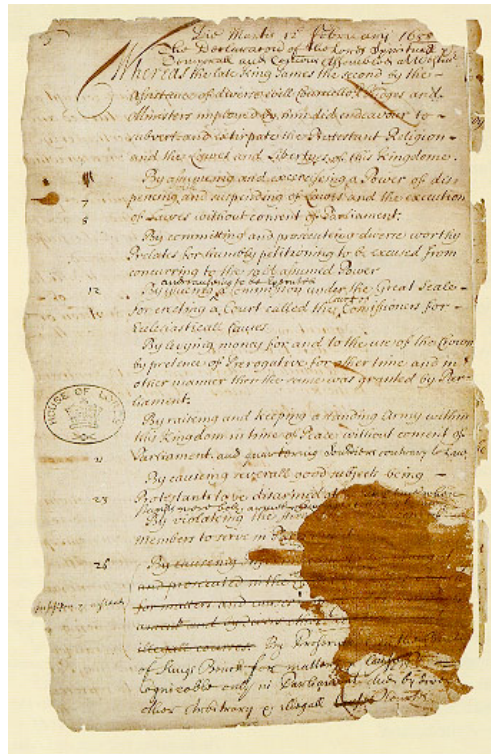


THE BEST OF THE OLL #44

“The English Bill of Rights” (1689)
<oll.libertyfund.org/title/2544>

“That it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient, and indubitable rights and liberties of the people of this kingdom.”



Bill of Rights (1689)

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The Best of Bastiat <oll.libertyfund.org/title/2477>

[July, 2013]

Editor's Introduction

After a period of 46 years (1642-1688) during which time civil war, revolution, the execution of a monarch, the rise of Parliament, the rise of a dictator, the restoration of the monarchy, and a virtual coup d'état which brought another monarch to throne, wracked British politics, a settlement was finally reached which placed limits on the power of the crown and asserted the primacy of Parliament. This was codified in the English Bill of Rights which was passed by Parliament on 16 December, 1689. Prince William and Princess Mary of Orange (Netherlands) were proclaimed King and Queen of England, France, and Ireland on certain conditions which were clearly spelled out in the Bill, which had as its subtitle "An Act for declaring the rights and liberties of the Subject, and settling the succession of the Crown."

The Bill of Rights was significant for bringing to an end a period of enormous turmoil in Britain, asserting the primacy of Parliament in the British system of government, introducing legal limits on the power of the government over the citizens, and in providing a model for similar American bills of rights in the 18th century. Among some of the more important clauses are those that reserve the power to enact or suspend the law to Parliament, that taxes cannot be levied without Parliament's consent, that Parliament will decide whether or not to maintain a standing army, that individuals have the right to bear arms, and that the freedom of speech should not be interfered with without Parliament's consent.

What is striking to the modern reader is the considerable hostility expressed towards Catholics in the document and that only Protestants can serve as king or queen in Britain.

It should be noted that this Bill is part of a series of legal statements about the rights of Englishmen which were proclaimed during the 17th century. Others include the Petition of Right (1628), the Agreement of the People (1647, 1648), and the Habeas Corpus Act (1679).

“(1.) That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

(4.) That levying money for or to the use of the Crown by pretence of prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

(5.) That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

(6.) That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.

(7.) That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law.

(9.) That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.”

***The English Bill of Rights (16
December, 1689)***¹

AN ACT FOR DECLARING THE
RIGHTS AND LIBERTIES OF THE
SUBJECT, AND SETTLING THE
SUCCESSION OF THE CROWN.

Whereas the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully, and freely representing all the estates of the people of this realm, did upon the Thirteenth day of February, in the year of our Lord One Thousand Six Hundred Eighty-eight, present unto their Majesties, then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain Declaration in writing, made by the said Lords and Commons, in the words following, viz.:

—
“Whereas the late King James II., by the assistance of divers evil counsellors, judges, and ministers employed by him, did endeavour to subvert and extirpate the Protestant religion, and the laws and liberties of this kingdom:

—
(1.) By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of Parliament.

(2.) By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the said assumed power.

(3.) By issuing and causing to be executed a commission under the Great Seal for erecting a court, called the Court of Commissioners for Ecclesiastical Causes.

(4.) By levying money for and to the use of the Crown by pretence of prerogative, for other time and in other manner than the same was granted by Parliament.

(5.) By raising and keeping a standing army within this kingdom in time of peace, without consent of Parliament, and quartering soldiers contrary to law.

(6.) By causing several good subjects, being Protestants, to be disarmed, at the same time when Papists were both armed and employed contrary to law.

(7.) By violating the freedom of election of members to serve in Parliament.

(8.) By prosecutions in the Court of King’s Bench for matters and causes cognizable only in Parliament; and by divers other arbitrary and illegal causes.

(9.) And whereas of late years, partial, corrupt, and unqualified persons have been returned, and served on juries in trials, and particularly diverse jurors in trials for high treason, which were not freeholders.

(10.) And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

(11.) And excessive fines have been imposed; and illegal and cruel punishments inflicted.

(12.) And several grants and promises made of fines and forfeitures, before any conviction or judgment against the persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.

***“the late King James II., by the
assistance of divers evil counsellors,
judges, and ministers employed by
him, did endeavour to subvert and
extirpate the Protestant religion, and
the laws and liberties of this kingdom”***

And whereas the said late King James II, having abdicated the government, and the throne being thereby vacant, his Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from Popery and arbitrary power) did (by the advice of the Lords Spiritual and Temporal, and diverse principal persons of the Commons) cause letters to be written to the Lords Spiritual and Temporal, being Protestants, and other letters to the several counties, cities, universities, boroughs, and cinque ports, for the

¹ James McClellan, *Liberty, Order, and Justice: An Introduction to the Constitutional Principles of American Government* (3rd ed.) (Indianapolis: Liberty Fund, 2000). Chapter: APPENDIX C: The English Bill of Rights (1689). <oll.libertyfund.org/title/679/68363>.

choosing of such persons to represent them, as were of right to be sent to Parliament, to meet and sit at Westminster upon the two-and-twentieth day of January, in this year one thousand six hundred eighty and eight, in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted; upon which letters elections have been accordingly made.

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done), for the vindicating and asserting their ancient rights and liberties, declare:

(1.) That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

(2.) That the pretended power of dispensing with laws, or the execution of laws by regal authority, as it hath assumed and exercised of late, is illegal.

(3.) That the commission for erecting the late Court of Commissioners for Ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

(4.) That levying money for or to the use of the Crown by pretence of prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

(5.) That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

(6.) That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.

(7.) That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law.

(8.) That election of members of Parliament ought to be free.

(9.) That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

(10.) That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

(11.) That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.

(12.) That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

(13.) And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliament ought to be held frequently.

“1.) That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal...

(4.) That levying money for or to the use of the Crown by pretence of prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal...

(6.) That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.”

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which

they have here asserted, and from all other attempts upon their religion, rights, and liberties,

II. The said Lords Spiritual and Temporal, and Commons, assembled at Westminster, do resolve, that William and Mary, Prince and Princess of Orange, be, and be declared, King and Queen of England, France, and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said Prince and Princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by, the said Crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said Princess; and for default of such issue to the Princess Anne of Denmark, and the heirs of her body; and for default of such issue to the heirs of the body of the said Prince of Orange. And the Lords Spiritual and Temporal, and Commons, do pray the said Prince and Princess to accept the same accordingly.

III. And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law, instead of them; and that the said oaths of allegiance and supremacy be abrogated.

“I, A. B., do sincerely promise and swear, That I will be faithful and bear true allegiance to their Majesties King William and Queen Mary:

“So help me God.”

“I, A. B., do swear, That I do from my heart abhor, detest, and abjure as impious and heretical that damnable doctrine and position, that Princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, preeminence, or authority, ecclesiastical or spiritual, within this realm:

“So help me God!”

IV. Upon which their said Majesties did accept the Crown and royal dignity of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said Lords and Commons contained in the said declaration.

V. And thereupon their Majesties were pleased, that the said Lords Spiritual and Temporal, and Commons, being the two Houses of Parliament, should

continue to sit, and with their Majesties’ royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted, to which the said Lords Spiritual and Temporal, and Commons, did agree and proceed to act accordingly.

***“I, A. B., do swear, That I do from my heart abhor, detest, and abjure as impious and heretical that damnable doctrine and position, that Princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, preeminence, or authority, ecclesiastical or spiritual, within this realm:
“So help me God!”***

VI. Now in pursuance of the premises, the said Lords Spiritual and Temporal, and Commons, in Parliament assembled, for the ratifying, confirming, and establishing the said declaration, and the articles, clauses, matters, and things therein contained, by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and that all and every of the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers

whatsoever shall serve their Majesties and their successors according to the same in all times to come.

***“that it may be declared and enacted,
That all and singular the rights and
liberties asserted and claimed in the
said declaration are the true, ancient,
and indubitable rights and liberties of
the people of this kingdom, and so
shall be esteemed, allowed, adjudged,
deemed, and taken to be, and that all
and every of the particulars aforesaid
shall be firmly and strictly holden and
observed, as they are expressed in the
said declaration”***

VII. And the said Lords Spiritual and Temporal, and Commons, seriously considering how it hath pleased Almighty God, in his marvellous providence, and merciful goodness to this nation, to provide and preserve their said Majesties’ royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto Him from the bottom of their hearts their humblest thanks and praises, do truly, firmly, assuredly, and in the sincerity of their hearts, think, and do hereby recognize, acknowledge, and declare, that King James II, having abdicated the Government, and their Majesties having accepted the Crown and royal dignity aforesaid, their said Majesties did become, were, are, and of right ought to be, by the laws of this realm, our sovereign liege Lord and Lady, King and Queen of England, France, and Ireland, and the dominions thereunto belonging, in and to whose princely persons the royal state, crown, and dignity of the same realms, with all honours, styles, titles, regalties, prerogatives, powers, jurisdictions, and authorities to the same belonging and appertaining, are most fully, rightfully, and entirely invested and incorporated, united, and annexed.

VIII. And for preventing all questions and divisions in this realm, by reason of any pretended titles to the Crown, and for preserving a certainty in

the succession thereof, in and upon which the unity, peace, tranquility, and safety of this nation doth, under God, wholly consist and depend, the said Lords Spiritual and Temporal, and Commons, do beseech their Majesties that it may be enacted, established, and declared, that the Crown and regal government of the said kingdoms and dominions, with all and singular the premises thereunto belonging and appertaining, shall be and continue to their said Majesties, and the survivor of them, during their lives, and the life of the survivor of them. And that the entire, perfect, and full exercise of the regal power and government be only in, and executed by, his Majesty, in the names of both their Majesties, during their joint lives; and after their deceases the said Crown and premises shall be and remain to the heirs of the body of her Majesty: and for default of such issue, to her Royal Highness the Princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of his said Majesty: And thereunto the said Lords Spiritual and Temporal, and Commons, do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities, forever: and do faithfully promise, that they will stand to, maintain, and defend their said Majesties, and also the limitation and succession of the Crown herein specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

IX. And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this Protestant kingdom, to be governed by a Popish prince, or by any king or queen marrying a Papist, the said Lords Spiritual and Temporal, and Commons, do further pray that it may be enacted, That all and every person and persons that is, are, or shall be reconciled to, or shall hold communion with, the See or Church of Rome, or shall profess the Popish religion, or shall marry a Papist, shall be excluded, and be for ever incapable to inherit, possess, or enjoy the Crown and Government of this realm, and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise any regal power, authority, or jurisdiction within the same; and in all and every such case or cases the people of these realms shall be and are hereby absolved of their allegiance; and the said Crown and Government shall from time to time descend to, and be enjoyed by, such person or persons, being Protestants, as should have inherited

and enjoyed the same, in case the said person or persons so reconciled, holding communion, or professing, or marrying, as aforesaid, were naturally dead.

“it hath been found by experience, that it is inconsistent with the safety and welfare of this Protestant kingdom, to be governed by a Popish prince, or by any king or queen marrying a Papist, the said Lords Spiritual and Temporal, and Commons, do further pray that it may be enacted, That all and every person and persons that is, are, or shall be reconciled to, or shall hold communion with, the See or Church of Rome, or shall profess the Popish religion, or shall marry a Papist, shall be excluded, and be for ever incapable to inherit, possess, or enjoy the Crown and Government of this realm, and Ireland”

X. And that every King and Queen of this realm, who at any time hereafter shall come to and succeed in the Imperial Crown of this kingdom, shall, on the first day of the meeting of the first Parliament, next after his or her coming to the Crown, sitting in his or her throne in the House of Peers, in the presence of the Lords and Commons therein assembled, or at his or her coronation, before such person or persons who shall administer the coronation oath to him or her, at the time of his or her taking the said oath (which shall first happen), make, subscribe, and audibly repeat the declaration mentioned in the statute made in the thirteenth year of the reign of King Charles II., intituled “An act for the more effectual preserving the King’s person and Government, by disabling Papists from sitting in either House of Parliament.” But if it

shall happen, that such King or Queen, upon his or her succession to the Crown of this realm, shall be under the age of twelve years, then every such King or Queen shall make, subscribe, and audibly repeat the said declaration at his or her coronation, or the first day of meeting of the first Parliament as aforesaid, which shall first happen after such King or Queen shall have attained the said age of twelve years.

XI. All which their Majesties are contented and pleased shall be declared, enacted, and established by authority of this present Parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, declared, enacted, or established accordingly.

XII. And be it further declared and enacted by the authority aforesaid, that from and after this present session of Parliament, no dispensation by non obstante of or to any statute, or any part thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of Parliament.

XIII. Provided that no charter, or grant, or pardon granted before the three-and-twentieth day of October, in the year of our Lord One thousand six hundred eighty-nine, shall be any ways impeached or invalidated by this Act, by that the same shall be and remain of the same force and effect in law, and no other, than as if this Act had never been made.

Further Information

SOURCE

The edition used for this extract: James McClellan, *Liberty, Order, and Justice: An Introduction to the Constitutional Principles of American Government* (3rd ed.) (Indianapolis: Liberty Fund, 2000). Chapter: APPENDIX C: The English Bill of Rights (1689). <oll.libertyfund.org/title/679/68363>.

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Subject Area: Law <oll.libertyfund.org/collection/50>.

“The distinctive principle of Western social philosophy is individualism. It aims at the creation of a sphere in which the individual is free to think, to choose, and to act without being restrained by the interference of the social apparatus of coercion and oppression, the State.”
[Ludwig von Mises, “Liberty and Property” (1958)]



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