Affidavit of Michael of the family Clarke

to

Her Majesty Queen Elizabeth II

I, a man of England, known in the county of Lancashire as Michael Clarke, in pursuit of justice and right
and in full exercise of my undoubted & lawful duty to My Sovereign Lady, Her Majesty Queen Elizabeth
Il per se, come now to set down the truth regarding taxation and our constitution in England that Her
Majesty's Court of Record may restore our liberties and the Rule of Law in this country and govern by
Statutes in Parliament agreed on.

Legal Arguments

It is a fundamental principle of law in this country that no man or woman can have lawfully imposed
upon or collected from them any taxation of any sort or kind, unless that taxation had been put into a
Finance Bill, unless that Bill had passed through its First Reading, Committee stage, Second and Third
Readings, and has been sent up to the House of Lords to be fully debated and passed through all its
stages in that House and further has received the Royal Assent.

Taxation without representation was one of the grievances that led to the revolution of 1688, following
which, limitation was placed upon the Monarch by changes to the Coronation Oath and by the
Declaration and Bill of Rights. This was an undoubted limitation upon the source of all governing power.

Sir William Blackstone (10 July 1723 – 14 February 1780) dedicated a short chapter of his commentaries
to the 'Duties of the King’ which he regarded as certain. One such duty or limitation was that the
Declaration and Bill of Rights were to be followed and observed as the mode of government.

The Declaration amongst other things, outlawed all cruel and unusual punishments. Today it is once
again being asserted that Parliament has the same unlimited powers as had Henry VIII. Our constitution
clearly sets out that it does not. The Declaration and Bill of Rights enumerated the grievances and the remedy for them. The prohibition against the suspending and dispensing of statutes and the levying of tax without prior consent of Parliament are shown below.

The Grievance:

'Whereas the late King James the Second by the Assistance of diverse evil Counsellors Judges and Ministers employed by him did endeavour to subvert and extirpate the Protestant Religion and the Laws and Liberties of this Kingdome


4. By Levying Money for and to the Use of the Crown by pretence of Prerogative for other time and in other manner than the same was granted by Parliament.'

The Remedy:

'And thereupon the said Lords Spiritual and Temporal and Commons pursuant to their respective Letters and Elections being now assembled in a full and free Representative of this nation taking into their most serious Consideration the best means for attaining the Ends aforesaid Doe in the first place (as their Ancestors in like Case have usually done) for the Vindicating and Asserting their ancient Rights and Liberties, Declare;

1. That the pretended Power of Suspending of Laws or the Execution of Laws by Regal Authority without Consent of Parliament is illegal.

4. 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. And they do Claimed Demand and Insist upon all and singular the Premises as their undoubted Rights and Liberties and that noe Declarations Judgments 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. To which Demand of their Rights they are particularly
encouraged by the Declaration of his Highnesses the Prince of Orange as being the only means for obtaining a full Redress and Remedy therein.’

The Coronation Oath

Adjustments were made in 1688 to the Coronation Oath as it ‘hath heretofore been framed in doubtful words and expressions with relation to ancient laws and constitutions at this time unknown.’

The Coronation Oath is as close as we come to the usual preamble of written constitutions. The promise of the Sovereign was about the ‘people’ and it was made to God and not to the Sovereign's Government Nor the United Kingdom's Government.

The arch-bishop or bishop shall say,

"Will you solemnly promise and swear to governed the people of this Kingdom of England and the dominions Thereto belonging according to the statutes in Parliament agreed on and the laws and customs of the same?"

Blackstone is emphatic that the preservation of the liberties of the subject is the duty of all who Govern. He called the rights and liberties absolute. He points out the duty of preservation of our Liberties as being beyond doubt. The Coronation Oath is the contract by which the Monarchy is bound to Exert only lawful power. He refers to the Coronation Oath as being a contract beyond any doubt: -

‘However, in what form it so ever be conceived, this is most indisputably a fundamental and original express (sic) contract” BL Comm Vol 1 p229. As to the certainty of its obligation he says "... 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.” BL Comm Vol 1 p226

The words which forced the Monarch into a constitutional limitation were “govern according to the Statutes in Parliament agreed on” which were not in the oath of James II or his predecessors. It was this addition to the Coronation Oath at the Glorious Revolution 1688 which defeated the Divine Right of
Kings and altered the course of history and the English Constitution permanently.

Never again could the King rule by absolute power. Thenceforth there was to be no doubt that the rule of law was supreme, integral and inherent in our Constitution. The Revolution was not a victory of parliamentary power but of the certainty of the 'supremacy of the rule of law'.

Our constitutional laws prohibit assertion or accumulation of absolute power. Power of enactment is only by the concurrence of our tripartite system, consisting of the Lords and Commons and exercised by the Monarch's grant of Royal Assent. The assent is the grant of the power which itself is a prerogative of constitutionally limited authority. It is the grant of Royal Assent that promotes a bill to the power of statute law. Illegal use of prerogative cannot be said to make good or legitimate law; the proof lies in the constitutional events of the seventeenth century that caused and effected the limitation of the monarchy by contract.

The rules of law and custom that determine that we have as a 'birthright' our liberty, are all Prerequisite to the duty of office sworn to be upheld when taking any office under the Crown. We have the responsibility of preserving and protecting this gift from our forebears so that in turn, every future generation, ad infinitum, may also benefit from and enjoy their liberty, under the rule of law. The liberty of Englishmen depends upon the supremacy of the rule of law, its observance and their right to control their laws, their content and making. The right of self-determination under the rule of our own law is the very fabric of England's liberty.

When it is said that Parliament is sovereign it confirms no more than the supremacy of the rule of law. What is meant but often misunderstood or ignored, is that the highest power known to the Constitution is the rule of law. This is the greatest power in comparison with the other subordinate powers established by the law under our Constitution.

"Be ye King or Commoner the law is above you" - Sir Edward Coke.
There may never be any legitimate secession of sovereign power to an alien potentate. Delegation must always be to subordinate bodies; otherwise allegiance is breached and sovereignty broken. It is essential that the ordinary Common Law courts shall retain ultimate control in respect of the principle of legality; any step which tends to deprive the subject of the protection of the common law Courts against unlawful encroachments on his private rights would be against all the principles of English Law and English government; and would imply a return to Star Chamber methods.

In 1641, the Long Parliament abolished the hated Star Chamber and all but Common Law Courts, though the name Star Chamber still survives to designate arbitrary, secretive proceedings in opposition to personal rights and liberty.

The ‘Rule of Law’ is entrenched in our constitution and therefore cannot be ignored or abandoned. It is the fundamental, constitutional, prerequisite duty of holding any official office under the Crown and indeed the duty of all who owe allegiance. This is its meaning and the true power of the law.

Between the rule of law and what is called administrative law, there is the sharpest contrast. One is substantially the opposite of the other because administrative law exempts public officials acting in performance or purported performance of their official duties from the jurisdiction of the ordinary, customary courts.

The separation of powers refers to and can only refer to the principle that the Judges are independent of the Executive instead of what can be termed a quasi judicial tribunal for administering that special branch of law.

Administrative law, or what can also be termed civil international law, is carried out under what is usually referred to as an emergency or dispensing power, also known as Henry VIII clause. This means that although we are in a Common Law jurisdiction where the normal rules of evidence etc. should apply, an alien form of law incompatible with our Common Law is being imposed upon us to oust the
jurisdiction of the ordinary and customary Common Law courts which are supposed to exist, but are nowhere to be found.

Halibury's on Administrative Law 2011 confirms, that this system of administrative law is carried out by an arrangement between the executive and the judiciary.

For the purposes of this work, administrative law is understood to mean the law relating to the discharge of functions of a public nature in government and administration. It includes the law relating to functions of public authorities and officers and of tribunals, judicial review of the exercise of those functions, the civil liability and legal protection of those purporting to exercise them and aspects of the means whereby extra-judicial redress may be obtainable at the instance of persons aggrieved.'

The venue for this business is Her Majesty’s Courts, under Her Majesty's Royal Coat of Arms, without the assent of Her Majesty and Parliament. As such, not only is the display of Her Majesty's Coat of Arms fraudulent misrepresentation, it is also fraudulent and treasonous to use Her Majesty's Courts in which to conduct their business.

The rules which govern the procedure to be adopted by the Courts in administrative proceedings are carried out under a dispensing power and which was the subject of a decision in the House of Lords in the case of Pretty v. Director of Public Prosecutions [2001] 3 November 2001.

For at least half a century after the publication of Dicey's Law of the Constitution (1st Edn) (1885), the term 'administrative law' was identified with droit administrative, a separate body of rules relating to administrative authorities and officials, applied in special administrative courts. As thus defined, administrative law did not exist in England: see Dicey's Law of the Constitution (10th Edn) 330. ... R v Lancashire County Council, ex p Huddleston[1986] 2 All ER 941 at 945, 136 NLJ Rep 562, CA, per Sir John Donaldson MR ('Notwithstanding that the courts have for centuries exercised a limited supervisory jurisdiction by means of the prerogative writs, the wider remedy of judicial review and the evolution of what is, in effect, a specialist administrative or public law court is a post-war development. This development has created a new relationship between the courts and those who derive their authority from the public law, one of partnership based on a common aim, namely the maintenance of the highest standards of public administration').
Mrs Pretty began by asking the Director of Public Prosecutions to give her husband, in advance, immunity from prosecution under Section 2 (1) of the Suicide Act 1961. It was a request which his office had no choice but to refuse; as Lord Bingham of Cornhill said in dismissing her appeal, "the power to dispense with and suspend laws ... without the assent of Parliament was denied to the Crown and its servants by the Bill of Rights 1688".

In the great constitutional battles of the seventeenth century the use of the prerogative by the Stuart monarchs to avoid inconvenient legislation was one of the abuses which culminated in the Declaration and Bill of Rights against the suspension of statutes. The rule of law demands that statutes cannot be set aside on a discretionary basis by the Crown.

The exercise of arbitrary power is neither law nor justice, administration, or anything at all. The very conception of "law" is a conception of something involving the application of known rules and principles, and a regular course of procedure.

It is essential to the proper administration of justice that decisions should be based on evidence, and that the evidence should be heard in the presence of both parties, who are given the opportunity of cross examination.

The Judges are personally responsible for their decisions governed by the impartial application of principles which are known and established and that all parties are fully and fairly heard. In other words, the decision of the Court is in every important respect sharply contrasted with the edict, however benevolent, of some hidden authority, however capable, depending on a process of reasoning which is not stated and the enforcement of a scheme which is not explained.

Oaths of allegiance

All Judges take the Judicial Oath when they are sworn in:
I will well and truly serve our Sovereign Lady Queen Elizabeth the Second, in the office of Justice of the Peace and I will do right to all manner of people after the laws and usages of the realm without fear or favour, affection or ill-will.’

Administrative law forms no part of the laws and usages of the realm which Judges swear to the Sovereign to uphold through their oath of Office, which is a promissory Oath that binds them to a specified course of conduct, otherwise he cannot be said to perform his judicial duties impartially. Performing administrative acts on behalf of the Executive is incompatible within the terms of the oath which Judges take when they were created as Judges under Section 2 of the Promissory Oaths Act, 1868, which every judge must take. A breach of that Oath is perjury.

If the argument is that Common Law has no basis in administrative law proceedings and therefore it is irrelevant that taxation has not been sanctioned by Parliament, then this alien form of law must by its very nature be superior to both Common and Statute Law.

Actions which overthrow and subvert the laws and constitution of this Kingdom and which would lead to the destruction of the constitution are unlawful.

The case of R v Thistlewood (1820) established that “To destroy the constitution of the country is an act of treason.” A conviction for treason can lead to imprisonment, unlimited fines, forfeiture of civil service employment and pension.

The following is from Blackstone’s Commentaries on the Laws of England:

‘Hence it is, that no suit or action can be brought against the king, even in civil matters, because no court can have jurisdiction over him. For all jurisdiction implies superiority of power: authority to try would be vain and idle, without an authority to redress; and the sentence of a court would be contemptible unless that court had power to command the execution of it; Who says Finch, shall command the king?’
‘Hence it is likewise, that by law the person of the king is sacred, even though the measures pursued in his reign be completely tyrannical and arbitrary: for no jurisdiction had this power, as was formerly claimed by the pope, the independence of the kingdom would be no more: and, if such a power were vested in any domestic tribunal, there would soon be an end of the constitution, by destroying the free agency of one of the constituent parts of the sovereign legislative power.

NEXT, as to cases of ordinary public oppression, where the vitals of the constitution are not attacked, the law has also assigned a remedy. For, as a king cannot misuse his power, without the advice of evil counsellors, and the assistance of wicked ministers, these men may be examined and punished. The constitution has therefore provided, by means of indictments, and parliamentary impeachments, that no man shall dare to assist the crown in contradiction to the laws of the land. But it is at the same time a maxim in those laws, that the king himself can do no wrong; since it would be a great weakness and absurdity in any system of positive law, to define any possible wrong, without any possible redress.’

We have seen that any genuine constitution must define limitations of power. This being prerequisite, it is fundamental that a constitutional system will include a means of redress such that abuse will always have a remedy, most importantly where the excesses of governmental power breach the constitution. Apart from the events of 1215, 1628 and 1688 the inherent right of remedy is recorded in English jurisprudence in the famous test case of Ashby v White in judgement 14th January 1704 Holt CJ:

’If the plaintiff has a right, he must of necessity have a means to vindicate and maintain it, and a remedy if he is injured in the exercise or enjoyment of it; and indeed it is a vain thing to imagine a right without a remedy, for want of right and want of remedy are reciprocal.” Ubi jus ibi remedium (where there is a right there is a remedy).’

Proceedings conducted whilst sitting under the Royal Coat of Arms.

The Royal Coat of Arms is displayed in court rooms since the Monarch is the fount of justice in England. The law Court is part of the Court of the Monarch, hence its name. Judges are officially representatives of the crown, demonstrated by the Queen’s Coat of Arms which sits behind the judge on the wall of
every court in the land. Judges sitting under the Royal Coat of Arms cannot act in anything other than in a judicial capacity.

This is reinforced by an extract from Halsbury's Law under the section entitled The Royal Prerogative. That the Sovereign cannot adjudge personally means delegation of power to Judges.

‘By our constitution, the King is the fountain of every species of justice, which is administered in this kingdom. The King is de jure to distribute justice to all his subjects, and because he cannot do it himself, to all persons, he delegates his power to such as the Judges, who have the custody and guard the Kings Oath and sit in the seat of the King concerning his justice.’ R v Almon (1765) Wilm 243; 97 ER 935

The royal coat of arms signifies that justice is being delivered in the name of Her Majesty the Queen. It is the very authority of the head of state, who happens to be the Queen, that guarantees neutrality—or “impartiality”, and the neutral environment that is the very essence of adjudication in any state that upholds the rule of law. The head of state is the fount of justice and that establishes the neutrality of the court. The duty of the judiciary is to protect and uphold the rule of law.

The Judge is to determine according to law, without fear, favour or affection, questions which arise between Her Majesty's subjects or between any of Her Majesty's subjects and either the throne or the executive.

Judgement Confirming Taxation Without Representation Illegal

The case in Bowles v. Bank of England, confirms the principle of no taxation without representation and upheld the Bill of Rights against it.

‘By the statute 1 W. & M., usually known as the Bill of Rights, it was finally settled that there could be no taxation in this country except under authority of an Act of Parliament. The Bill of Rights still remains unrepealed, and 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 follows that, with regard to the powers of the Crown to levy taxation, no resolution, either of the Committee for Ways and Means or of the House itself, has any legal effect whatever. Such resolutions are necessitated by a parliamentary procedure adopted with a view to the protection of the subject against the hasty imposition of taxes, and it would be strange to find them relied on as justifying the Crown in levying a tax before such tax is actually imposed by Act of Parliament.' Bowles v. Bank of England - [1913] 1 Ch. 57, 84-85

The law is absolutely clear on this subject. There is NO authority for administrative courts in this country and no Act can be passed to legitimise them because of the constitutional restraints placed upon her Majesty at Her coronation. The collection of revenue by such means is extortion, and extortion has been found reprehensible since ancient times.

Separation of powers

Today, in the year 2011, we find for example, that in the council tax regulations, the billing authority, the prosecuting authority and the enforcement authority are all vested in the same body. The same bodies even purport to issue their own legal documents, by tacit agreement with the Courts. In our system of Common Law, the rule of law demands that we have a separation of powers.

Today, the powers are not separated. The executive is not a distinct, free-standing leg of the tripod. The executive now emerges directly from within the elected Chamber of the legislature where previously it emanated directly from the Monarch. That leads to constitutional confusion—because the executive has seized and misuses Parliament’s democratic credentials for its own, destructive, purposes.

Fortunately, we have something to which we can turn to preserve our ancient laws and freedoms. We have the Oath that Her Majesty The Queen took at her coronation by which she is solemnly bound and from which no one in England, Wales and Scotland has released her. At Her Coronation the Queen swore to govern us, “according to [our] respective laws and customs”. Certainly, among our reputed “customs”, is precisely that invaluable and widely admired tripartite division of the powers. The
judiciary is part and parcel of our customary system of internal sovereignty—“the Queen in Parliament”.

It is one of the three separate but symbiotic powers, and it is a capricious and self-serving contention that it should not have the power to preserve the authority of the legislature over the executive.

It is a constitutional principle that the assent of the Queen & Parliament is prerequisite to the establishment of a Court which can operate a system of administrative law in Her Majesty's Courts in England. This was confirmed by Lord Denning during the debates on the European Communities Amendment Bill, HL Deb 08 October 1986 vol 480 cc246-95 246 at 250: “There is our judicial system deriving from the Crown as the source and fountain of justice. No court can be set up in England, no court can exist in England, except by the authority of the Queen and Parliament. That has been so ever since the Bill of Rights.” 08 -10 - 1986 vol 480 cc246-95 246 at 250.

Lord Denning also referred to the rights and duties of English subjects and of the allegiance to the Monarch, and the corresponding duty of the Monarch to protect these rights. He noted that the idea of allegiance was unknown in Europe.

Lord Denning

‘... Now I come to the British Constitution. We have a basis which is quite unknown in Europe. Each one of us, and each judge (certainly each one here) has the oath of allegiance to the Queen and, corresponding to that in our constitution, is a duty on the Queen to protect us. By our constitution The Queen is the source and fountain of justice. It is at her behest that we have Royal Courts of Justice here; it is at her behest that our judges are Her Majesty’s judges, and it is at her behest, for the protection of all of us in response to our allegiance to her, that she sets up the courts of justice to hear and decide our disputes.

'I would like to emphasise that unknown in Europe is this constitutional principle of the allegiance of the British subject on the one hand, and, on the other, the duty of the Crown to protect the British subjects. Let me remind your Lordships of the oath of allegiance. It is constitutional, the oath which every Member of your Lordships’ House takes, and it is from an Act going back 100 years or more: "I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to law. So help me God.”
Every one of your Lordships knows that oath of allegiance. It is part of our fundamental constitution. Let me remind you of our judges' oath as well: “I do swear that I will well and truly serve our sovereign lady Queen Elizabeth the Second in the office of a justice of the High Court, and I will do right to all manner of people after the laws and usages of this realm without fear or favour, affection or ill-will.” There is our judicial system deriving from the Crown as the source and fountain of justice. No court can be set up in England, no court can exist in England, except by the authority of the Queen and Parliament. That has been so ever since the Bill of Rights.

This is also part of our Constitution: corresponding to that duty of each British subject to the Queen, the Queen herself is under corresponding duty to protect British subjects in our rights, which we have inherited all the way down the line. ... That duty in England, the duty of protection of our citizens, the correlative of allegiance by the Queen, is done by provision of the police force to protect us, and by the courts of justice which she has established.

I need not go into all the cases. This principle can be found back in the time of Lord Coke, in Calvin's case, as between England and Scotland: Ligeance is the mutual bond and obligation between the King and his subjects, whereby subjects are called his liege subjects because they are bound to obey him; and he is called their liege Lord because he should maintain and defend them.

The most recent illustration of it is the China Navigation case, reported in 1932 King’s Bench. So the Queen is bound to protect us and to afford courts of justice on which we can rely and to which we can go. In Europe that constitution is unknown. There is no one source or fountain of justice in Europe. Let me tell you the oath which, under this Treaty of Rome, each judge takes: “I swear that I will perform my duties impartially and consistently, and preserve the secrecy and deliberations of the court. I repeat: I will perform my duties”.

What are those duties? Nowhere are they spelt out in the Court of Justice except in Article 162: “The Court of Justice shall ensure that in the interpretation and application of the Treaty the law is observed.” The only duty of those Community judges is a duty to see that the law is observed; in other words, that Community law is observed, not the law of England. There is no duty to protect the British subject. Are we then today to say that British subjects are not to go to our courts in England or to Her Majesty's judges in order to secure justice? and that they are not to seek the protection of the law as we know it under the hearings and procedures which we have established over the centuries, but to go to an attached court, to the Court of Justice in Luxembourg?
According to this proposed article the attached court will operate according to the same modes of procedure as at the moment. It is a procedure and process which has already been condemned by the Court of Appeal in England as quite dissimilar from our English law and indeed merely administrative. Are British subjects to be compelled to go there? That is my criticism of this article which is mentioned in two or three places in this part of the group that we are discussing now, as I tried to point out, because you cannot see it other than by reading through them.

There it is in Amendment No. 42 on the Marshalled List: The provisions of Article 168A of the EEC Treaty “— that is the article that we are now considering and it is the one which establishes these attached courts in Luxembourg— shall not be interpreted or applied so as to enable any such attached court to sit in the United Kingdom, or to exercise any jurisdiction over British subjects resident in the United Kingdom”. 252 That is subsection (1).

Subsection (2) states: “In lieu of the jurisdiction of any such attached court, every British subject resident in the United Kingdom and owing allegiance to Her Majesty the Queen shall be entitled to the protection of Her Majesty, according to the law of England, administered by Her Majesty’s Judges sitting in the Royal Courts of Justice under the Rules of the Supreme Court”.

I am stressing the constitution there. Then in subsection (3) there is a parallel jurisdiction where we do it ourselves: If and in so far as under Article 168A “... any such attached court is given jurisdiction to decide disputes according to Community Law, a like jurisdiction shall be exercised by Her Majesty’s Judges also to decide them according to Community Law (in so far as that is made part of the law of England ...).” So there it is. It is simple and intelligible, I hope. All it is saying is that we British subjects owe allegiance to the Queen and the Queen is under a duty to protect us. She has performed this duty by providing the Royal Courts of Justice to which we can take our disputes and have them decided by Her Majesty’s judges. We should not be compelled to go over to a court in Europe manned by we know not whom or in what circumstances in order to go through a procedure and process that are altogether unknown to our law and which the Master of the Rolls has said are quite dissimilar to our own procedure and practice.’

08 -10 - 1986 vol 480 cc246-95 246 at 250.

The reference that Lord Denning made to the Bill of Rights 1688 was article 1.
The grievance was:

'By Assuming and Exercising a Power ofDispensing with and Suspending of Laws and the Execution of Laws without consent of Parliament.'

And the remedy was:

'That the pretended Power of Suspending of Laws or the Execution of Laws by Regal Authority without Consent of Parliament is illegal.'

The grievance in Article 3 of the Bill of Rights was:

'By issuing and causing to be executed a Commission under the Great Seal for Erecting a Court called The Court of Commissioners for Ecclesiastical Causes.'

And the remedy to Article 3 was:

'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.'

Elective Dictatorship

Given that the Government increasingly, and without precedent, insults our laws and customs, the questions have arisen as to how has the "elective dictatorship" come about? And what redress do we have? Does this not deserve incisive examination, given the division of the powers that our system used to embody? Is it now taken as a mere theory? It has come about because of the conflation within the House of Commons—a subset of the legislature—of the legislative power with the executive power which now emanates directly from it. The executive now has full control of that part of the legislature.

But that democratically elected part of the legislature is not only not The Queen's; it is not the executive's either. It is the electorate's and it alone democratically represents those whose laws and customs The Queen's Coronation Oath binds Her Majesty to protect.

What is essential for the liberty of the individual subject is that no one organ of the Constitution shall exercise to a substantial extent the functions vouchsafed primarily to another organ of the Constitution.
Lord Hewart of Bury warned about this state of affairs in his book entitled The New Despotism, written in 1929. The following is taken from his book:

The constitutional principle at issue is that the recognition by the Common Law of the supremacy of Parliament is based on an assumption, that Parliament will not surrender its law making powers to the Executive (or an international body) nor on an uncontrolled and uncertain basis.

Two of the leading features of the Constitution are the supremacy of Parliament and the rule of law. (Principle of legal certainty) Whilst it may be considered a serious undertaking to tamper with either of them, by the use of an ingenious method of using one to defeat the other, it establishes despotism to the ruins of both.

In the old days, Kings like James II would use his prerogative powers to suspend or dispense with laws eventually but suffered the consequences of defying Parliament. The new method is by the use of the Whipping system and coercion to subordinate Parliament, to evade the Courts and to render the will of the Executive unfettered and supreme.’

The Solution

The fundamental terms on which William and Mary were invited to accept the sovereignty of this realm and the conditions upon which the Crown holds its office were laid down in a Declaration and a Statute dated 1688 which did not deal simply with the acts of the Crown itself, but deals with acts of “evil counsellors and Ministers” as they are called in the Statute.

It is against evil counsellors and Ministers that the Statute is directed rather than against the Crown itself. It refers to divers counsellors, judges, and Ministers who endeavoured to subvert the laws and liberties of the Kingdom. Many of the most significant victories for freedom and justice have been won in the English law Courts and in that, the liberties of the Englishman are closely bound up with the independence of the Judges. When, for any reason or combination of reasons, there has been a lack of courage on the Judicial Bench, the enemies of equality before the law have succeeded, and the
administration of the law has been brought into disrepute. It is therefore necessary to be astute to preserve judicial independence against any assault, however insidious.

The supremacy of the law means the exclusions of arbitrary power and the rule of law denotes the following principles:

1) No one can be lawfully restrained or punished, or condemned in damages, except for a violation of the law established to the satisfaction of a Judge or jury or magistrate in proceedings regularly instituted in one of the customary ordinary common law Courts of Justice. The rights of personal liberty, freedom of the press and right of public meetings are all the result of the application of this fundamental principle. (Note the reference to customary ordinary Courts).

2) Everyone, whatever his position, Minister of State or government official, is governed by the ordinary law of the land and personally liable for any acts or omissions done by them contrary to that law and are subject to the jurisdiction of the ordinary Courts of Justice, civil and criminal. This would involve the issuing of Summonses against the council officials concerned to be brought before the ordinary Courts and to justify their actions. The plea of “act of state” is not permissible as a defence to an action in respect of anything done within the realm because the maxim “the King can do no wrong” means not only that the King cannot be proceeded against for any alleged wrong, but also that he cannot authorise any wrongful act so as to justify the wrongdoer.

If our laws and customs are persistently flouted and should The Queen continue to accept legislation which is incompatible with the country’s laws, customs and her Oath, then allegiance to The Queen ceases and British subjects themselves are to take on the duty to demonstrate lawful resistance against injury from unlawful actions of the government. This resistance is undertaken with a view to restoring the law and seeking, without sedition, redress from the injury. Thus the law will be restored.

When the People have no remedy at law to protect their rights they are by definition oppressed.

If constitutional remedy is sought where there is certain breach, it may not be and should not be lawfully denied by any court. If redress is not given it can readily be seen that arbitrary power will have
taken hold and ousted the means of redress. Our Constitution affords several remedies.

The effect of the Declaration and Bill of Rights 1688, taken together with the Coronation Oath was an absolute prohibition on all but Common Law Courts. Since then, no Court can exist in this country without the assent of the Monarch and Parliament. The only Courts which have such authority are our ordinary, customary Courts. The role the Judges have in the protection of these constitutional liberties which the Monarch has sworn to uphold at Her Coronation is clearly laid out in the judgement in the case of: THE KING against ALMON. Hil. 5 Geo. III. 1765.

"By our constitution, the King is the fountain of every species of justice, which is administered in this kingdom. 12 Co. 25. The King is "de jure" to distribute justice to all his subjects; and, because he cannot do it himself to all persons, he delegates his power to his Judges, who have the custody and guard of the King's oath, and sit in the seat of the King "concerning his justice."

"The arraignment of the justice of the Judges, is arraigning the King's justice; it is an impeachment of his wisdom and goodness in the choice of his Judges, and excites in the minds of the people a general dissatisfaction with all judicial determinations, and indisposes their minds to obey them and whenever men's allegiance to the laws is so fundamentally shaken, it is the most fatal and most dangerous obstruction of justice, and, in my opinion, calls out for a more rapid and immediate redress than any other obstruction whatsoever; not for the sake of the Judges, as private individuals, but because they are the channels by which the King's justice is conveyed to the people."

So there we have it quite clearly. The Judiciary are the "guardians" of the Oath. The fundamental principles are contained in Magna Carta and its descendants. Redress must be sought by all legitimate means but ultimately there is a constitutional right of resistance until such time as redress is made. The nature of such resistance is defined in Chapter 61 of Magna Carta.

This course of action was confirmed in the Sacheverell's Case 1710: 'Your Lordships on this occasion will again consider the ancient legal constitution of the government of this kingdom; from which it will evidently appear to your Lordships that the subjects of this realm had not only a power and right in themselves to make that
resistance, but lay under an indispensable obligation to do it. The nature of our constitution is that of a limited
monarchy, wherein the supreme power is communicated and divided between queen, lords, and commons, though
the executive power and administration be wholly in the crown. The terms of such a constitution ... express an
original contract between the crown and the people... The consequences of such a frame of government are
obvious... If the executive part endeavours the subversion and total destruction of the government, the original
contract is thereby broke, and the right of allegiance ceases. That part of the government thus fundamentally
injured hath a right to save or recover that constitution in which it had an original interest...’

In referring to the Green Paper of January 1989 on rights of audience to higher Courts, Lord Lane, then
the Lord Chief Justice, thought that the very foundations of our democracy were being destroyed by this
proposal. He observed:

‘Loss of freedom seldom happens overnight ... Oppression does not stand on the doorstep with a
toothbrush moustache and a swastika armband. It creeps up insidiously; it creeps up step by step; and
all of a sudden the unfortunate citizen realises that it has gone.’

Conclusions of law

The grievances:

1) That the UK Parliament acting on its own over the course of a century since the Parliament Act 1911
has led to a situation of government by dispensing power.

2) There is no conscious agreement or ‘meeting of minds’ between the Monarch and Parliament.

3) All UK courts are now administrative tribunals and are operating under a dispensing power whilst
sitting beneath the Royal Coat of Arms.

4) Her Majesty Queen Elizabeth II per se has been isolated by Parliament, the Courts and the Executive
and there is no Court of Record of Her Majesty Queen Elizabeth II in the land known as England.

The remedy lies in

1) Limiting the power of the House of Commons just as in 1688 the Monarch was limited by contract.

2) Abolishing the ‘star chamber’ courts of this country and restoring customary, ordinary common law
courts of Her Majesty Queen Elizabeth II, just as it was done in 1641 by the Long Parliament.

Affiant confirms that all of the above are “Yea, yea; Nay, nay for whatsoever is more than these cometh of evil.”, as stated in relevant section, Matthew 5:33-37 of the King James Bible, to the best knowledge and consciousness of the Affiant.

God Save the Queen!

Michael of the family Clarke

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31 Cherry Tree Rd

Blackpool FY4 4NS

sworn oath date ...

witnessed by solicitor..

solicitor address..

solicitor seal..

sent recorded delivery.. attached