

HISTORY

Summary of English Legal and Constitutional History

The following story is a summary of a significant period of history, which has been written in an easily digestible format for introductory law students. For a comprehensive work on English legal and constitutional history, see Prue Vines *Law and Justice in Australia: foundations of the legal system 2e*, Oxford University Press, Melbourne, 2009. This summary is referred to on page 238 of the textbook.

The story of our English legal and constitutional inheritance

Once upon a time, there was a great empire known as the Roman Empire. As part of expansion of the empire, the Romans invaded and conquered England, and started implementing their Roman law. But before long the empire collapsed, around 400 AD, and England entered the Dark Ages. Throughout six centuries, England was subject to invasion by the Angles and the Saxons, Germanic tribes often referred to as the Anglo-Saxons.

These invaders brought with them interesting legal customs, including the 'trial by ordeal' (by fire or water). Trial by fire involved holding hot irons in the hands, and if the person's wounds healed they were found to be innocent. Trial by water had two versions, one which involved standing in a cauldron of boiling water (where if you came out without burns you were guilty), or being thrown into a lake (where if you sank to the bottom you were innocent). Either way, if you were innocent, you were punished in the process (being burnt or likely to drown).

Although these methods seem barbaric, they were aimed at uncovering the truth, based on what was natural. Our legal system today also aims to uncover the truth, but uses a different method for doing so, which is known as the adversarial system.

Despite the legal influences of the various invaders, law in England remained largely a local community affair, with village customs supplementing a basic system of self-help: if someone wronged you, you took revenge. Over time the churches influenced people to show mercy and accept money in compensation rather than exacting revenge in blood.

The Dark Ages came to an end when the French invaded England in 1066, in the Norman Conquest, so named because the French invaders were from Normandy, and were led by William the Duke of Normandy, who slew the then king of England, King Harold, at the famous Battle of Hastings. He came to be known as William the Conqueror, and he declared that the existing legal system was to remain in force. It included a law that was common throughout the realm, albeit strongly based on local customs.

As the Normans were accustomed to living in a feudal society, they expanded the existing feudal system, installing a military and colonial government regime, distributing land, and building castles and cathedrals. Feudalism involves the granting of land in return for promise of military support. The underlying concept was that the King was God's representative on earth, and so the right to land was handed down from God to the King.

Feudalism underlies Australian property law today – because it is based on the concept of relative titles. No individual can have absolute title to land. We can 'own' land, and subdivide it, and 'sell off' parcels of it, but the Crown (the embodiment of the Queen) can put restrictions on our use of the land, and can take our land at any time (with payment of compensation). Effectively the Crown, like the king of old England, owns all the land, and buying land only gives you the best right to it against anyone besides the Crown.

The King would grant land to nobles (tenant-in-chief) in return for their promise to provide a certain number of knights for military service. This process was known as sub-infeudation. In turn, the nobles (lords) would grant parcels of their land to others (vassals), in return for their promise to provide knights. Those

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people would in turn grant smaller parcels of their land (as lords) to others (as vassals), and so on. What was created was a chain of tenures, with king as tenant-in-chief and a series of sub-tenants, with serfs (slaves) at the bottom who were bound to the land on which they worked. The concept of occupying or possessing land was known as a seisin, the land itself was known as a fief, and the relationship between the granter and the possessor of land was a tenure.

The fief, which is pronounced 'feef', has its modern day usage as 'fee' – fees are charged for a service such as education, and property owners are described as holding land in 'fee simple'.

It was a system of mutual promises, where each lord provided land and promised protection and assistance, and each vassal received land and provided faithful service in the form of hay, crops, or knights for battle when called upon to do so. Alternatively, the lord may have provided land to the church to set up a parish, with spiritual services provided in return.

Here we see the beginnings of taxation – that is, a form of payment from the people to the king as part of one's obligations.

The ultimate grant was from the king, and so the ultimate responsibility to protect the people, or maintain the peace, rested with the king. As a crime was an offence against the peace, it was an offence against the king and was prosecuted by him.

The responsibility of the king to 'maintain the peace' is the basis of our criminal law system today. The modern day equivalent of the King is the Crown, and our criminal cases are called '*R v Smith*', where 'R' stands for 'Regina', or the Queen. That is, a criminal case is brought by the state against the offender, not by the victim against the offender.

William the Conqueror introduced actions that allowed people to litigate to protect their seisin, their possession of land. This arose because those who left their land to fight for the king would often return to find someone else in possession of their land.

The person in possession of land was entitled to retain possession against everyone else besides the person with a better claim to it. This is the origin of the expression 'possession is nine-tenths of the law'.

William gave litigants an alternative to trial by ordeal – trial by battle, available at the election of the accused. This option was popular with the Normans, who had military training which put them in a strong position over an English opponent. Referred to as a duel, the two disputing parties would have a swordfight until one was killed. The survivor had proved a legal entitlement, because God was on his side.

The fight with swords has since been replaced with a fight with words, which is the basis of our adversarial system today.

When the Normans invaded, they also brought their clerics, and took over the churches. This is relevant from a legal history standpoint because the churches up until that time had been under the influence of Roman law, in which the law of the church, referred to as papal law, or canon law, existed side by side with the law itself. The church had a major influence on the law, and to some extent there was a merging of church and state. This changed in 1072 with the Ordinance of William the Conqueror, which separated ecclesiastical (church) courts from lay courts. Lay matters were to be dealt with in lay courts, and church matters in church courts.

Here is an origin of the Western legal tradition, where law is an autonomous discipline, separate from religion. This separation does not exist in all legal traditions – for example the Islamic legal tradition, where the religious text is also the law.

The king created a council called the Curia Regis, comprising the few hundred tenants in chief, which was used for consultation and to obtain advice. They would meet twice a year as the greater council, and

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between this there was a small body of men, the lesser council, who would look after the day-to-day business of government, such as managing what was received from the landholders. The Court of the Exchequer was created to manage royal finances and assets.

By 1087, when William the Conqueror died, about half the land of England was distributed along feudal lines, the country had a law that was common throughout the land, administered by a central government.

The next major king from a legal history viewpoint was Henry II, whose reign dates from 1154. In the seven decades between, there were three Norman kings, the first being William's son William II (1087–1100), and the second being Henry I (1100–1135), who died without leaving a male heir; England effectively fell into anarchy for 20 years until Stephen came to power in 1135. By the end of Stephen's reign (1154) a myriad of courts were in existence – church courts to hear church law, feudal courts to hear feudal law, local courts to hear local matters, forest courts to hear forest law, etc.

Henry II, a French prince, came to power in 1154. He was strong, rich, and ambitious, and his legal reforms earned him the title of 'father' of the common law. He replaced the requirement for land-holders to provide the king with knights with a requirement for payment of monetary taxes, using the Court of the Exchequer to collect the taxes and keep records.

The Court of Exchequer earned its name because its officers performed calculations by moving chequers around on a chequered tablecloth.

Henry created a self-standing government administration through a body of government clerks. He removed power from local courts and feudal courts and gave it to the royal courts. He also sought to take control over the church courts, which had exclusive control over church law, found in decrees of the Pope, councils of the church, and in the Bible. He considered it unacceptable that appeals from church courts were not made to the king or the royal courts, but to the Pope.

Needless to say, the church courts were opposed to Henry II. Henry II responded in 1162 by appointing his friend Thomas Becket as the church representative, the Archbishop of Canterbury. But instead of siding with Henry II and ceding power to the royal courts, Becket distanced himself and took a stand against Henry II, which resulted in his fleeing to the Pope in Rome. The Pope mediated Henry's agreement in 1170 to allow Becket back into England. Becket was murdered by four of the king's knights.

The system of royal courts under Henry II included the King's Bench (or Great Council, where the king and his judges heard important matters), the Court of Common Pleas (small council, heard minor disputes, right of appeal to the King's Bench), and the Court of Exchequer (one side of which collected taxes and the other heard taxation disputes).

The name 'King's Bench' came from the bench that the king's judges sat on in the great council. The name has stuck, and today we refer to a number of judges sitting in a case as a 'full bench' or 'full court'. You may also hear people refer to the bench and the bar, by which they mean judges and barristers.

The King's Bench still exists but is called the Queen's Bench while England has a Queen. If you see English cases with the letters QBD, it means Queens Bench Division.

There was also a system of itinerant justices, where officials travelled under royal jurisdiction and held a royal court in the counties. This saved people the time and expense of travelling to the royal courts, which were located centrally in Westminster, and meant that the royal courts were able to reach all of England with royal law and justice. By 1176 Henry II had in place a system of annual visitations of itinerant justices to the counties, on a kind of judicial circuit known as an assize. All the crimes and other matters that had taken place between visits were tried there.

The judicial circuit remains today, with judges of the supreme and high courts travelling periodically from the cities to the rural areas to hear matters.

However, the law that was being applied was still heavily based on local custom. Often, instead of trial by ordeal and trial by battle, local people were called upon to establish the facts and the customs, and those who served this role were called juries. The main parties also told their view of the facts, under an oath, which they much preferred to a battle in which even if you won, you might die from the injuries. The local people also enjoyed them as a form of theatre.

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The modern jury retains the role of establishing matters of fact, but of course the law is standard throughout each jurisdiction.

The itinerant justices would return to Westminster and discuss the different local customs in force throughout the realm. Over time, they came to reject unreasonable local customs and apply those that they felt accorded with good sense and reason instead. Whenever a new problem of law arose and was decided by one of them, out of deference the others would then follow this decision if they had the same problem of law before them. Thus became the principle of *stare decisis*, which means 'let the decision stand'. It had the practical aim of promoting certainty and predictability in the law, and therefore respect for the royal courts, and had the practical effect of creating one common law – an organic body of law in that it was capable of growth by itself.

Here we have the beginnings of the doctrine of precedent, of judges following the decisions of previous judges on similar cases, and of a single common law throughout all of England.

Henry II created a system of criminal procedures in 1166 with the Assize of Clarendon, which passed a duty on twelve representatives for every 100 people in each county. The people chosen had to present themselves to the local sheriff, and were called the Jury of Presentment.

The magic number of 12 remains in today's juries. The role of the Jury of Presentment more closely aligns with that of a police officer today.

The jury would have to present those they thought had breached the law, and the minor matters would be handled directly by the sheriff while those accused of major crimes were detained until the next time an itinerant justice visited. The ordeal by water continued to be used for criminal matters, and those convicted had a foot removed and were exiled. This was increased with the Assize of Northampton to a foot and a hand being removed, in an attempt to deter crime.

For civil matters, usually disputes over land, there was the Jury of Recognition, where jurors would swear under oath who they thought should have the right to possession of the land in dispute. Such a jury was convened under an order from the Court of Exchequer known as a possessory writ, to determine the facts of possession of land. Writs came to be the way any action proceeded. There was an originating writ that started a matter and created the legal right to a remedy, a *mesne* (middle) writ in the middle of the matter, for procedural matters such as ordering witnesses to appear, and a final writ at the end, for execution of the judgment. If you wanted to commence a legal action you had to have a writ, which was a written order issued in the name of the monarch, upon payment of a fee, giving a right to bring an action on a particular kind of claim. The writs were specific, and you had to find a writ that your matter could fall within. If there were more than one writ that applied, you had to choose the right one. If none fitted, then you had no cause of action, and could get no remedy.

Here we begin to see the importance of procedure to the law. Procedure remains very important in our current system. If you do not follow correct procedure you could lose the right to bring an action.

By the end of Henry II's reign in 1189 the writ system administered by the royal courts had trumped systems of local justice using county courts. It was a central system of administration of justice, with law that was capable of growth by itself.

What was happening at the same time on the rest of the European continent? The Roman legal texts had been discovered and scholars were studying them. This took until the middle of the thirteenth century, and the compilation of Roman law became the text of the law for civil law systems. But it was too late for England, which already had its own organic system of law that had developed. Also in Europe the Roman Catholic Church continued to dominate, while in England there had long been a separation of the church and the state, even though it was still believed that the king was God's representative on earth.

From the thirteenth century the history story takes two paths. One is the story of how law and the court system developed, and the other is how the system of government developed.

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Development of law and the court system in England

Back in England in the thirteenth century, a particular department of the Court of the Exchequer, known as the Court of Chancery, continued to collect fees for issuing writs. It was headed by the Chancellor, usually a member of the church such as a bishop or archbishop, who was able to affix the king's great seal on documents such as writs under delegated authority from the king. The number of available writs continued to expand, because as new legal situations arose, new writs were created to cover them. Each new writ was effectively a new legal right, or a new law. Soon there were hundreds of writs, and it became a complicated matter for a litigant to work out which writ to use.

The Statute of Westminster in 1285 forbade the issuing of new writs. As a result people whose cases could not fit within an existing writ either had no remedy, and this was considered harsh and unjust. Also, those who had the misfortune of selecting the wrong writ would go through the whole process and then be told they had to start from the beginning with another writ. Even those who picked the right writ could be subject to injustice, because there was a blanket application of the common law rules, meaning they were not adjusted in any way to the facts of particular cases. What was needed was something to soften, or ameliorate, this harshness and injustice – an exception to the rule, so to speak, to individualise justice, to allow conscience to play a role in the law. The Chancellor, with the permission of the king, was able to apply his conscience to grant a remedy for disputes which fell outside the writs available. Usually this occurred to rectify some immoral or unconscionable behaviour that was complained of.

Here are the beginnings of equity, which steps in to soften the effect of the common law.

So on the one hand you have the King's Bench and the Court of Common Pleas administering the common law under the writ system, and on the other hand you have the Court of Chancery, a government department, administering equity to ameliorate the harshness of the common law. If you went to the common law court, you usually would obtain a sum of money to compensate you for the injury or damage suffered. But if you went to the Court of Chancery and obtained an equitable remedy, you could obtain an injunction (to restrain a person from doing something) or specific performance (to make a person do something, such as perform the contract).

This separation between common law and equity was formalised by Henry VII, who came to power in 1485. It was recognised that there was a body of equitable principles, based on religious principles of fairness and mercy, which operate to rectify defects in the common law. Because equity is being ascribed to the laws of God, equity was seen as being above or superior to the common law, something which did not impress the common law courts. But in practice decisions were based on the discretion of the Chancellor at the time, without reasons being given. In the sixteenth century the equity courts became more popular than the common law courts, for good reason – it was quicker, you did not need exact pleadings like with the common law writs, and the Chancellor could look behind the facts to consider the circumstances of the parties. The problem was that equity was based on the Chancellor's discretion, which varied from one Chancellor to the next.

In 1529 Sir Thomas More was appointed Chancellor. He was at the time a common law lawyer, not a church man. He applied a lay conscience, not an ecclesiastical conscience. But still the friction between common law and equity courts grew. In the Earl of Oxford's case in 1615 the then Chancellor, Lord Ellesmere, asserted superiority by issuing an injunction to stop the defendant from proceeding in a common law court, because it had already provided a remedy. The Chief Justice of the King's Bench at the time responded by ordering the release of all prisoners who were imprisoned for breach of an injunction issued by Lord Ellesmere. King James intervened by issuing a royal decree that equity had supremacy over the common law.

Over time there developed a body of equitable principles, creating more settled rules than merely the Chancellor's discretion. This made equity less flexible, and in some ways it was more rigid than the common law, whose defects it had developed to cure. By the nineteenth century there were massive backlogs in the courts, and people were frustrated at having to commence an action at common law and a separate one in equity, so in 1873-75 the Judicature Acts combined the procedures for common law and equity. A High Court was created with combined jurisdiction over common law and equity. It had five divisions – Chancery, Queen's Bench, Common Pleas, Probate, and Divorce & Admiralty – and a Court of Appeal. The writ system was replaced with a single document to originate an action, be it a common law or equitable action, which was the Statement of Claim.

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This remains the case today – a person commences proceedings with a Statement of Claim, and may include in it claims based in common law (such as breach of contract) and equity (such as unconscionability).

Development of government in England

At the same time as the writ system and the development of common law and equity, the constitutional machinery of government came about. You will recall that in the twelfth century Henry II created a centralised system for the administration of justice. As this deprived the barons of revenue, some barons were hostile towards the king. They forced King John to meet them in 1214 on the bank of the River Thames at the Meadow of Runnymede, and the ensuing negotiations led to the Magna Carta of 1215, which laid down limitations on the power of the monarch.

Here we see the first steps away from the monarch having absolute, unrestricted power of government.

For example, one clause placed limitations on the ability of the king to tax the people to fund a war without the consent of the Curia Regis, also referred to as the General Council, which was comprised of the tenants-in-chief in the feudal system. This converted the role of the General Council from one of consultation and advice to decision making. Another clause provided for due process of the law – that no free man shall be imprisoned or exiled except by the judgment of his peers or the law of the land.

This is the origin of due process rights, or the right to have guilt or innocence determined by the use of legal procedures. You may also see this referred to as ‘natural justice’, or ‘procedural fairness’.

Despite the Magna Carta, further opposition developed as a result of increasing taxes at a time when there was famine and in 1258 there was a further revolt, which led the then King Henry III to introduce the Provisions of Oxford in 1258. A committee of 24 nobles was created to draft a scheme of constitutional reform, under the leadership of Simon de Montfort. The resulting Provisions of Westminster of 1259 provided for a standing committee of 15 members that would meet quarterly to advise the king. The aim of the committee of barons was to run government in the name of the king. However the barons could not agree among themselves, and within two years Henry III repudiated the Provisions of Westminster, which prompted four years of war. Simon de Montfort briefly triumphed over Henry III and used the opportunity to summon elected representatives from each county and borough, to meet in order to ‘parly’ or conference. The shift was from discussion between the king and his advisers to the king and representatives of the people, in a parliament.

These are the origins of English parliament. The barons eventually formed the House of Lords, and the other representatives eventually formed the House of Commons. The Australian equivalents are the Senate (upper house) and the House of Representatives (lower house).

The new king, Edward, overthrew Simon de Montfort but decided to keep the idea of parlying, and in 1295 created a Model Parliament, including representatives from each borough, barons, abbots and archbishops. His aim was to secure funding for war.

The key shift here was from a monarch with absolute power to a monarch who ruled with a parliament.

By 1340 a statute was in existence that no change could be made by the king, such as a change with respect to taxation, without consent of the commons in parliament, that is, the representatives of the people. By the end of the fourteenth century the commons had become a political force of their own, and represented the general grievances of society. If you had a grievance, you presented it as a petition to parliament. This led to the concept of the bill, the idea that in order to have a statute passed it had to go through commons, it had to be read a number of times, and once it had travelled through commons it would be assented to by the Crown.

This continues to be the way law is made in parliament today – a member presents draft legislation in the form of a bill, which passes through parliament and is assented to by the relevant Governor.

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By the end of the fifteenth century another significant development had occurred. Until this time it was accepted that the throne of England was held by hereditary title. The War of the Roses, from 1453 to 1485, between two groups of barons, the Houses of Lancaster and York, culminated in Henry VII claiming victory. He declared that the outcome of the battle was God's verdict, so he could summon parliament to crown him king, which it did. This signalled just how powerful parliament had become. For the next century the monarch ruled through and with parliament, as one body politic. Although there is no written constitution as such, parliament is an accepted part of it.

Henry VIII further elevated the role of parliament. He was unable to get his marriage annulled by the Pope so he asked parliament to do so. The parliament that allowed this was called the Reformation Parliament, from 1529 to 1536, which included the passing of statutes making parliament sovereign and superior, cutting the validity of church law in England, and removing any right of appeal from English courts to Rome. This made the King of England the head of both church and state. Laws were to be derived from the will of the people in parliament, subject to the consent of the monarch.

Here we see the rise in legitimacy of the statute as a form of law. Prior to this the main type of law was court judgments, or common law. But judges in the 1530s acknowledged the binding force of statutes, and they set about developing guidelines for interpreting them.

Here are the beginnings of the rules of statutory interpretation.

In the ensuing century the judicature concreted its place in government. The Chief Justice of the King's Bench, Coke, told James I that the authority of judges was separate from the king. Coke and the courts rejected the king's capacity to create laws by issuing proclamations, saying that all laws had to pass through parliament in the form of a statute. At the same time, Parliament sought to exercise control over foreign policy, including who the king married, which James I resisted, saying that parliament's rights derive from the grace and favour of royalty. In 1621 parliament unanimously passed the 'Protestation of Declaration' which declared that government through elected parliament was a right of all English people. James I ripped it from the parliamentary journals. When his son, Charles I, took power, parliament presented him with a Petition of Right in 1628. It claimed that no man could be taxed without legislation made by parliament.

Here we see parliament seeking to not only be involved in government with the monarch, but to control and be sovereign over the monarch.

Charles I addressed the problem by not calling parliament unless he needed money. From 1629 to 1640 he did not call parliament at all. The parliament then continued to sit for two decades, which was known as the Long Parliament. Parliament struggled for supremacy, demanding that it be called a minimum of once every three years, that it could not be dissolved without its own consent, and that the courts be independent from the Crown. Charles I resisted and a civil war erupted, and the side led by Oliver Cromwell won. Parliament tried the king in parliament for treason, in what was known as the Rump Parliament, and Charles I was ordered to be executed in 1649. An Interregnum (period without a monarch) followed (lasting until Charles II was crowned). Parliament had succeeded in obtaining supremacy over the monarch.

Here we see the origins of the doctrine of parliamentary supremacy, or doctrine of parliamentary sovereignty.

The eleven years between the reigns of Charles I and Charles II (the Interregnum) includes the period of the Protectorate, during which first Oliver Cromwell, then his son Richard, ruled as Lord Protector (1653–58 and 1658–59). Oliver Cromwell's autocratic style reinforced the idea that absolute power in any one person or organ of government only results in tyranny. What is needed is a separation of powers between different arms of government.

The need to control power is the origin of the expression 'Power tends to corrupt, and absolute power corrupts absolutely' (Lord Acton, 1887).

From 1660 onwards the monarchy was restored with the appointment of Charles II, but the monarch was subject to the will of parliament. His brother James II took power in 1685 and sought to reduce the power of

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parliament, to which parliament responded in 1688 by appointing his daughter Mary to the throne. This was known as the Glorious Revolution. Parliament was recognised as being supreme, with kings and queens ruling by invitation of parliament and not by right. Instead of hereditary title of kings, there is parliamentary title.

Parliament confirmed its role in a Bill of Rights in 1689, which forbade use by the monarch of any royal prerogative, and setting out what money the monarch would have to live off and how the monarch could go about raising an army, through parliament. The final act that cemented the separation of powers was the Act of Settlement in 1701, which provided that all executive power (power of the king or queen) had to be executed through the Privy Council. It also freed the judiciary from the pressures of the executive through security of tenure and fixed salaries for judges. This meant they could make decisions which were unfavourable to the monarch without being removed from office, and could ensure that although they were paid out of royal funds, they could perform their functions independently without having their salaries removed. These remain the hallmarks of an independent judiciary today.

Here we have the development of a separate and independent judicial arm of government. The separation of powers doctrine is complete – power is divided between the parliament who makes the law, the executive (monarch) who administers the law, and the judicature who resolve disputes according to law.

In the eighteenth century we saw the development of political parties in England. They were the Whigs (liberals) and the Tories (conservatives). They did not work well together in government, and the idea that the monarch should act through the Privy Council did not work either – it was too large and cumbersome. Queen Anne decided she would select a ‘cabinet’ of trusted ministers, roughly in accordance with the strength of each political party, to advise her. The ministers in cabinet were responsible to parliament, and parliament was in turn responsible to the electorate. This is how responsible government operates.

The use of cabinet government remains today, and is an established feature of Australian government despite not being mentioned in our constitution. It comprises senior ministers who are responsible for controlling government policy.

The kings that followed Queen Anne embedded the role of cabinet through their actions. The first, George I, was not interested in government and was happy to sit there and allow the trusted politicians to run it. George II did the same, and by George III, who suffered from insanity, the monarch had ceased attending cabinet meetings at all. The combination of crazy and lazy kings had converted cabinet from a body to advise the monarch to ministers who effectively ran the government. Naturally a leader arose among the ministers, and that person came to be known as the prime minister.

Like cabinet, there is no mention in our constitution of the role of prime minister, yet it is the supreme position in government in Australia today.

Although we speak of elected parliamentarians in the eighteenth century, the electoral system was unfair and corrupt. Earl Grey, who was Prime Minister in 1830, asked King William IV to dissolve the parliament and introduce parliamentary reform. The Reform Act of 1832 simplified voting procedures and restructured the voting constituencies according to the population of particular areas. Voting remained limited to men with property (women only got the vote in England in 1928). The Act also formally dissolved royal power in Cabinet, making Cabinets reliant on the support of the majority of the House of Commons.

The key shift here is from the will of the monarch to the will of the people being the basis for the authority of government.

The government sat in Westminster and the system of government came to be known as the Westminster system. It is the system that we inherited in Australia, and includes the following key principles:

- *Responsible government* – the government is responsible to the people.
- *Separation of powers* – power should be distributed between independent arms of government, so there is not one individual or arm that can make, interpret and enforce the law.

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- *Parliamentary sovereignty* - although power is separated between the parliament, executive and judicature, the parliament is supreme over the executive and judicature except where it provides otherwise.
- *Rule of law* - government should rule through law, and not through the exercise of arbitrary power by individuals. The laws should be applied equally to all people, including the government.
- *Due process* - an individual should be considered innocent until proven guilty, and guilt should be proved using proper legal procedures.