

The Glorious Revolution and the English Bill of Rights

With a Protestant majority and a developing democratic tradition, England did not take kindly the rule of James II. The king's absolutist tendencies and promotion of Catholicism alienated key elements within English society. Many looked forward to James' death and to what they hoped would be more moderate Protestant rule under his daughter Mary. In addition to being Protestant, Mary was married to Prince William of Orange, the ruler of the Netherlands and the most powerful Protestant opponent of the militantly Catholic King of France, Louis XIV. Hopes of a smooth transition to Protestant rule under Mary were dashed, however, when in 1688 James' wife gave birth to a male heir who was promptly baptized as a Catholic. Fearing the continuation of Catholic absolutist rule, seven English lords invited William and Mary to England. The offer was for both William and Mary to rule as dual monarchs, but it was understood that William would have the real authority. William, whose primary concern was defeating Louis XIV, accepted the offer with the hope of using England's strength against France.

Although the small group of leaders that invited William by no means represented all of England, war did not break out when William's armada landed in 1688. Civil war was a real possibility, however, and could have erupted as it did under James' father Charles I. Louis XIV, in fact, counted on William getting bogged down in an English war. However, due in part to favorable winds that carried William to England while simultaneously keeping James' fleet stuck in port and also to the unexpected flight of the typically strong-willed James, William's forces met no resistance when they landed in 1688 and marched into London. The Whig political party in England, which had been very critical of James II throughout his reign, readily welcomed the change in government. The rival Tory party, on the other hand, had been more loyal to James II and his Stuart royal family. The Tories were believers in strong royal authority, the right of hereditary succession, and the divine right of kings. All of those beliefs would lead them to be loyal to James and resist a claim to the throne by William. The Tories were also, however, staunch supporters of the Protestant Anglican Church of England, and the pro-Catholic policies of James II undoubtedly weakened Tory loyalty for him. Whether a result of resentment over James' religious policies or dismay at James' inability to mount an effective defensive campaign, the Tories decided to join the Whigs in supporting the accession to the throne of William and Mary. With both Whig and Tory support, the transfer of power was surprisingly smooth. Since the revolution was relatively bloodless and widely supported, it came to be known in England as "glorious."

In Ireland, however, the revolution had a far less glorious reputation with the Catholic majority. With support from Louis XIV, James II went to Ireland in 1689 to stage a comeback. He was supported enthusiastically by the Irish Catholic majority but was eventually defeated by the forces of William III. This episode sowed the seeds of Irish conflict for generations. Catholics resented their defeat and what they felt was their continued subjugation, while Protestant Unionists continued to take inspiration from the events of 1688-89 as shown by the adoption of orange as their official color in honor of William of Orange. In some ways, the conflict in Ireland between these two groups continues to this day.

Since William III's armies conquered Ireland by force and England without a fight, it has been argued that the Glorious Revolution was more of an invasion than a real

internal revolution. The role played by the English Parliament, however, makes the event more than a mere invasion or palace coup. The real significance of the Glorious Revolution stems from the fact that when William and Mary accepted the throne in 1689, they also officially accepted the Declaration of Rights: a document drawn up by the emergency Convention Parliament that, with a few amendments, was later written into law as the Bill of Rights. When the new king William III signed the Bill of Rights into law, it was not because he was a champion of limited government or a defender of English liberty. His primary concern was maintaining political support in Parliament for his war against France. William III's acceptance of the Bill of Rights, however, is what makes the Glorious Revolution a revolution.

In addition to declaring certain individual rights, the Bill of Rights defined the relationship between Parliament and the monarchy, giving Parliament the decisive edge. No longer threatened by the type of royal absolutism personified by Louis XIV and on the rise throughout Europe in the seventeenth century, England would be from this point forward a constitutional monarchy. Unlike the US Constitution, which is one amendable document, the English Constitution is a combination of legal traditions, court rulings, and parliamentary statutes. Written into law as one such parliamentary statute, The Bill of Rights is considered to be the cornerstone of the English Constitution. According to the new arrangement, the monarch would serve as head of state and possess a limited degree of authority, while Parliament would maintain the ultimate power. In other words, Parliament would be sovereign. The Bill of Rights also guaranteed certain individual rights. For example, article ten declares that English subjects were to be free from excessive bail, fines, or "cruel and unusual punishments." The language of this article and others reveals how influential the English Bill of Rights was to the writers of the US Bill of Rights a century later. The English Bill of Rights, however, did not go nearly as far in identifying individual rights as did its American successor, but instead focused on the monarchy, the Parliament, and the relationship between the two.

Outside of the British Isles, the philosophical legacy of the Glorious Revolution—especially as it was described in the writings of the contemporary observer John Locke—had a major impact, helping to inspire both the American and French Revolutions. Locke praised the Glorious Revolution in his famous *Two Treatises on Government* and possibly published the work when he did in 1689 in order to promote the passage of the Bill of Rights, then working its way through Parliament. Locke argues in this work that the people, as represented by the Convention Parliament, were right to replace the tyrannical James II and to declare their rights, through the Declaration of Rights, before anointing a new king. According to Locke, if a government does not protect the natural rights of the people—defined specifically as life, liberty, and property—than the people have the right to rebel and replace the government with one that more effectively protects those rights. In *The Two Treatises on Government*, Locke presents the Glorious Revolution as his philosophy of government in action. In reality, the Declaration of Rights fell far short of protecting natural rights as Locke had defined them, and Parliament at that time represented only the rich, not the people as a whole. Nevertheless, Locke's idealistic interpretation of the Glorious Revolution lived on, helping to spark far bloodier and more earth-shattering revolutions in America and France in the eighteenth century, and helping to inspire beliefs that are widely held today about individual rights, limited government, and popular sovereignty.

Teacher's Guide to the Articles

Article 1

That the pretended power of suspending laws, or the execution of laws, by regal authority, without consent of parliament is illegal.

Article 2

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

“Suspending” a law meant to temporarily nullify a law but not to repeal it. For example, when a student is “suspended” from school he is temporarily removed from campus. When a law is suspended, it temporarily does not apply. The power to suspend a law might be used by a king in a time of emergency.

“Dispensing” a law did not mean to get rid of it completely but rather to allow a designated individual or group of individuals to disobey the law. To dispense in this case does not mean “to get rid of” but rather to “grant a dispensation or exemption.” This power to dispense a law might be used by a king in order to make an exception for individual cases of hardship.

Eliminating the more commonly used dispensing power was more controversial than eliminating the rarely used suspending power. In order to convince members of Parliament who wished to keep the dispensing power to support the Declaration of Rights (and the later Bill of Rights), the two powers were separated into different articles and qualified language was added to article two—“as it has been assumed and exercised of late.” “Of late” is a vague reference to use of the dispensing power by James II and arguably also by Charles II, the king immediately before James. Both Stuart monarchs had attempted to use the dispensing power to gain toleration for Catholics as well as Protestant Dissenters. These moves had been very unpopular with a Protestant Parliament that had attempted to restrict minority religious groups, especially the Catholics. In spite of the qualified language, however, the Bill of Rights had the effect of permanently eliminating both the suspending and the dispensing power.

Article 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.

This was an attack on the Ecclesiastical Commission: a body James II established in order to supervise and control the Anglican Church of England and the English university system. This body was unpopular, especially with Anglican Tories,

because it punished church officials and college faculty who were hostile to Catholicism, while at the same time promoting Catholics to important positions. This article effectively limited the king's control over state-run churches and universities.

Article 4

That levying money for or to the use of the crown by pretense of prerogative, without grant of parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

This article reaffirms an old and well-established principle going back to the Magna Charta that the people should not be taxed without their consent. Before the Bill of Rights, however, there were exceptions to this age-old principle. For centuries, Parliament, which claimed to be “the representative body of the people,” officially had the power only over “direct” taxes such as those on land. Monarchs could tax without Parliament's permission by levying “indirect” taxes such as customs duties. They sometimes also engaged in “forced borrowing,” borrowing money from wealthy subjects against their will and, in some instances, refusing to return it. This method of raising money was also done without the permission of Parliament. Article four clearly spells out that there should be no taxation by the king without Parliament's consent.

The principle behind this article became central to the cause of American colonists in the lead-up to the American Revolution, even though the wording of the article itself worked against them. Since the colonists elected no members to Parliament, they felt that Parliament did not represent them. Therefore, even if a tax imposed on the colonies had the consent of Parliament, it was still fundamentally unfair. Members of Parliament argued that the Parliament did in fact represent the colonists, as they were British subjects. American patriots, however, did not accept this argument and “no taxation without representation” became their rallying cry.

Article 5

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

This article asserts the unlimited right of Englishmen to petition, or formally complain, to their king without fear of reprisal.

Perhaps also dating back to the Magna Charta, this right was one that had been claimed for centuries but was repeatedly challenged by kings. The most recent challenge, and the one foremost in the minds of the framers, occurred under James II. James II ordered Anglican Bishops to read a statement of religious toleration in their churches. Seven bishops interpreted the statement as being pro-

Catholic and protested the order by exercising their right of petition. James II responded by having the bishops arrested. This incident caused James II to lose crucial support with the staunchly Anglican Tories and was thus a key event leading to his eventual downfall. This incident also probably led Tories to support the inclusion of article five in the Bill of Rights even though the Tories were generally in favor of limiting the right of petition. For their part, the Whigs had been long-time supporters of the right of petition. Before the episode of the “Seven Bishops,” the right of petition had been a divisive issue for Whigs and Tories. In fact, it was a controversy over the right of petition a decade earlier that led to the formation of the Whig and Tory parties.

Article 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.

A “standing army” is a force of professional soldiers who are kept “standing” even in peacetime. In other words, a permanent force, not one that is disbanded after a war is over. This article prevents monarchs from maintaining permanent standing armies within England during peacetime without Parliament’s permission.

Today, standing armies are considered an essential part of any sizable countries government. During the seventeenth century, however, the concept of having a standing army was new and was regarded as a threat to English liberties. In medieval times, the military was made up of feudal knights as well as temporary units of local militiamen and mercenaries that were disbanded once the fighting stopped. Oliver Cromwell’s New Model Army, England’s first standing army, remained in force after winning the English Civil War and helped support a regime that many saw as repressive. The New Model Army set a precedent, for after the restoration of the monarchy, both Charles II and James II kept small standing armies of their own.

By including this article, Parliament was trying to promote the locally based militia at the expense of the professional army. The militia was assumed to be supportive of Parliament, whereas the professional national army was assumed to have a stronger loyalty to the king. Although standing armies were becoming common throughout Europe during the seventeenth century, supporters of the militia argued that a standing army was not necessary to defend Britain since it was an island and thus protected by the sea as well as by the English navy. In spite of Parliament’s preference for the militia, however, the professional military became much more important and powerful after the Glorious Revolution due to England’s rise as a world power. Conversely, the militia became increasingly insignificant. To get around the prohibition of a standing army “within the kingdom” during peacetime, the permanent army was stationed primarily in overseas territories as well as in nearby Ireland.

Article 7

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

This article protects the right of well-off Protestants to own “arms”—firearms or guns.

This article reflects a fear of Catholics as well as a fear of standing armies, which under Charles II and James II were seen to be composed substantially of Catholics. The best protection against Catholic absolutism was considered to be a well-armed Protestant population organized into local militia units.

There was debate over whether or not to extend the right to bear arms to all Protestants regardless of their “condition,” or wealth, but fears of arming “the mob” prevented this. The original draft of the article produced by the House of Commons granted the right to bear arms to all Protestants, but the House of Lords added the qualifying language “suitable to their condition” and “as allowed by law.”

Article 8

That election of members of parliament ought to be free.

“Free” elections were elections free from interference by the monarchy.

This type of interference was as old as Parliament itself. Monarchs had influenced elections by appealing to the loyalty of the voters, making particular individuals ineligible for elected office by appointing them to certain government positions such as sheriff, and also by voiding actual election results.

Article 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.

What happens in Parliament stays in Parliament. In the interest of encouraging open and honest discussion, no one should be punished because of what they say in Parliament.

Before the Bill of Rights, the freedom of speech in Parliament was generally unprotected. People had been punished for statements made in Parliament that were not favorable to the king. Freedom of speech in Parliament was a privilege that could be granted by the king on special occasions or to special individuals, but this was the exception, not the rule. Speech made by members of Parliament

while out of session was still unprotected as was, of course, speech made by any other English subject outside of Parliament.

Article 10

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

This article seeks to prohibit judges from abusing their discretionary power by issuing punishments that were outside the bounds of the law or disproportionate to the crime.

The idea of bail had a long history in England. A form of bail was used in ancient Anglo-Saxon times. This article reflects a desire to limit judges from setting excessive bail amounts. The bail should not be so high as to effectively deny someone the right of bail. In other words, the bail amount should not be set so high as to prevent an individual from paying it. Likewise, fines should not be so high as to bring about an individual's financial ruin.

Although the framers of the US Constitution interpreted "cruel and unusual" to mean "barbarous" or "inhumane" when they incorporated this language into the US Bill of Rights, the most likely seventeenth century meaning of the language is "severe and uncommon." For example, it was considered appropriate punishment both before and after the Bill of Rights to hang, draw, and quarter an individual convicted of a very serious crime such as treason. Whipping was also considered appropriate for a wide range of lesser but still serious crimes such as perjury. It would be considered "severe and uncommon," however, to draw and quarter someone for perjury, although whipping might be in order. As long as the punishment fit the crime in terms of severity, was commonly used in England for the crime concerned, and was within the bounds of the law, it was considered acceptable regardless of whether or not it was barbarous or inhumane.

Article 11

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

"Freeholders" owned property and had the right to sell it at their will. Property ownership was much more rare in seventeenth century England than it is in modern day America, and it was usually an indication of substantial wealth. It was generally accepted by the ruling classes that freeholders made better jurors than leaseholders (renters) who were generally poor and thus more prone to be swayed by bribes or other influences. This article specifies that for treason trials only freeholders should serve as the jurors and that they should be returned to their lives as soon as possible. Freeholders were more numerous in rural areas where land was relatively cheap. Since treason trials were often held in an urban

environment—namely London—freeholders were harder to come by and less likely to serve on juries unless a concerted effort was made to find them.

Article 12

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

After a person was convicted of treason, not only could he be hung, drawn, and quartered, but also his property could be confiscated by the king through “fines and forfeitures.” This property could then be given by the king as a gift to one of his courtiers, friends, or allies. It became common for kings in treason cases to promise these “fines or forfeitures” to someone else even before the conviction was made. The potential beneficiaries of these promised rewards, who were often powerful people, might try to influence the case and press for a conviction. The person granted the gift would in effect turn prosecutor. This type of corruption was the cause of widespread resentment towards the monarchy during the decades leading up to the Glorious Revolution.

Article 13

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

The king traditionally had the right to summon and dissolve Parliament as he wished. Some kings, such as Charles I, abused this power by choosing to rule for many years without ever calling a Parliament. This abuse of power by Charles I led to the English Civil War and the temporary elimination of the English monarchy. When the monarchy was restored under Charles II, it was established that the king should call Parliament at least once every three years. After the Glorious Revolution, the expectation was that Parliament should be in session at least once every year.

This last article stresses the importance and permanence of Parliament. With the Bill of Rights the Parliament was established as the main power in government. For England, the days of absolutist monarchy were over. A constitutional monarchy had been born.