

## Ultra Low Emissions Zone or ULEZ v Bill of Rights

This is a layman's logical appraisal of the Principles underlying ULEZ v the Bill of Rights.

The ULEZ scheme proposed and being activated by the London Mayor to create a charge upon any motorist driving a non emissions compliant car within its prohibited zone shortly to expand to include the whole of Greater London seeks to require payment of £12,50 per 24 hours based on a division of days by date. Thus at midnight crossing from one date to the next will incur a two day fee. Non Payment within a period of three days of the usage will incur a fine of £160. This is all to be enforced by cameras reading number plates of those travelling within the zone.

Its implementation has been resisted by some of the Councils who have been asked to place signage about it within their areas. There has been a court case in the High Court which has upheld the Mayor's position.

The Court challenge which failed was not apparently based upon the constitutional principles of the Bill of Rights, which ought to overarch all policy by controlling the use of the Crown's prerogative, The Judgement concluded that the authority used did not violate the law in question.

I believe that the wrong test of our law has been made and that there is a very straight forward case yet to be put. That the principles for the operation of ULEZ violates our Constitution as written into the Bill of Rights 1689 and derived from and in entrenchment of the Declaration of Rights 1688, the very foundation from which passed the Crown into the House of Hanover and then Windsor.

The Bill of Rights defines the legitimate authority of the Crown in all its governance. Any violation or non compliance with this must surely be considered unconstitutional. The Crown may not be placed into a state of perjury. Compliance with the Bill of Rights is enshrined with these two clauses:-

*"...their undoubted rights and liberties, and that no declarations, judgements, 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;..."*

*"...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 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."*

The Monarchy is bound by the Accession Declaration and Coronation Oaths to uphold the Bill of Rights to the utmost of its powers. Parliament may not make any exception to this, true allegiance is owed and mandated.

A further clause about levying of monies by arbitrary power :-

*"All grants and promises of fines and forfeitures of particular persons before conviction are illegal and void."*

There is a famous case *Bowles v Bank of England* in which the Bill of Rights was upheld and this wonderful phrase was in summary of the judgement

### **Bowles V Bank of England Parker J 1912 Chancery Division**

*"The Bill of Rights still remains unrepealed, no practice or custom, however prolonged, or however acquiesced in on the part of the subject, can be relied on by the Crown as justifying any infringement of its provisions."*

It is currently a law of Parliament. The purpose of the Bill of Rights was to extinguish all arbitrary power, it says so in its text.

*"... the glorious instrument of delivering this Kingdom from popery and **arbitrary power**"*

It would seem that arbitrary power is indeed being utilized to implement this ULEZ scheme.

The Bill of Rights logically outlaws arbitrary power by creating a separation of powers. To achieve this it demands that only the ordinary customary courts are to exist and that juries shall be empanelled therein. This places the power of conviction not in the hands of the State but by the people through their juries. A constitutional bulwark against despotism and tyranny.

In order to ensure the liberty of the Subject it adds to this and stipulates that there can be no taxation without representation nor fines prior to conviction. Also No Cruel or Unusual Punishments and no Excessive Bail etc. Thus the Crown is inhibited in its Governance from entertaining any violations of these principles.

The principle of 'No Taxation' without representation is commanded by this text:-

*"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;"*

It applies to all monies **levied** by the Crown.

This clause asserts that consent of Parliament is required to levy money. Does the Mayor have a Public general enactment granting the raising of these monies by his authority and to set an exorbitant penalty? So called Henry VIII powers (arbitrary powers) were intended to be outlawed by the logical principles of the Declaration of Rights which is enacted in the Bill of Rights since 1689. Consent of Parliament equates to enactment and nothing less. The right to set levels of any levies has long been a cherished duty for Parliament to decide. Thus no levying ought to be delegated to any other let alone ostensibly subordinate, authority.

Does this apply to ULEZ? Well the Mayor asserts that he has powers arising from environmental legislation to set levies to enforce ULEZ. He claims delegated authority via Statutory Instrument to assert this power. Statutory instruments cannot amount to consent of Parliament and are not primary legislation but secondary legislation of a regulatory nature. They are a specified use of the Crown's prerogative to regulate. This cannot be used to create a power to levy and set autonomous fines. Further he is not elected by all those who use the roads within the zones and thus outsiders have no representation.

He has set both a rate of levy on a daily basis and a penalty of fine for non compliance and at a very severe level if after a three day wait no payment is forth coming.

This thus seems to exhibit potential use of arbitrary powers in violation of the Bill of Rights. A Petition to the King could thus be organised in demand of the Subjects' liberty. The Right of Petition for redress of grievance is a remedial action specified and protected in the Bill of Rights:-

*"That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal;"*

It assures the Subjects a means to require redress where breach is perceived. The Crown may not accept the advice of its Ministers if that places the Crown in its breach. There may be no general delegation of arbitrary powers for the levying of funds or penalty fines as the sums levied need the specific consent of enactment by Parliament.

Thus a genuine Petition of Grievance ought to be valid.