

Habeas Corpus Act, 1679

The Habeas Corpus Act emerged from the political tensions between king and Parliament that would lead within ten years to the Glorious Revolution. The writ of habeas corpus, like the Bill of Rights of 1689, was seen as an integral part of the idea of the 'English Constitution' and of the fundamental rights enjoyed by the English people. The writ (or court order) of habeas corpus required that anyone, including royal officials, who detained a prisoner, had to show that this detention was legal. This writ itself originated in the 1300s, as a way to enforce the Magna Carta's guarantee that no free man could be imprisoned without due process of the law. Parliament sought to reaffirm this traditional right against the absolutist claims of the Stuart kings, issuing a first Habeas Corpus Act in 1640. There were later amendments as well, but this right became most strongly associated with the act of 1679.

“An act for better securing the liberty of the subject, and for prevention of imprisonments beyond the seas.

Whereas great delays have been used by sheriffs, gaolers [*jailers*] and other officers, to whose custody, any of the King's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of habeas corpus to them directed..., to avoid their yielding obedience to such writs, contrary to their duty and the known laws of the land, whereby many of the King's subjects have been and hereafter may be long detained in prison.

For the prevention whereof, and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters, be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority thereof:

That whensoever any person or persons shall bring any writ of habeas corpus directed unto any sheriff, gaoler, or other person whatsoever, for any person in his or their custody, the said officer or officers shall within three days (unless the commitment aforesaid were for treason or felony), upon security given by his own bond to pay the charges of carrying back the prisoner..., make return of such writ and bring or cause to be brought the body of the party so restrained before the judges of the said court from which the said writ shall issue; and shall then likewise certify the true causes of his imprisonment;

unless the imprisonment of the said party be in any place beyond the distance of twenty miles from the court; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days, and if beyond the distance of one hundred miles, then within the space of twenty days.”