

Study Guide

An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown

- The first line of the Act.

The Bill of Rights Act, 1689 is considered by many to be the third-greatest charter of English liberties after the *Magna Carta, 1215* and the *Petition of Right, 1628*. Rather than dealing with protecting the rights of individuals and civil rights as we know them today, the *Bill of Rights Act, 1689* mainly set out strict limits on the use of Royal prerogatives by the sovereign.

King James II

James II survived attempts to exclude him from the throne in the years before the death of his brother Charles II to become King in 1633. He was a man with much military experience, serving in the army of Louis XIV - he also participated in several bloody encounters while commanding the Royal Navy (1660-1673). He converted to Roman Catholicism in 1669.

In June 1685, he successfully put down a rebellion by the Duke of Monmouth¹ who believed himself to be the rightful heir. The Duke was defeated at the Battle of Sedgemoor, where he was captured. This revolt was supported by the Earl of Argyle who launched an attack in Scotland but was defeated and executed. Around the same time James prorogued (suspended) Parliament. During September *The Bloody Assizes* occurred. The Bloody Assizes were court sessions held after the defeat of Monmouth's Rebellion; Chief Justice George Jeffreys guaranteed that these would be forever known as 'Bloody'. Many of the leaders of the rebellion were able to escape punishment through bribery or favoritism, but up to 320 were executed. Most of those executed had pled guilty believing that they would be shown mercy. James II went on to suspend laws and the execution of laws - where they discriminated against Roman Catholics - without the consent of Parliament. He appointed Roman Catholics to senior positions in the Army, Navy, government, the legal system and the universities, all in breach of Acts of Parliament.

In 1688, seven bishops presented their petition to James against a *Declaration of Indulgence*, a proclamation by James II repealing all religious tests and penal laws that discriminated against Roman Catholics and which had to be read in churches. They were charged with seditious libel but were acquitted on 30 June, the day after the Lords Shewsbury, Devonshire, Danby, Crompton, Lumley and Edward Russell and Henry Sidney sent an appeal to William of Orange to intervene in order to protect English liberties, assuring him that he would be welcomed by 19 out of 20 Englishmen.

William and Mary

On November 15 that year, William's fleet arrived at Torbay and his army disembarked. It was up to ten days before most his supporters arrived to join his standard. James was quickly notified of William's landing, but the king was slow to respond, unaware that many of his Protestant army commanders² were planning to switch allegiance to William. When James realised the support that William had, he fled to France.

The laws of succession were met by the assumption that, by his flight, James II had abdicated.

William of Orange and his wife Mary were jointly crowned King and Queen of England (Mary being the daughter of James II) in Westminster Abbey on 11 April, 1689, and, as part of their oaths, they had to swear that they would obey the laws of Parliament. The *Bill of Rights* was read to both William III and Mary II³. On hearing it, William is said to have replied: 'We thankfully accept what you have offered us'.

The Succession in Scotland and Ireland

There were three separate kingdoms at this point in history; England (and Wales), Scotland and Ireland that all shared the same sovereign. They would not be united politically until the *Act of Union of 1707* and the *Act of Union of 1801*. The details of the resistance to the moves towards union are beyond the scope of this entry but a brief summary of the events that led to William and Mary succeeding James in Scotland and Ireland follows.

The Kingdom of Scotland

There was a brief rebellion against William and Mary by Viscount Dundee who rallied the clans and inflicted a defeat upon forces loyal to William and Mary at Killiecrankie in July, 1689. Viscount Dundee was killed while attaining victory, however, and nobody else could hold the clans together. The Scottish throne was offered jointly to William and Mary on the condition that they did away with Episcopacy in Scotland and instituted a Presbyterian Church order in its place.

The Kingdom of Ireland

After James had been in France for a few weeks, it came to his attention that there was one kingdom that was still loyal to him; Ireland. The majority of the population was Roman Catholic as was its governor the Earl of Tyrconnel, Richard Talbot.

James left France for Ireland in March 1689 accompanied by French military advisors and weapons. The army that Tyrconnel assembled for James, though large, was poorly equipped; it also lacked both discipline and equipment. James and his advisors spent the summer training the army. At an Irish Parliament in May the authority of the English Parliament was denied and over 2000 Protestants named in an 'Act of Attainder'⁶. At around the same time the siege of Protestant Derry by forces loyal to James failed⁷.

In August forces loyal to William under General Schomberg landed in Ulster where they were joined by William at the beginning of the following summer. 1 July, 1690, was a very hot day and, on that day, forces of James and William met in battle at Boyne - 30 miles north of Dublin. William took direct command of his troops and led them to an impressive victory⁸. James fell back to Duncannon and boarded a ship for France where he lived the rest of his life in exile, dying in 1701⁹.

The Bill of Rights Act

The *Bill of Rights Act, 1689* passed through Parliament after the coronation and, on 16 December, 1689, the King and Queen gave it Royal Assent, passing it into English law. Never again would English monarchs claim their power came from God as *The Bill of Rights Act, 1689* represented the end of the concept of Divine Right of Kings, which was one of the issues over which the English Civil War had been fought. It also made kings and queens subject to laws passed by Parliament; this has been called the 'Glorious Revolution'.

The *Bill of Rights Act, 1689* was part of a package of laws that reformed the English constitution at this time with the other two being the *Toleration Act, 1689* - which promoted limited religious toleration - and the *Triennial Act, 1694* - which prevented the King from dissolving Parliament at will and placed a legal requirement that general elections had to be held every three years¹⁰.

Key Points

In addition to listing the transgressions of James II the *Bill of Rights Act, 1689* legislated on some very important issues:

- *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.*
- Roman Catholics were barred from the throne by this Act.
- *That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal.*
- The right of free petitioning was reinstated by the Act.
- *That the pretended power of suspending the laws or the execution of laws by regal authority without consent of Parliament is illegal.*
- The Act places a prohibition against arbitrary suspension of Parliament's laws by the sovereign.
- *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.*
- The Act limits the sovereigns' right to raise money through taxation, with the consent of Parliament being needed.
- *That election of members of Parliament ought to be free*
- The Act guarantees the sovereign will not interfere in the free and fair elections of Members of Parliament.
- *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 Act guarantees the freedom of speech of Members of Parliament within parliamentary debates or proceedings (this means that MPs are free to say things that could be considered libellous or otherwise illegal while participating in parliamentary debates without fear of prosecution in the civil or criminal courts).
- *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.*
- The Act makes it illegal for the sovereign to keep military forces within the kingdom in time of peace without consent of Parliament, which is one of the reasons the military is funded on an annual basis by parliament.
- *That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.*
- The act makes the imposition of excessive fines or cruel punishments illegal.

It should be noted that this Act is considered by many scholars to be the inspiration behind the United States of America's *Bill of Rights*¹¹.

- *The Bill of Rights Act, 1689*

1 The Duke of Monmouth (James Scott) - born in 1649 - was the illegitimate child of Charles II and mistress Lucy Walter. He was beheaded in 1685.

2 Including John Churchill, second in command of the Army, who was later made 1st Duke of Marlborough by Queen Anne.

3 Uniquely in the history of the English monarchy, William and Mary were jointly crowned and ruled together as joint monarchs.

4 England (and Wales) and Scotland.

5 England (and Wales), Scotland and Ireland.

6 An Act of Attainder is a law that removes rank, privilege and property from those listed in it.

7 Protestant Apprentice Boys still march in Londonderry each August to commemorate the Siege of Derry when local apprentice boys closed the city's gates against King James' army.

8 Protestant Orangemen still commemorate Williams' victory at the Battle of the Boyne each June with marches.

9 James II is one of the few monarchs since the Norman Conquest whose body-location is unknown. Although James' body was laid in a coffin at the Chapel of Saint Edmund - the Church of the English Benedictines in Paris - awaiting transport back to England, it was desecrated and disappeared during the

French Revolution.

10 This was later amended to five years by the *Septennial Act, 1716*.

11 Although the United States of America's *Bill of Rights* deals more with the rights of the individual.