



JUDGES AND CIVIL LIBERTIES

By Mr. Scott

Before we begin....

- **Make sure you have read an précised Chapter 9 of the text book.**
- **Raise your hand if you have a question.**
- **Do not interrupt.**

Are we in the wrong classroom?

- You may ask why we are studying judges in a politics lesson?
- Aren't judges meant to be separate from politics?
- Isn't the application of the law 'above' politics?

The Judiciary

- As we have seen under the separation of powers, it is the role of the judiciary to define the meaning of the law.
- Under this view judges do not 'make' law they only apply the law as it is codified by Parliament.
- **It is, of course, far more complicated than that!**
- Question: Where does 'interpreting' the law stop and 'making' the law start?

The role of judges

Judges have to preside over court proceedings, applying the law and deciding sentencing in criminal cases. However there are other things that they do which is more subtle.

1. They 'make' law in certain cases. This is known as common law.
2. Their reputation for independence means that they are often used to chair public enquiries.
e.g. Lord Nolan's standards in public life.

A return to the rule of law.

- What is the 'Rule of Law'? (P.264-266)

- What are the features of the rule of law?

Do these features really exist?



□ **Growing judicial activism, combined with this move towards authoritarianism has resulted in growing conflict between senior judges and the executive.**

□ However, we must remember that the executive will be claiming to defend 'other' liberties.

Constitutional Reform

- The Constitutional Reform Act 2005 has major significance. As it sees the creation of the new UK Supreme Court.
- The 12 member court will replace the Law Lords.

- Increased independence?
- Increased separation of powers?
- More diverse?



A Bill of Rights?

- There are several different interpretations for a UK bill of rights.
- A) strengthening the HRA
- B) changing the HRA to incorporate civil rights are opposed to Human rights
- C) the start of a codified constitution

Copy out the arguments for and against a Bill of Rights from page 282 of the textbook.

Test yourself

- In order to prepare for the exam:
- Complete the extended questions on page 286 of the textbook.