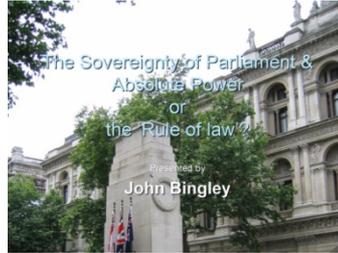


A Constitutional Presentation

This video is a layman's logical explanation of the fundamentals of our Constitution.

Time 0:54



0. Welcome to this Presentation about 'The Rule of Law' and our constitutional framework. I believe it will impart compelling evidence of truly Constitutional limitations pertaining to the Crown and its Parliaments and will greatly reward and empower those who study it. The English Constitution has had great influence in the free world and particularly in the Commonwealth and the United States of America. This Presentation was first conceived prior to the introduction of the rejected EU Constitutional proposal of 2005, which now adds an interesting perspective. The original Presentation has been expanded here.

1:48



1. This first slide is of a view of Bosham Harbour in Sussex. It is associated with King Canute and may have been where as the legend has it, he sat on his throne at the waters edge and waited for the tide to approach. He then commanded the incoming tide not to wet his feet, which of course as he well knew, was futile. It was considered that he undertook this demonstration to embarrass the fawning courtiers who claimed his powers were so great that he could even command the tides. Thus perhaps it was a demonstration of wisdom. Hopefully today's courtiers are a little more aware!

2:39



2. To discover the scope for the authority of the Rule of Law we need to seek answers to some fundamental questions.

Has Parliament has been accorded absolute power?

If so there can be no constitutional limitation which controls it.

Conversely if there is constitutional limitation it is plain that it ought to act as a firm limitation or boundary. Therefore there must necessarily be a mechanism for legal constraint and remedy.

3:22



3. If as I have done you have written to your MP(Member of Parliament) or to the Speakers Office etc to try and find answers to those questions you may well have been told we do not have a written Constitution. Well that is true in so far as our Constitution is not all codified in a single document however there is much which we have that is Constitutional and written. Some of the most important documents of which, we shall explore here. Our Constitution has evolved and has written parts from many centuries. All those who hold any office are contracted to obey it by their oaths of office and by the rules of our law.

4:11



4. Next we should observe that there are Fundamental constitutional Principles to consider.

The limitations and rules enshrined in the laws of our Constitution are binding on both the Crown and its Parliament.

Unconstitutional action obviously ought never to have legitimate authority, it must therefore always be recognised as unconstitutional and thereby inherently unlawful.

Constitution becomes the fixed standard by which legitimacy may be gauged for the protection of the subjects or citizens from abuse of power by the State.

Redress is mandatory where there is proven breach.

Our Constitution empowers the People with means to secure redress and remedy.

5:14



5. Those who have explored this subject will often be told Parliament is Sovereign. The classic legal theory of the Sovereignty of Parliament is usually explained using one or more of these phrases:-

We have no written constitution.

We have a Constitutionally limited Monarch.

The Monarch accepts the advice of Her Ministers.

The Crown in Parliament is said to be Sovereign.

Parliament may make or repeal any law.

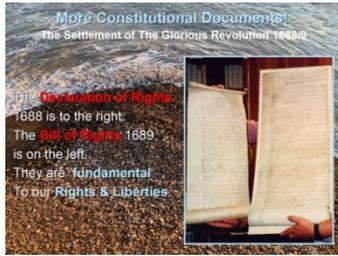
No Parliament may bind its successors.

6:03



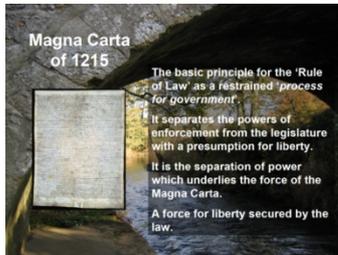
6. We see here one of the most famous and oldest Constitutional documents the world has know The Magna Carta. This is one of only 4 remaining original copies from 1215 and is held on public display in Salisbury Cathedral. It was a Charter granted in perpetuity to the people setting out rules for the limitations of our governance and enumerating both rights and remedies.

6:39



7. Moving forward to the seventeenth century we had the Glorious Revolution in 1688/9 and it had two vitally important settlement documents the Declaration of Rights and the Bill of Rights. The original documents are held by the House of Lords Records office and can be seen in this photo, The Declaration of Rights to the Right hand. Again these documents both enumerate indubitable rights and remedies. It is worth noting that our Bill of Rights was exactly 100 years prior to the American Bill of Rights of 1789. Some of which was copied word for word from ours.

7:33



8. Returning to the Great Charter, Magna Carta we should be aware that it contains:-

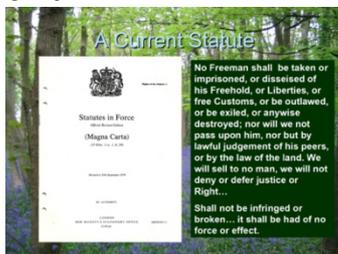
The basic principles for the 'Rule of Law' as a restrained 'process for government'.

It separates the Powers of Enforcement from the Legislature with a presumption for Liberty.

It is the separation of power which underlies the force of the Magna Carta.

A force for Liberty secured by the Law.

8:19



9. As can be seen here it is supported in part by a current Statute which upholds this in Statute law:-

"No Freeman shall be taken or imprisoned, or disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or be exiled, or anywise destroyed; nor will we not pass upon him, nor but by lawful judgement of his

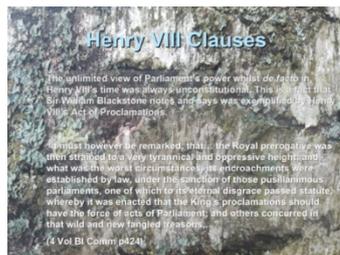
peers, or by the law of the land. We will sell to no man, we will not deny or defer justice or Right... Shall not be infringed or broken... it shall be had of no force or effect."

9:13



10. It is by the enshrined principles therefore that we may deduce:- A presumption for liberty assured by effecting:-
A limitation of power
A right to trial by our peers
A right of redress
A right of enforcement

9:39



11. Magna Carta has been reconfirmed many times in our History but there has been abuse.

Henry VIII made an Act of Proclamations in 1539. The unlimited view of Parliament's power whilst *de facto* in Henry VIII's time was **always unconstitutional**. This is a fact that Sir William Blackstone notes and says was exemplified by Henry VIII's Act of Proclamations.

“it must however be remarked, that... the Royal prerogative was then strained to a very tyrannical and oppressive height; and, what was the worst circumstances, its encroachments were established by law, under the sanction of those pusillanimous parliaments, one of which to its eternal disgrace passed statute, whereby it was enacted that the King's proclamations should have the force of acts of Parliament; and others concurred in that wild and new fangled treasons...”

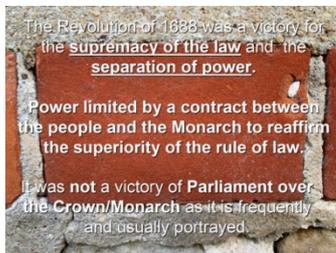
(4 Vol BI Comm p424)

10:52



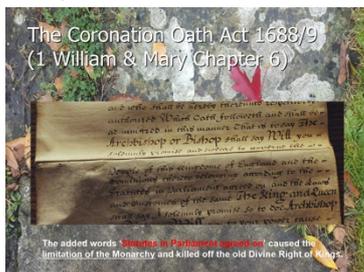
12. Moving once again to 1688, here is a painting depicting the reading of the Declaration of Rights to William and Mary at the ceremony of the 13 February 1688. It was read to them and they were asked to '*accept the same accordingly*' prior to the Crown being passed to them; the making of a revolutionary settlement from which the House of Windsor directly derives its ascendancy to the throne.

11:26



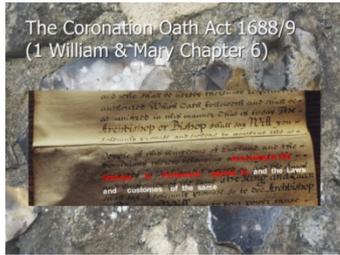
13. The Revolution of 1688 was a victory for the supremacy of the Rule of Law and the separation of power.
Power limited by a contract between the people and the Monarch to reaffirm the superiority of the Rule of law.
It was not a victory of Parliament over the Crown/Monarch as it is frequently and usually portrayed.

12:01



14. Having elected William and Mary, the only joint Monarchy in our History it was decided that changes needed to be made to the Coronation Oath. The Divine Right of Kings an arbitrary and usurped power exercised by previous Monarchs notably the ousted James II needed to be permanently suppressed. And so they made an enactment for a revised oath which added the words:-
'Statues in Parliament agreed on'

12:34



15. The text reads:-

*"The Arch-Bishop or Bishop shall say,
WILL You solemnly Promise and Swear to Governe the People of this
Kingdome of England and the Dominions thereto belonging according to the
Statutes in Parlyament Agreed on and the Laws and Customs of the same?"*

From henceforth no monarch could place themselves above the Statute law. This alteration made the obligation to abide by it undeniable. This wording ended the so called arbitrary power of the Divine Right of Kings whereby the Monarch had previously claimed the power to act dictatorially as if above the Rule of Law.

13:26



16. Notably these points arise from this:-

A Constitutionally limited Monarchy bound by the custom, law and statute.

Clearly the prerogative power may not be used in repugnance to the law.

Royal Assent is a prerogative of the Crown under constitutional restraint of the law and custom.

13:56

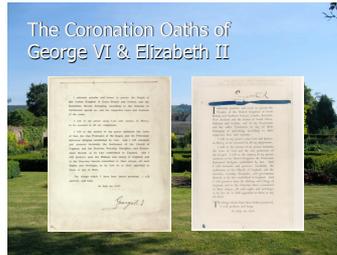


14:08



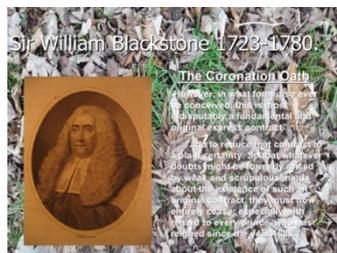
17. This change had huge impact for it gave rise to the upcoming power of the English and then British nation and its influence world wide. They are a pivotal point in the development of the western world.

14:18



18. Here are the Oaths of Her Majesty Queen Elizabeth II and Her father George VI. The text varies from the Act nevertheless the fundamentals are that it is taken in accordance with it. Those alterations and the way they were effected are a whole can of worms that I won't open here.

14:51

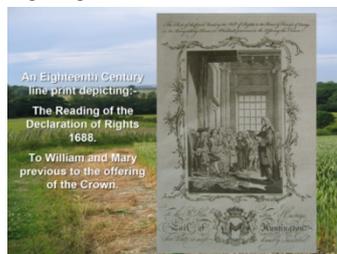


19. Our most famous Constitutionalist Sir William Blackstone commented in his most famous books 'Commentaries on the Laws of England' about the nature of the Coronation Oath and Settlement of the Glorious Revolution.

“However, in what form it so ever be conceived, this is most indisputably a fundamental and original express contract”

“ ... and to reduce that contract to a plain certainty. So that whatever doubts might be formerly raised by weak and scrupulous minds about the existence of such an original contract, they must now entirely cease; especially with regard to every prince, who has reigned since the year 1688.”

15:45



20. Here is an Eighteenth Century Line Print depicting the reading of the Declaration of Rights at the Banqueting House Ceremony of 13 February 1688 The reading the Declaration of Rights to William and Mary being previous to the offering of the Crown.

16:13



21. You will recall that I mentioned to research our Constitution one should need to discover if Parliament has unlimited power. I sought to discover this point and see if I might find, if any, what might be an incontrovertible limitation. I therefore posed the following written question with my MP aimed at the then Prime Minister Tony Blair. Parliamentarians and civil servants claim to be able to get enacted any law they care to create. I decided to ask could they recommend a breach of the Coronation Oath? A simple question and as many of you will know that all MPs have to swear allegiance to the Crown before they may take up their seat in the House of Commons. Mr Blair PM decide to delegate this question to the then Home Secretary Jack Straw. Why it should not be answered directly by him is hard to comprehend. Jack Straw duly replied.

17:21



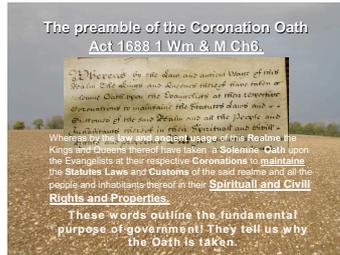
22. "The Prime Minister has asked me to arrange for a Minister in the *Home office to reply to you direct.*

"The Coronation Oath. I am replying in light of my Constitutional responsibilities.

I can confirm the Coronation oath is a solemn undertaking by the Sovereign and is regarded as binding throughout Her reign. Her Majesty would not be advised to give Her assent to a provision which contradicted that oath.

*Yours Ever
Jack Straw"*

18:00



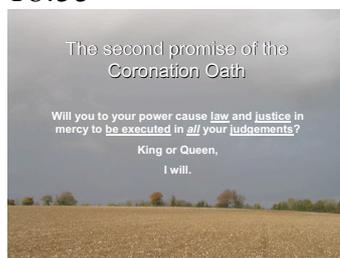
23. I return to the Coronation Oath Act of 1688. Here is the preamble of the Act:-

"Whereas by the law and ancient usage of this Realme the Kings and Queens thereof have taken a Solemne Oath upon the Evangelists at their respective Coronations to maintaine the Statutes Laws and Customs of the said realme and all the people and inhabitants thereof in their Spirituall and Civill Rights and Properties."

These words outline the fundamental purpose of government! They tell us why the Oath is taken.

Take particular note of the inherent principle for governance... to 'Maintain' us 'in our Spiritual and Civil Rights and Properties'

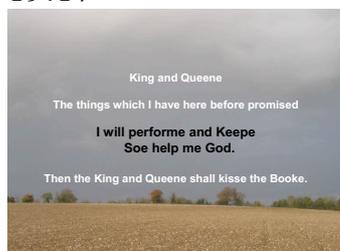
18:55



24. The second promise of the Coronation Oath:-

Will you to your power cause law and justice in mercy to be executed in all your judgements? King or Queen, I will.

19:17



25. King and Queene

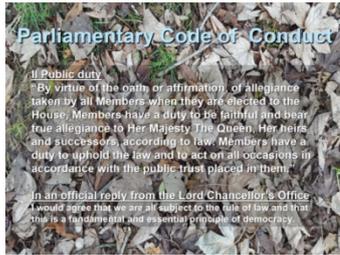
The things which I have here before promised

I will performe and Keepe

Soe help me God.

Then the King and Queene shall kisse the Booke.

19:38



26. Well we have seen some of the Duties of the Sovereign. What about those of Parliament. Here is an extract from the :-

Parliamentary Code of Conduct

II Public duty

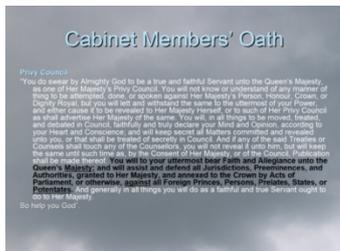
"By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty The Queen, Her heirs and successors, according to law. Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them."

Further:-

In an official reply from the Lord Chancellor's Office

I would agree that we are all subject to the Rule of Law and that this is a fundamental and essential principle of democracy.

20:41



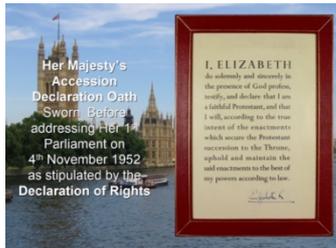
27. Cabinet Members' Oath.

Privy Council

"You do swear by Almighty God to be a true and faithful Servant unto the Queen's Majesty, as one of Her Majesty's Privy Council. You will not know or understand of any manner of thing to be attempted, done, or spoken against Her Majesty's Person, Honour, Crown, or Dignity Royal, but you will lett and withstand the same to the uttermost of your Power, and either cause it to be revealed to Her Majesty Herself, or to such of Her Privy Council as shall advertise Her Majesty of the same. You will, in all things to be moved, treated, and debated in Council, faithfully and truly declare your Mind and Opinion, according to your Heart and Conscience; and will keep secret all Matters committed and revealed unto you, or that shall be treated of secretly in Council. And if any of the said Treaties or Counsels shall

*touch any of the Counsellors, you will not reveal it unto him, but will keep the same until such time as, by the Consent of Her Majesty, or of the Council, Publication shall be made thereof. You will to your uttermost bear Faith and Allegiance unto the Queen's Majesty; and will assist and defend all Jurisdictions, Pre-eminence's, and Authorities, granted to Her Majesty, and annexed to the Crown by Acts of Parliament, or otherwise, against all Foreign Princes, Persons, Prelates, States, or Potentates. And generally in all things you will do as a faithful and true Servant ought to do to Her Majesty.
So help you God”.*

22:34



28. In compliance with terms of the **Declaration and Bill of Rights 1688**. A new Monarch Ascending the Throne is required to swear the Accession Declaration Oath. Here is Queen Elizabeth's Oath. This is required to be sworn before the new Monarch may address their 1st Parliament. This was pledged on 4th November 1952 in the House of Lords. I will read it:-

*"I. ELIZABETH
do solemnly and sincerely in the presence of God profess, testify, and declare that I am a faithful Protestant, and that I will, according to the true intent of the enactments which secure the Protestant succession to the Throne, uphold and maintain the said enactments to the best of my powers according to law."*

Elizabeth R

23:47



29. Lets focus on some details of this:

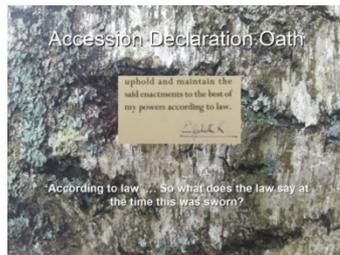
"I will according to the true intent of the enactments which secure the Protestant succession to the Throne,"

Those enactments include: -

The Coronation Oath Act, The Bill of Rights, The Act of Settlement, The Act of Union with Scotland, The Accession Declaration Oath Act,

and more.....

24:17



30. We can see that the Crown is now bound by those enactments which are to be '*Upheld and maintained to the best of my powers according to law*' Signed ER.

Well the Best of the Crowns Powers are very substantial for they amounts to the Sovereign power of the nation. And this must be accomplished in accordance with the related laws.

24:46



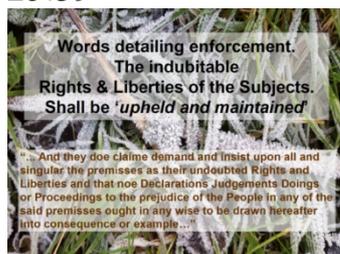
31. All these texts are of great importance. Here the Declaration and Bill of Rights tells us of a Right of Petition and how it is to be appraised as the duty of the Crown's Governance:-

The Right of Petition:-

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

Thus we can see that there is a means of seeking remedy included in the Rules of this law. If a violation occurs then we may seek redress by Petition of Right to the Crown and this may not be outlawed in any way. Anything to the contrary being declared '*illegal*'

25:39



32. It Continues with ...words detailing enforcement. The ‘indubitable’ Rights & Liberties of the Subjects shall be *'upheld and maintained'*.

"And they do claim demand and insist upon all and singular the premisses as their undoubted Rights and Liberties and that no Declarations Judgements Doings or Proceedings to the prejudice of the People in any of the said premisses ought in any wise to be drawn hereafter into consequence or example"

That is a superbly powerful statement of command and wholly explicit. No precedents may be set against the absolute Rights where this is upheld.

26:35

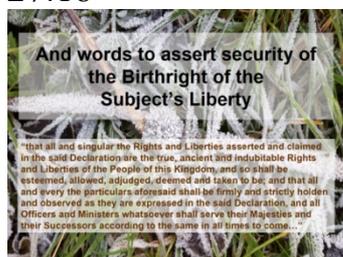


33. Next Confirmatory text upholding ‘The Declaration of Rights’ with the subsequent enactment of a Statute Law ‘The Bill of Rights’

"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"

The Bill of Rights received Royal Assent on the 16th December 1689

27:18



34. Words of a Statute Law asserting 'The Declaration of Rights' and thereby The Birthright of the Subjects' Liberty

"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 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.”

This is one of the most superbly worded Acts that I have seen and I think that all those whose governance has its roots in our law should be sure to study this very carefully. What you are seeing is the actual legal process by which a Constitutional limitation of the Monarchy was achieved and afterwards confirmed by subsequent *Statute "An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown."* Now known by its short title *The Bill of Rights 1689*

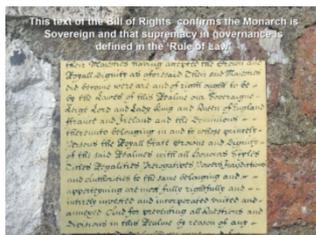
It should be noted that this is not a Parliament binding its successors but the lawful foundation upon which the Crown has been founded by Revolutionary Settlement. It remains unrepealed and thus current Statute law.

29:07



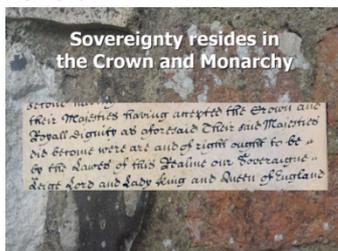
35. The Constitution is all powerful Parliament is only a subordinate component. Our constitution does not empower Parliament with unlimited or absolute power. Upholding our constitution *is* the pre eminent public duty of all who hold office. It should always be their certain policy.

29:33



36. This text of the Bill of Rights confirms the Monarch Sovereign and that supremacy in the Crown's governance is vested in the ‘Rule of Law’

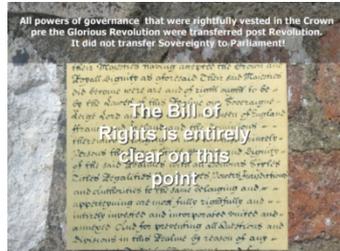
29:50



37. Sovereignty resides in the Crown and Monarchy

Their Majesties having accepted the Crown and Royal Dignity as aforesaid
 Their said Majesties did become were are and of right ought to be by the
 Lawes of this Realme our Sovereigne Leige Lord and Lady King and Queen
 of England

30:22



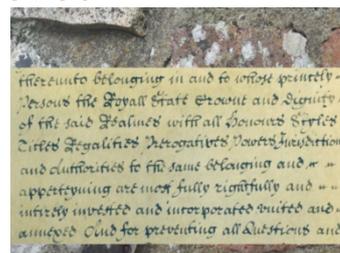
38.

All powers of governance that were rightfully vested in the Crown
 pre the Glorious Revolution were transferred post Revolution.
 It did not transfer Sovereignty to Parliament! The Bill of Rights is entirely
 clear on this point

30:46



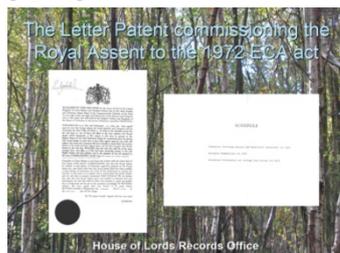
31:36



39. & 40. The sovereign power is vested in the Monarch not Parliament nor
 the two Houses nor even the Prime Minister! Here you can see the
 unequivocal text of the Bill of Rights which confirms that all the Rightful
 powers of the Crown were fully conveyed.

*"and to whose princely Persons the Royal State Crown and Dignity of the
 said Realms with all Honours Styles Titles Regalities Prerogatives Powers
 Jurisdictions and Authorities to the same belonging and appertaining are
 most fully rightfully and intirely invested and incorporated united and
 annexed"*

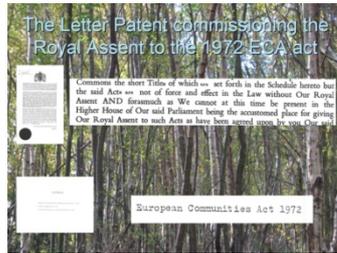
31:43



41. This depicts a Letter Patent signed by Her Majesty and it authorises the
 announcing of the Royal Assent to the enactments that are on the attached

schedule. It is sealed with the Great Seal, In this photo copy the seal shows as black.

32:11



42. Here is an enlargement of part of the text. Note the wording..

"the said Acts are not of force or effect in law without our Royal Assent ..."

The schedule included the European Communities Act of 1972 which took us into the then Common Market and subsequently became the EU.

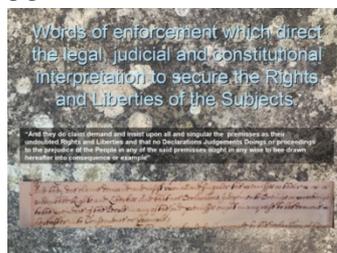
Here is absolute proof that the power of enactment remains constitutionally in the hand of the Crown and not in either House of Parliament. This power is not in the hands of any political party. It is contracted to the Crown to secure the laws as the Peoples' Birthright, the Liberty of the Subjects and more.

33:00



43. Here can be seen the clause on the 1688 Declaration of Rights securing the duty in Governance to allow for Petition of Right and nothing withstanding.

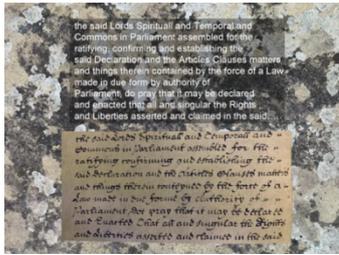
33:24



44. Here is the text about the way in which the Rights must be treated and the security against contrary precedent.

33:47

34:09



45. & 46. The all important assertion of the Settlement as the Duty of Governance to be interpreted by all as widely as possible for the upkeep of the Subjects liberty.

34:27

William Pitt 1st Earl of Chatham
1708-1778



Recognition of the Constitution

"Instead of the arbitrary power of a King, we must submit to the arbitrary power of the House of Commons. If this be true, what benefit do we derive from the exchange? Tyranny my Lords, is detestable in every shape, but none so formidable as where it is assumed and exercised by a number of tyrants.
But my Lords this is not the fact, this is not the Constitution, we have a law of Parliament. We have a Statute Book and the Bill of Rights."

47. Whist that is my fundamental exposition of the Settlement of the Glorious Revolution of 1688/9. To broaden perspective here is a quote by one of our Greatest Prime Ministers William Pitt Earl of Chatham. Speaking of the Constitution he said:-

"instead of the arbitrary power of a King, we must submit to the arbitrary power of the House of Commons. If this be true, what benefit do we derive from the exchange? Tyranny my Lords, is detestable in every shape, but none so formidable as where it is assumed and exercised by a number of tyrants.

But my Lords this is not the fact, this is not the Constitution, we have a law of Parliament. We have a Statute Book and the Bill of Rights."

35:27



48. In 1988 which was the Tercentenary of the Glorious Revolution a celebration was held at Westminster on the 20th of July Her Majesty made a speech to the many dignitaries who attended from all over the Common Wealth and more.

"Experience has taught that peoples can enjoy the full fruits of liberty, security and justice only when they are represented in a Sovereign legislature whose laws are interpreted by an independent judiciary. The Bill

of Rights and the Scottish Claim of Right of 1689. still part of statute law, are the sure foundation on which the whole edifice of parliamentary democracy rests, and had great influence abroad, especially In the United States of America and in the Commonwealth.”

36:31



49. To Mark the Occasion the Royal Mint produced a Silver Two Pound coin to Commemorate the Bill of Rights and one for its Scottish Counter part the Scottish Claim of Rights. The issue was of a set of the two coins as seen here.

36:57



50. The Scottish Coin commentating the Claim of Rights.

37:11

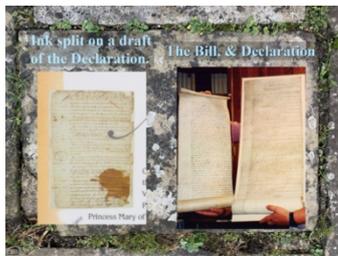


51. Unfortunately the support brochure was inaccurate in its summary text as out lined here. They said:-

"The Declaration was principally an assertion of the rights of Parliament In its relations with the Crown, and effectively confirmed a shift in the balance of power from the Crown to Parliament. It also encompassed legal reforms."

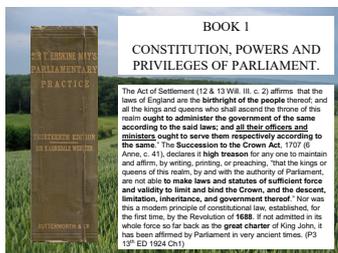
The Declaration did not shift the Power as stated here we have already reviewed the proof. It did support Parliament but it was in principal declaratory of the Rights of the People.

37:56



52. I also found it Strange that we have the Actual Settlement document in wonderful condition and now over three centuries old. And yet in this presentation they illustrate the Declaration of Rights with a picture of a spoiled transcript upon which ink was spilled and remarkably has also survived. Both the Bill of Rights on the left and the actual 1688 Declaration are in fine legible condition considering their age and it is very surprising they were not even featured on the presentation folder .

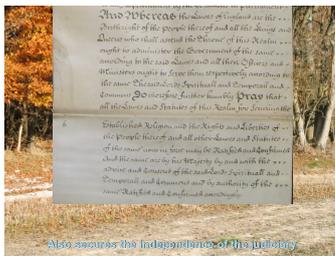
38:39



53. Parliament has its own hand book known as Erskine May. Here is what the 13th edition had to say:-

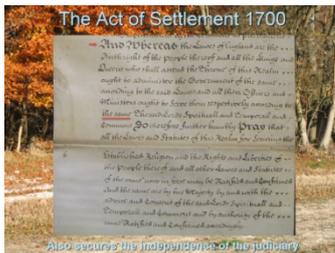
"The Act of Settlement (12 & 13 Will. III. c. 2) affirms that the laws of England are the birthright of the people thereof; and all the kings and queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws; and all their officers and ministers ought to serve them respectively according to the same." The Succession to the Crown Act, 1707 (6 Anne, c. 41), declares it high treason for any one to maintain and affirm, by writing, printing, or preaching, "that the kings or queens of this realm, by and with the authority of Parliament, are not able to make laws and statutes of sufficient force and validity to limit and bind the Crown, and the descent, limitation, inheritance, and government thereof." Nor was this a modern principle of constitutional law, established, for the first time, by the Revolution of 1688. If not admitted in its whole force so far back as the great charter of King John, it has been affirmed by Parliament in very ancient times. (P3 13th ED 1924 Ch1)"

40:06



54. This is the Act of Settlement from 1701. The enactment is supported by the Oaths of office of the Crown. The segment depicts the wording as per the Erskine May quote. The Act of Settlement was made to continue the succession. If you read the enactments you will see that the succession was to pass to William Duke of Gloucester. He died aged just 11 on the 30th of July 1700. He was the last heir mentioned in the Bill of Rights other than his mother Princess Anne of Denmark who became Queen. Thus the succession became unspecified and so the Act of Settlement was made to secure the line of Protestant succession into the future. Passing it to the House of Hanover which from 1917 on changed its name to Windsor. It also established the independence of the Judiciary and is a very important enactment and of course it confirms the Declaration and Bill of Rights as Royal Duty for governance.

41:20



55.
And whereas the laws of England are the birthright of the people thereof and all the kings and queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws; and all their officers and ministers ought to serve them respectively according to the same

41:49



56. The Peoples' liberty is upheld at the discretion of their juries. A jury may never be directed to give a guilty verdict. This was proven in a famous case R v Wang in 2005. The House of Lords gave a unanimous verdict that no judge might direct a jury to pass a guilty verdict.

Perverse jury verdicts are the ultimate common law proof as to the limitation of Statute power.

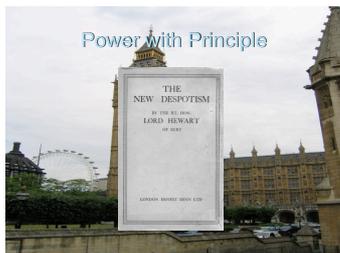
The People may not be separated from their Courts.

The jury is an essential check on power.

Redress and remedy are mandatory and integral to our Constitution.

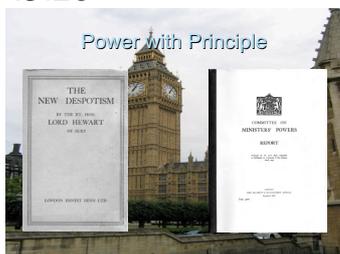
Separation of power is constitutionally integral to the Justice system and has been since ancient times. It was a leading principle in the Great Charter, Magna Carta. It Separates the power of enforcement from the State into the hands of the people through the use of their juries and thus it defeats despotism.

43:09



57. In 1929 a sitting Lord Chief Justice from 1922 - 1940 Lord Hewart of Bury published a book entitled The New Despotism.

43:28



58. Chapter 4 was entitled Administrative Lawlessness, as can be imagined this caused some disquiet and to answer Lord Hewart's criticisms a Committee of Ministers' Powers was set afoot to enquire into the principles he complained of. It Reported in this Command Paper 4060.

43:58

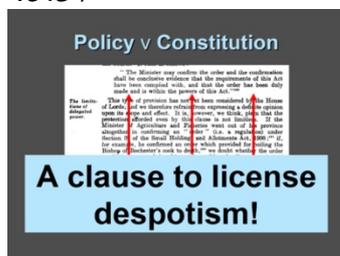


59. At page 5 of the report on Minister's Powers was a wonderful quote from Lord Macmillan which had been made to another committee:-
“ *The most distinctive indication of the change of outlook of the government of this country in recent years has been its growing preoccupation, irrespective of party, with the management of the life of the people. A study*

of the Statute Book will show how profoundly the conception of the function of government has altered. Parliament finds itself increasingly engaged in legislation which has for its conscious aim the regulation of the day-to-day affairs of the community, and now intervenes in matters formerly thought to be entirely outside its scope. This new orientation has its dangers as well as its merits. Between liberty and government there is an age long conflict. It is of vital importance that the new policy, while truly promoting liberty by securing better conditions of life for the people of this country, should not, in its zeal for interference, deprive them of their initiative and independence which are the nation's most valuable assets."

In this passage, Lord Macmillan's Committee calls attention to the principal danger inherent in this new policy. Note it was simply a matter of policy.

45:37

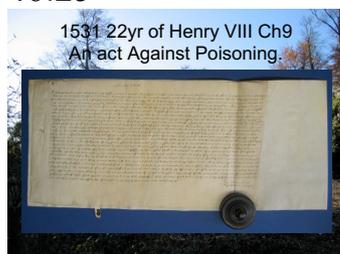


60. Here is an example of what Lord Hewart was troubled by, Clauses had begun to be tacked on to legislation empowering Ministers with arbitrary powers. Here is the example quoted:-

"The Minister may confirm the order and the confirmation shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act."

He complained that such ouster clauses were tantamount to licensing Despotism by providing means for the administration to use law to separate the people from their courts.

46:25



61. Henry VIII made an enactment against poisoning in 1530 22 Henry VIII Ch 9. The twenty second year of his reign and it being the 9th enactment of that year.

The Bishop Fisher of Rochester had a cook one Richard Roose who had attempted to poison him. The Bishop survived but others died.

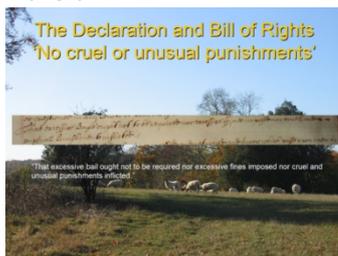
47:01



62. The Act against Poisoning required that Richard Roose therefore be boyled to death. This torturous executions was duly inflicted at Smithfields on the 5th of April. This is confirmed in the Parliamentary History books published by Willam Sandby and Thomas Osbourne in 1751 p83.

“ Hall mentions another act. That those who poisoned any person, should be put into hot water and boyled to death. This act was made, adds he, because one Richard Roose, in the Parliament time had poisoned divers persons in the Bishop of Rochester’s Palace, for which fact he was duly boyled to death in Smithfield”

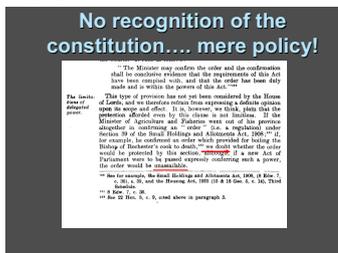
47:57



63. Since 1688 this text which is from the Declaration of Rights has been the law for the limitation of the Crown's powers. It shows that it is an absolute Right of the Subject to be free from cruel and unusual punishments.

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

48:32



64. Returning to the Command Paper 4060 the Report into Ministers' Powers of 1932. We can see that they completely ignored the Settlement terms of the Revolution which as we have seen are not only the Settlement conditions for the duty of the Crown but enacted into law with the security that they are to be upheld by the Crown to the best of its powers. I ask where

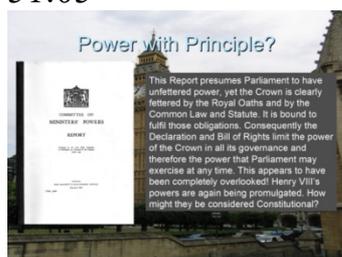
could this Committee find lawful powers to ignore the Bill of Rights? The report referring to the type of despotic, now known as Henry the VIII clauses, and of which Lord Hewart had complained made this conclusion:-

"This type of provision has not yet been considered by the House of Lords, and we therefore refrain from expressing a definite opinion upon its scope and effect. It is, however, we think, plain that the protection afforded even by this clause is not limitless. If the Minister of Agriculture and Fisheries went out of his province altogether in confirming an " order " (i.e. a regulation) under Section 39 of the Small Holdings and Allotments Act, 1908 if, for example, he confirmed an order which provided for boiling the Bishop of Rochester's cook to death, we doubt whether the order would be protected by this section, although, if a new Act of Parliament were to be passed expressly conferring such a power, the order would be unassailable"

The conclusion, that if an enactment were made the Order would be unassailable.

Well suppose a case arose and a new poisoning enactment was made and the accused contested on the constitutional grounds we have reviewed in this presentation. It would seem obvious that for the Crown to provide its Royal Assent it would place it in direct breach of the Declaration and Bill of Rights, The Act of Settlement the Coronation Oath and the Accession Declaration Oath and all the Oaths of office of those in governance! How might that be considered constitutionally lawful? This apparently flawed Report, apparently built in part upon a foundation of sand underlies the process of Statutory Instrument making and all Henry VIII powers.

51:05



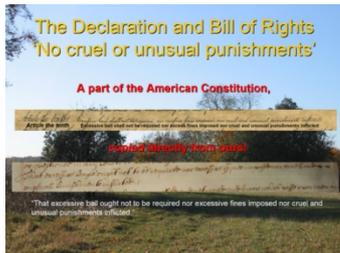
65. This Report presumes Parliament to have unfettered power, yet the Crown is clearly fettered by the Royal Oaths and by the Common Law and Statute. It is bound to fulfil those obligations. Consequently the Declaration and Bill of Rights limit the power of the Crown in all its governance and therefore the power that Parliament may exercise at any time. This appears to have been completely overlooked! Henry VIII power's are again being promulgated. How might they be considered Constitutional?

51:48



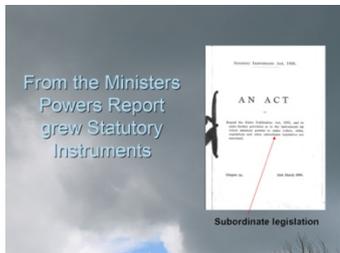
66. Under the American Constitution the Rule of Law is in control of governance. Constitutional oaths of office are held to bind duty in governance to comply with the 'Rule of Law'.

52:07



67. Some of its text was copied directly from our Settlement of 1688. Here you can see copy of the Tenth Article compared to the prior Declaration of 1688, to constrain excess bail, fines and cruel and unusual punishments.

52:33

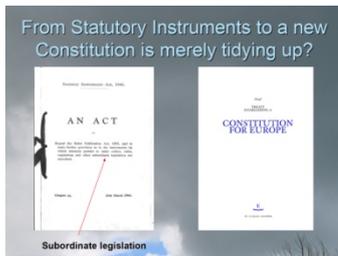


68. The Ministers' Powers Report's conclusions required some more orderly means of tidying the process of rules and regulation making. This led to some changes at the time which stayed in place until 1946. When the Statutory Instruments Act was introduced to formalise what had evolved from the 4060 report. The cover of the enactment has an explanation:-

To Repeal the Rules publication Act 1893, and to make further provisions as to the instruments by which powers to make orders rules regulations and other subordinate legislation are exercised.

The vast majority of what is perceived as law today is in fact regulation made under compliance with an enabling statute and has become in principle mainly an administrative affair with little parliamentary scrutiny.

53:37

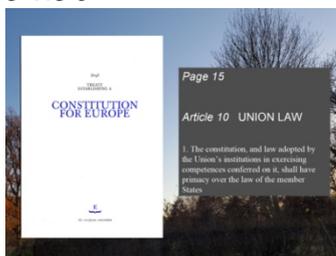


69. We can learn from this that Statutory Instruments are Subordinate Legislation. They Take their authorisation from Public General Enactments and allow a ministerial departments, etc., to have discretion to set rules and regulations according to parameters described in the so called enabling Act, a clearly subordinate hierarchy. The use of Statutory Instruments has been accepted by the Courts to be justiciable by judicial review to ascertain that they do not overreach the intended powers delegated by the enabling enactment.

Our Courts have to date not accepted that public general enactments themselves might be subject to any form of questioning. This is in line with the presumed Sovereignty of Parliament orthodoxy.

The EU had been proposing in 2005 a document for the introduction of a Constitution for Europe. The draft is pictured. It was dropped at the time by sections of national opposition and by referenda in Europe.

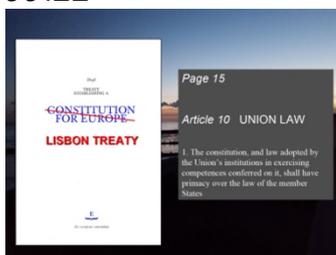
54:56



70. Its Article 10 on Union Law:-

The constitution, and law adopted by the Union's institutions in exercising competences conferred on it, shall have primacy over the law of the member States.

55:22



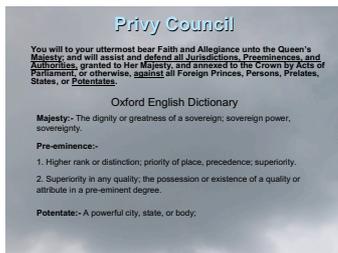
71. Whilst the original proposal was rejected it did not take the EU bureaucracy long to reinvent it little changed and reintroduced in the form of the Lisbon Treaty of 2009.

55:43



72. Lets just focus on the duty involved in this oath:-

55:56



73. To bear Faith and allegiance unto the Queen's Majesty. That is the Majesty of the Sovereign Crown personified by the Monarch to which the duty of allegiance is owed.

"and will assist and defend all Jurisdictions, Pre-eminence's, and Authorities, granted to Her Majesty, and annexed to the Crown by Acts of Parliament, or otherwise, against all Foreign Princes, Persons, Prelates, States, or Potentates."

To be utterly clear the Oxford English Dictionary

Majesty:- The dignity or greatness of a sovereign; sovereign power, sovereignty.

(That is what respect is owed)

Pre-eminence:-

1. Higher rank or distinction; priority of place, precedence; superiority.
2. Superiority in any quality; the possession or existence of a quality or attribute in a pre-eminent degree.

Potentate:- A powerful city, state, or body;

The EU is undoubtedly a Potentate!

57:16



74. Are we governed by the Rules of our Law or unbridled power? The Laws are our Birthright to pass on to future generations?

57:37



75. The Law defines that Parliament is not Sovereign! Governing power is vested in the Crown and its limitation specified in the Rules of Laws.

The Constitution gives SUPREMACY to the LAW not to Parliament. The Coronation Oath is the contract by which we must be governed. It secures the supremacy of the law over both Parliament and the Crown. To pass powers of governance to those who:-

owe no allegiance to the Crown and thus the People is unconstitutional.

They are unaccountable to, unelected by and not removable by the electorate of the UK is also unconstitutional.

Acceptance of the supremacy of EU law is a subordination of our Constitution to a foreign power.

To accept the supremacy of EU law the Queen will of necessity have to renounce her Coronation contract to facilitate the dismantling of our existing Constitution or be put in breach of Her Oath.

58:57



76. House of Commons 21st July 1993, a question of Parliamentary privilege had arisen in a now well known court case Pepper v Hart.

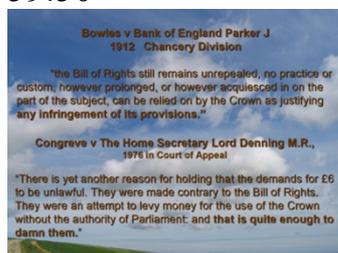
Madam Speaker:-

“the Bill of Rights will be required to be fully respected by all those appearing before the courts.”

This ‘privilege’ is confirmed in the Declaration and Bill of Rights 1688/9 in what has become known as article 9.

That is the reverence paid by Parliament to the Bill of Rights when it affects Freedom of Speech in Parliament it must therefore apply for the Rights of the Subjects too.

59:50



77. 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.”

Congreve v The Home Secretary Lord Denning M.R., 1976 in Court of Appeal:-

“There is yet another reason for holding that the demands for £6 to be unlawful. They were made contrary to the Bill of Rights. They were an attempt to levy money for the use of the Crown without the authority of Parliament: and that is quite enough to damn them.”

1:00:52



78. Now back to the American Constitution whilst there are differences in the organisation of the governments the basic of the Rule of Law are the same as ours. They make Laws for all to obey and those in governance swear oaths to permit the take up of office. However in 1803 a case arose in

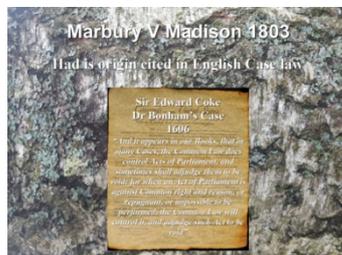
their courts Marbury v Madison. An act was being challenged on the basis that it exceeded the constitutional authority granted to Congress under their Bill of Rights.

Chief Justice Marshall declared that in any such conflict between the Constitution and a law passed by Congress, the Constitution must always take precedence. He stated:-

"A law repugnant to the Constitution is void"

Section 13 of the Judiciary Act passed by Congress in 1789, was found to be unconstitutional and thus invalid.

01:02:08



79. Marbury v Madison had its origin cited in English case law. Sir Edward Coke, Dr Bonham's Case of 1606 *"And it appears in our Books, that in many Cases, the Common Law does control Acts of Parliament, and sometimes shall adjudge them to be void: for when an Act of Parliament is against Common right and reason, or repugnant, or impossible to be performed, the Common Law will control it, and adjudge such Act to be void"*

1:02:59



80. The American constitution also accepted the principle of Petition and the fundamentals of Magna Carta.

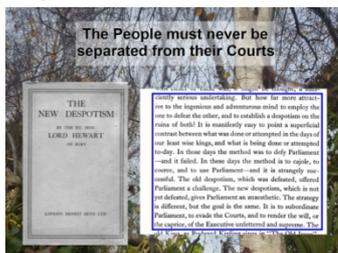
1:03:18



81. This was an Interesting comment relating to the Human Rights Act that arose in an interview with Lord Woolf who had been Lord Chief Justice from June 2000 till Oct 2005.

'a private seminar recently, Lord Woolf was asked what would happen if there was a clash between parliamentary sovereignty and the Rule of Law. His sober answer was that the question ought not to be asked. But it must be. The issue of deportation is a potentially fatal faultline in the Constitution. The Human Rights Act was a compromise that depended on both sides showing restraint — which neither seems minded to do.'

1:04:11



82. So far Back as 1929 Lord Hewart of Bury in his book *The New Despotism* highlighted the insidious underlying principles that had come into play:-

"But how far more attractive to the ingenious and adventurous mind to employ the one to defeat the other, and to establish a despotism on the ruins of both!"

Here he is talking about how the administration uses enabling statutes to gain arbitrary powers, a despotic trend undermining the Rule of Law.

"It is manifestly easy to point a superficial contrast between what was done or attempted in the days of our least wise Kings, and what is being done or attempted to-day. In those days the method was to defy Parliament—and it failed. In these days the method is to cajole, to coerce, and to use Parliament—and it is strangely successful. The old despotism, which was defeated, offered Parliament a challenge. The new despotism, which is not yet defeated, gives Parliament an anaesthetic. The strategy is different, but the goal is the same. It is to subordinate Parliament, to evade the Courts,

and to render the will, or the caprice, of the Executive unfettered and supreme."

1:05:47



83. Some topical issues at that time:-

- Trial by Jury.
- Presumption of innocence, intent.
- Right of self defence.
- House of Lords, Supreme Court.
- ID Cards.
- Emergency Powers.
- Administration.
- Devolution.
- Fishing.
- Fox Hunting.
- Right to Roam.
- Alternative medicine.
- Art & much more.

1:06:21

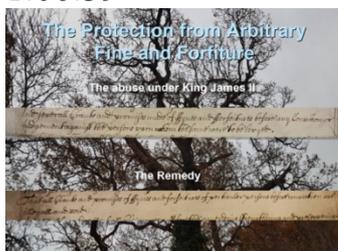


84. A Mention in the press over Congestion charges.

the sub headline:-

all thanks to the citizen's rights that have been enshrined in the British Constitution since 1689.

1:06:39



1:07:00



85. The Declaration of Rights cited recent abuses of the rightful Powers of the Crown and the Remedy for them. With the declared objective of delivering the realm from all arbitrary power to secure the settlement of the Glorious Revolution. Here are the words of the complaint and the ensuing remedy relating to all fines and forfeitures without conviction. Arbitrary power to be denied governance.

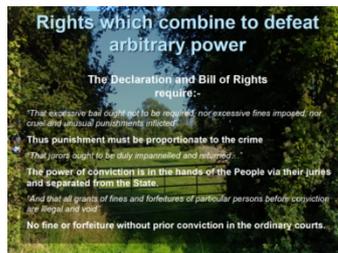
The abuse under King James II

"And several grants and promises made of fines and forfeitures before any conviction or judgement against the persons upon whom the same were to be levied"

The Remedy

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

1:07:57



87. Here are Rights which combine to defeat Arbitrary Power.

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

Thus punishment must be proportionate to the crime.

"That jurors ought to be duly impanelled and returned, ..."

The power of conviction is in the hands of the People via their juries and separated from the State.

"And that all grants of fines and forfeitures of particular persons before conviction are illegal and void"

No fine or forfeiture without prior conviction in the customary courts.

1:09:00



88. Here is the Cenotaph in memory of all our war dead.

If you were perhaps a soldier you were bound to keep your Oath of Allegiance. Some who failed to follow orders in the most dire of circumstance were severely punished.

The Magna Carta & the Bill of Rights are the sure foundation for which so many have given their lives so that we may preserve our Liberty under the Rule of our Law for all future generations.

The Bill of Rights is described by Sir William Blackstone as the undoubted ‘Duty of the King’

1:09:42



89. The Statutes mentioned are all current:-

The Bill of Rights 1688/9

(Note That is the Short title the full title is;- '*An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown*')

Magna Carta 1215

In 1297 Edward 1 (Edw 1, 25, Chapter 9.) enacted a version of the charter in Parliament and so this is the Statutory version seen here as Parliament was not in existence in 1215.

Coronation Oath Act 1688/9

Act of Settlement 1700

1:10:37



90. Points Considered:-

We have much written Constitution.

The Rule of Law prescribes a process for constrained governance.

Constrained by the extant Law

The Rule of Law is our greatest export.

It is the constitutional duty of government to defend and maintain our Liberty.

Where there is right there is remedy.

Our politicians are our servants not our masters. 'be ye never so high the law is above you'

The constitution is mandatory, Our liberty is our Birthright.

At Constitutional level the Common Law controls Statute Law.

1:11:34



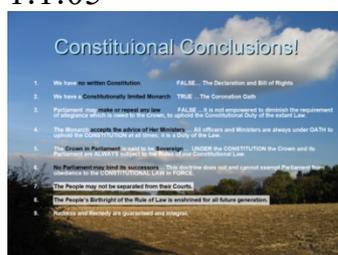
91. A quote from:-

William Pitt 1st Earl of Chatham 1708-1778.

"that to say, that if the Commons had passed an unjustifiable vote, it was a matter between God and their own consciences, and nobody else had any thing to do with it, was such a strange assertion as he had ever heard, and involved a doctrine subversive of the Constitution. What! if the Commons should pass a vote abolishing this House, abolishing their own House, and surrendering to the crown all the rights and liberties of the people, would it only be a matter between God and their own consciences, and would nobody else have any thing to do with it? **You would have to do with it—I should have to do with it—every man in the kingdom would have to do with it—and every man in the kingdom would have a right to insist upon the repeal of such a treasonable vote, and to bring the authors of it to condign punishment.** I therefore again call upon the noble Lord to declare his opinion, unless he will lie under the imputation of being conscious to himself of the illegality of the vote, and yet being restrained, by some unworthy motive, from avowing it to the world.

Lord Mansfield replied not."

1:1:05



92. Constitutional Conclusions:-

We have no written Constitution.
and Bill of Rights and more

FALSE...The Declaration

We have a Constitutionally limited Monarch
and more

TRUE...The Coronation Oath

Parliament may make or repeal any law
empowered to diminish the requirement of allegiance which is owed to the
Crown, to uphold the Constitutional Duty of the Extant Law.

FALSE ...It is not

The Monarch accepts the advice of Her Ministers ... All Officers and
Ministers are always under OATH to uphold the CONSTITUTION at all
times; it is a Duty of the Law.

The Crown in Parliament is said to be Sovereign... UNDER the
CONSTITUTION the Crown and its Parliament are ALWAYS subject to
the Rules of our Constitutional Law.

No Parliament may bind its successors...This doctrine does not and cannot
exempt Parliament from obedience to the CONSTITUTIONAL LAW in
FORCE.

The People may not be separated from their Courts.

The People's Birthright of the Rule of Law is enshrined for all future
generation.

Redress and Remedy are guaranteed and integral.

And no arbitrary power in governance

1:14:42



93. Under the 'Rule of Law' there can be
NO DIVINE RIGHT OF POLITICIANS When following the 'Golden Rule'
must be followed namely, to construe a statute according to the natural and
ordinary meaning of the language used in it.

1:15:04



94. The Constitution

The 'Rule of Law, that is our Constitutional Law limits the Crown and thus restricts the 'Crown in Parliament' and defines the role of Parliament and Government and its relationship to the People and the Separation of Powers.

1:15:31



95. Sir Winston Churchill 1874-1965

Re MAGNA CARTA

"And when in subsequent ages the State, swollen with its own authority, has attempted to ride roughshod over the rights or liberties of the subject it is to this doctrine that appeal has again and again been made, and never as yet, without success."