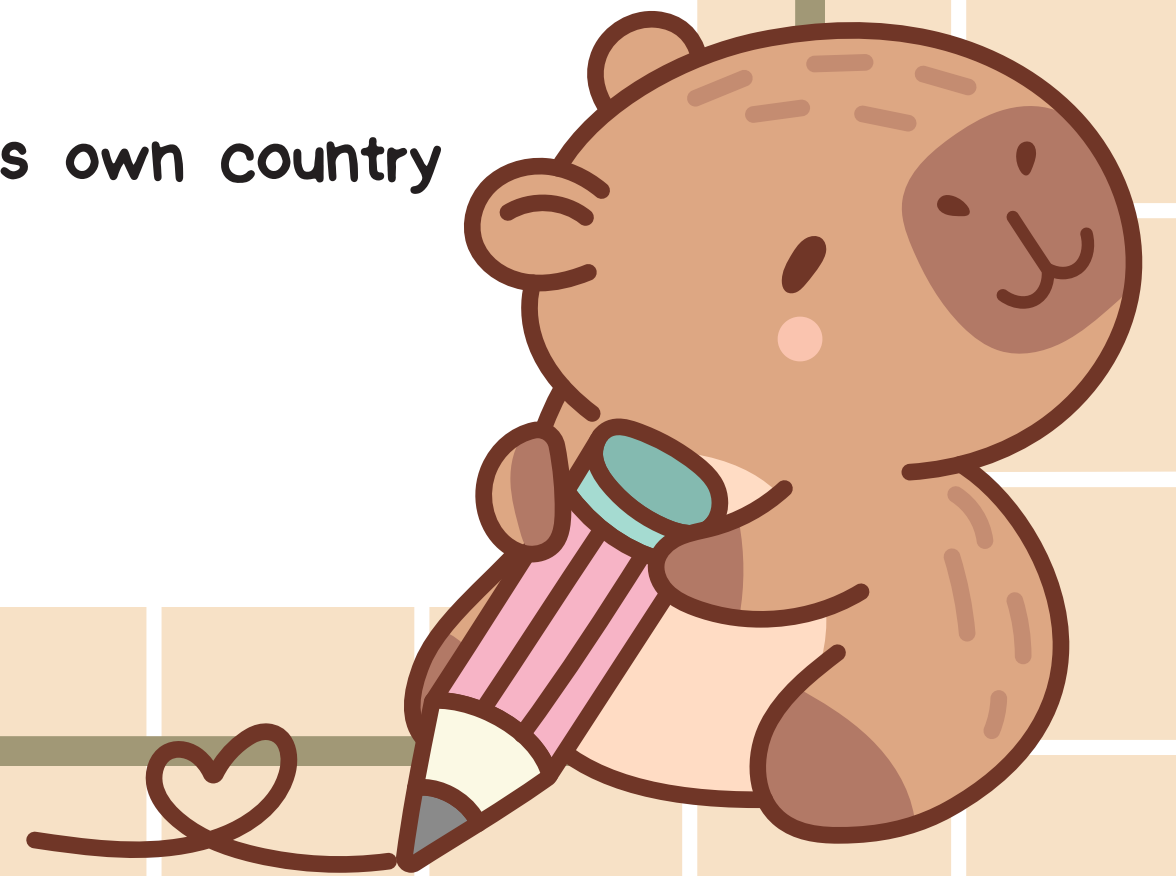
- HRA states all Acts have to be compatible with European Convention on Human Rights (ECHR)
- Acts can be challenged on grounds of incompatibility with ECHR
- s.4 of HRA – courts have power to declare an Act incompatible with Convention
- See: *H v Mental Health Review Tribunal* (2001)



# Parliamentary Supremacy - Limitations

## Devolution

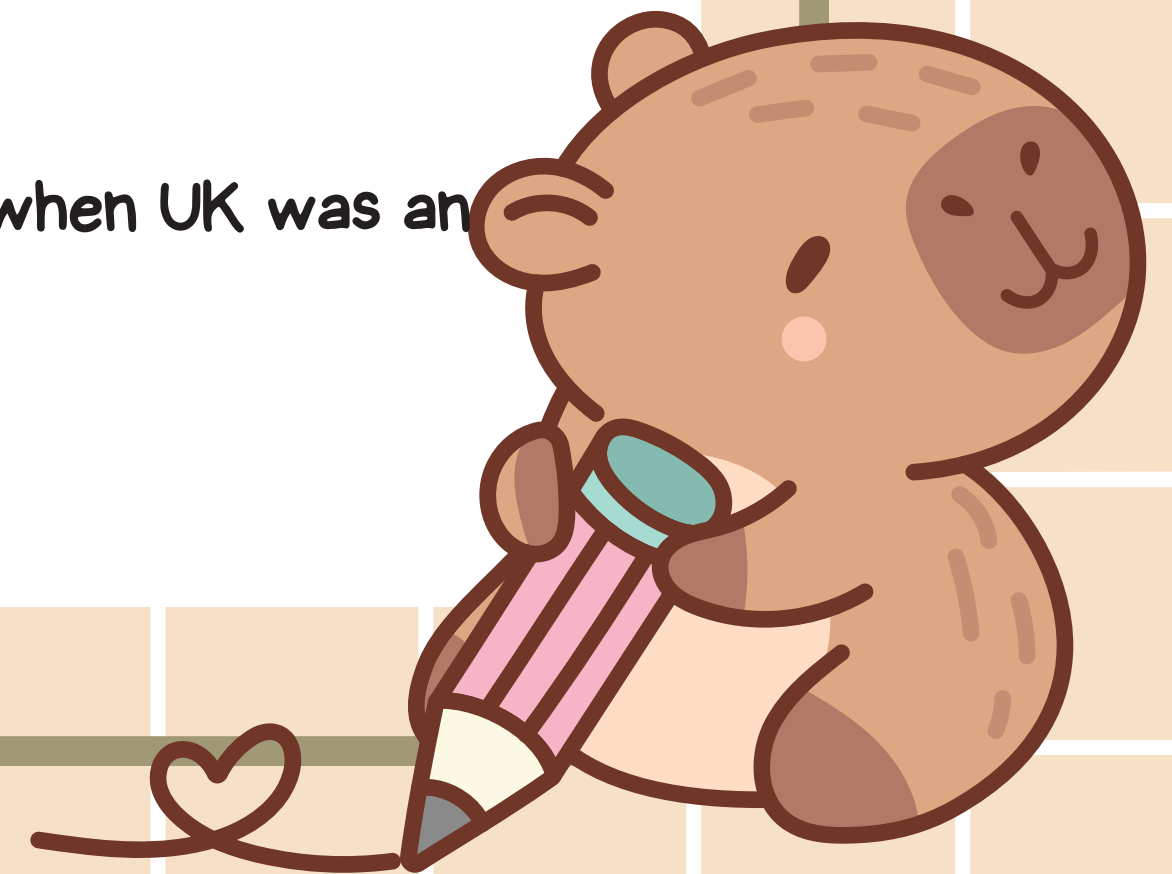
- Scotland Act 1998 & Government of Wales Act 1998 (handed down) certain powers to Scottish parliament and Welsh parliament respectively
- Each body can make laws on certain matters for its own country without Westminster Parliament approval

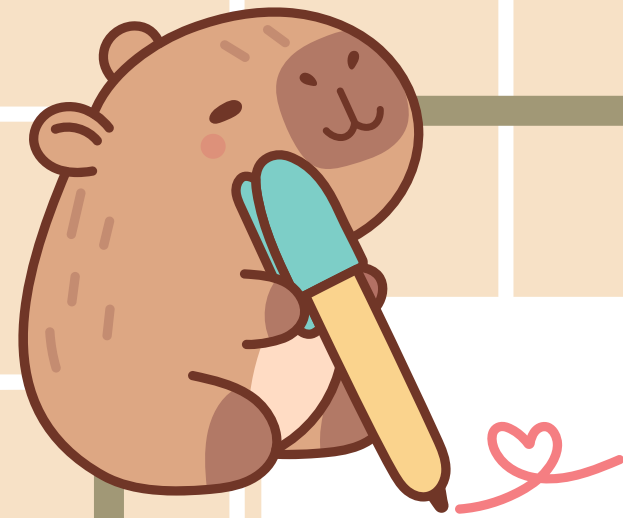


# Parliamentary Supremacy - Limitations

## EU Membership

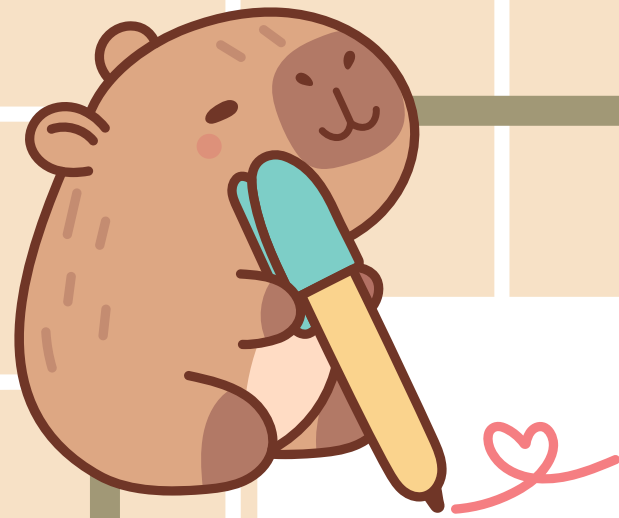
- UK became an EU member in 1973
- In 2016 Brits voted referendum to leave EU
- Result of referendum given effect on 31 January 2020
- Why England wanted to exit EU?
  - Loss of parliamentary sovereignty
- Westminster parliamentary supremacy had limitations when UK was an EU member:
  - Because EU law took priority over UK law





# Influences on Parliament

- Political Pressure
- Public Opinion
- Media



# Political Pressure

- MPs are elected by the public to the House of Commons
- MPs belong to political parties
- Before elections, parties publish manifestos (list of promises and plans)
- Voters are influenced by these promises
- The party with the most MPs forms the government
- The ruling party can usually pass laws easily because it has a majority
- Opposition parties hold the government accountable
- They debate and suggest changes to make laws fair and practical
- Parliament Acts 1911 & 1949 – stop the House of Lords from blocking laws forever
- Salisbury Convention – House of Lords cannot block laws promised in the government's manifesto



## Advantages

Due to printed manifestos of political parties before election; electorates know what it wish to do in future to achieve the party's aims

Parliament super-majority – the party's policy proposals will usually pass without roadblocks

Public awareness of broad proposals of political parties

Proposed law reforms debated, improvements suggested

House of Lords members have expertise in wide range of topics

## Disadvantages

Different party elected from previous governing party – could result in new government repealing or altering some laws of the previous government

Super-majority party can force through its policy proposals

Small majority: party finds it difficult to achieve changes to law/make manifesto commitments

Suggestions to alter/improve proposals made by experts in House of Lords do not have to be accepted by House of Commons/government

Government focuses more on taking measures to deal with crisis: which can differ from manifesto commitments

# Public Opinion

- Public views are shown through media, social media, and pressure groups
- People can ask their MPs to raise issues in Parliament or with ministers
- Online petitions (since 2015) let the public ask the government to take action
- A petition needs support from at least 6 people before it is published
- Petitions stay open for 6 months to collect signatures
- The Petitions Committee may:
  - Ask for more information
  - Ask another committee to study the issue
  - Send it for Parliament debate if it gets 100,000 signature
- Governments often respond to strong public pressure, especially before elections



## Advantages

Individuals may express opinion to respective MPs through petitions – governments may support campaigns for law reform

Individuals may be successful in bringing their campaigns to wider audiences if they succeed getting media interest

## Disadvantages

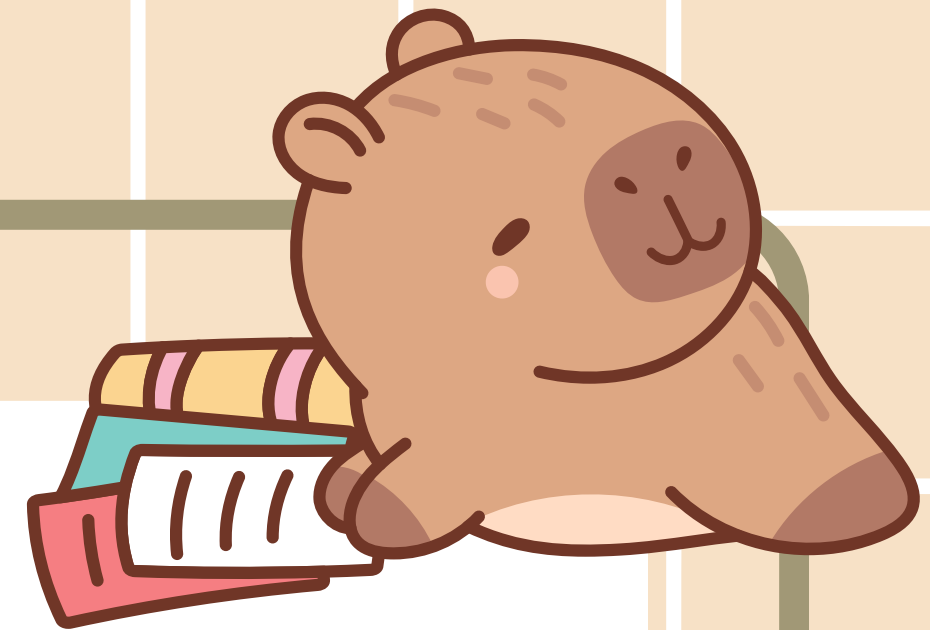
Public could be ill-informed on issues and make unreasonable opinions/unworkable demands

Government may decide to sacrifice popularity and not act on, delay acting on, a petition

MPs are unlikely to be successful in introducing Private Members' Bill to act on public opinion

# Pressure Groups

- Made up of people with a shared interest or cause
- Aim to influence the public or government
- Do this through campaigning and lobbying
- Types of pressure groups:
  - Sectional Groups: represent specific professions or groups (e.g. Law Society, BMA)
  - Cause Groups: promote a cause (e.g. environment, animal rights, human rights)
- Can make governments change or rethink laws (e.g. Hunting Act 2004 influenced by the League Against Cruel Sports)
- Lobbying:
  - Means persuading MPs or ministers to support a group's cause



## Advantages

Many pressure groups with varying aims and issues – wider range of issues drawn to government attention

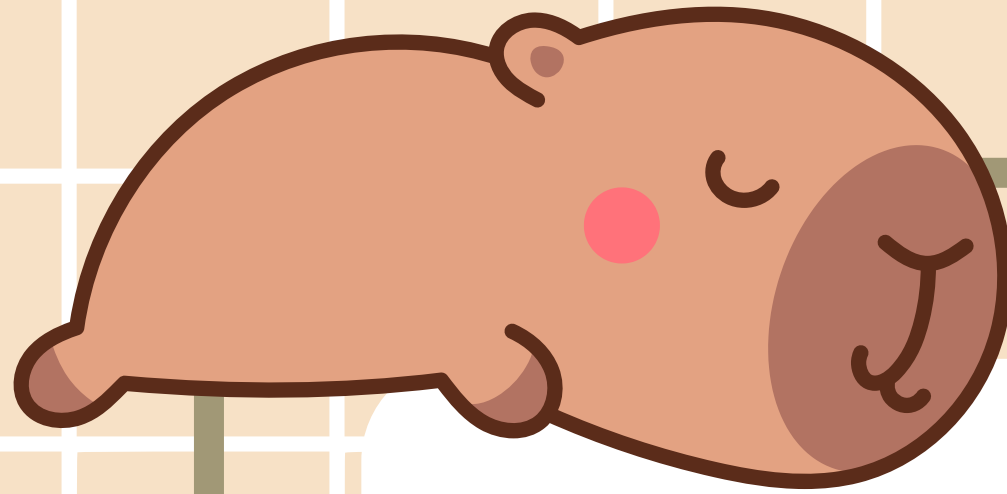
Often raise important issues

Experts when representing members or their cause

## Disadvantages

May seek to impose their own ideas – even when majority of public do not support views

Two pressure groups may have conflicting interests and campaigns for opposing actions



# Media

- Includes TV, radio, newspapers, magazines, and online platforms (social media)
- Plays a big role in showing public opinion to the government
- Makes issues widely known and high-profile
- Free press can criticize the government and demand action
- Media both reflects and shapes public opinion
- Governments and pressure groups also use media to influence people
- Examples of media influence:
  - Snowdrop Campaign – pushed for gun law reform
  - Dangerous Dogs Act 1991 – rushed law after media pressure
  - Reform of the double jeopardy rule – influenced by media campaigns

## Advantages

Can raise awareness of public concern on issues with the government

Public and pressure groups can utilize media to raise concern about individual incidents

Can inform and raise public awareness – essential to encourage the government to form policy, act and legislate

## Disadvantages

Radio/television required to remain politically neutral – this is not the case

No regulation on the expression of views on internet or social media

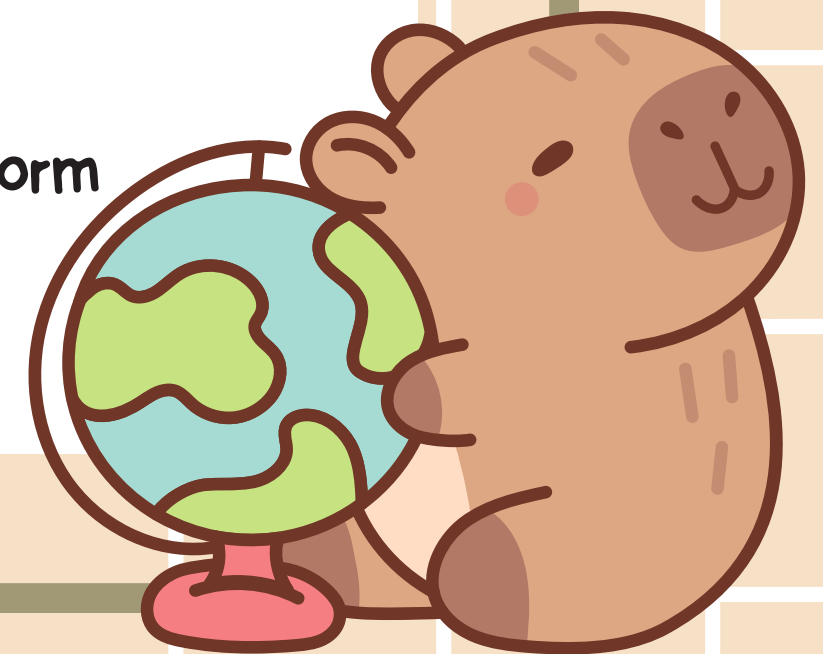
Newspapers are commercial businesses which may sensationalize issues to expand their readership

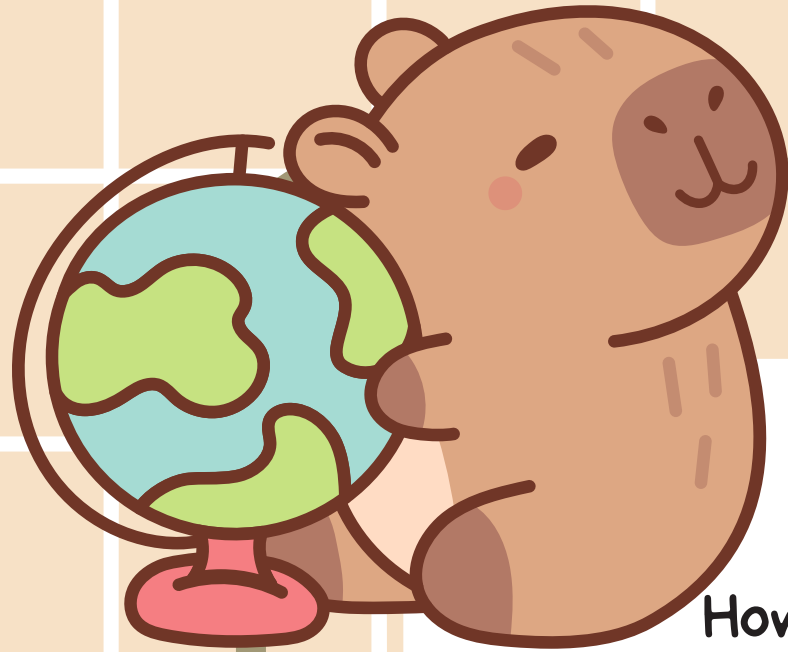




## Role & Composition of Law Commission

- s.3 Law Commissions Act – set out role of the commission
- Law Commission was set up in 1965 under the Law Commissions Act
- The Commission consists of a chairman, High Court judge, and 4 other Law Commissioners [experts in certain areas of law]
- Also consists of:
  - Researchers
  - Draftsmen
- Role: consider areas of law that are believed to be in need of reform





# Role & Composition of Law Commission

How the Law Commission Works:

- Government may refer topics to the commission
- It can select areas of law in need of reform itself as well
- First:
  - Searches the area of law 'thought to be in need' of reform
- Next:
  - Publishes a consultation paper – seeking views on possible reform from lawyers, academics & anyone with an interest in the area
- Consultation paper suggest options for reform
- Following consultation paper responses, Commission will draw up reform proposals
- Draft bill often attached to the report



# Role & Composition of Law Commission

## Consolidation:

- In some areas – a number of statutes, each of which sets out a small part of the total law
- Consolidation aims to draw all existing provisions together in one Act
- This makes law more accessible
- Law Commission produces about 5 consolidation bills each year
- Consolidation is not always successful



# Role & Composition of Law Commission

## Codification:

- Involves bringing together all the law on a topic – both statutory & judicial precedent into single law
- Law Commission continues to press for Sentencing Code
- This makes law more accessible and understandable, and give consistency and certainty



## Role & Composition of Law Commission

- Law Commission has not achieved original idea of codification
- But it is successful in some areas of law
- Since establishment, 85% of its proposals were enacted by the Parliament
- Only 50% of its suggestions have become law
- Annual Report of 2017-18 showed 12 reports were awaiting response from government
- Government rejected about one in six of Law Commission's reports
- But some important reforms were made in recent years:
  - Fraud Act 2006
  - Corporate Manslaughter and Corporate Homicide Act 2007
  - Criminal Justice and Courts Act 2015



Yis!  
Finally Done!