

must be published
 but needs to be
 distributed after the
 great late Convention
 Sir J. Shaftesbury

THE PRESENT QUESTION,

IN ITS

CONSTITUTIONAL POINT OF VIEW.

THE Constitution of the British Government is justly considered as the most perfect of human institutions. It is more complete, than any system of the kind hitherto reduced into practice, as a *whole*; and its *parts* are so connected, that they form both a spring and a check to each other. The *King* is the first vital principle of the Body Politic: He is, therefore, considered as *permanent*, in the exercise of the political functions; and, in the eye of the Law, he is deemed *immortal*. He is, in a manner, supposed to be *perfect*, as the Constitution says he can do no wrong. His Servants alone are responsible for the measures of his Government: and this is the great (and it is a sufficient) check on any improper extension or exertion of the Prerogative Royal. Nothing can be more wise and salutary, than the following three maxims:

I. That, in a political view, as the King *never dies*, there can be no dispute about filling the Throne, upon his natural demise.

II. As the Constitution declares he can do no wrong, his situation cannot be liable to revolution or change: and, consequently, he remains the permanent pillar which supports the Government; whilst the two other branches of the Legislature are subject to a temporary suspension or renewal of their functions.

III. As the King's Servants are answerable for the measures of the King, as it is taken for granted they advise what they

they execute, no detriment can arise to the Constitution, from the political permanency, and want of error, in the Sovereign.

This responsibility of Ministers on the one hand, gives them much power on the other: for they, in a great degree, sanctify and protect their measures, by making them those of the King. The Constitution knows of no power in the State, but what flows in a regular gradation from the Sovereign; and, consequently, every act of Ministers, that is not authorized by the immediate order, command, or signature of the King, is *invalid* and *illegal*.

On these principles, the great question which agitates the nation, at this juncture, hinges. The King's Ministers, it is acknowledged on all hands, cannot act, at present, either *lawfully* or *constitutionally*, as they cannot receive either the *order* or *signature* of the King. If, therefore, they act at all, they *usurp the Regal Power* in their own persons, and are become answerable to the laws of their country for their conduct. If they *do not act at all*, or rather, if they *obstruct* and *delay* the restoration of the first vital principle of the State, they are, in the eye of the Law, guilty of *high crimes and misdemeanors*. In either of the above cases, they are bound, by the strongest of human ties, *a regard to their own safety*, to provide instantly for the Restoration of the Executive Power, to legalize their own acts, or to obtain a legal indemnity for keeping suspended by evasion and delay, the Regal functions, which the unfortunate malady of the King has interrupted.

No appeal to the People, no dependence on a Majority of the two Houses of Parliament, to Ministers so situated as they are now circumstanced, will be a sufficient security. The People may be deceived. The two Houses are as incompetent as the Ministers themselves to do a *legal act*, without

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out the sanction and signature of the Sovereign, or his Representative. Mere Resolutions are matters of opinion, not of Law: and what the Majority of one Parliament may vote, that of another may expunge and annul: In short, there is no safety but in acts, which, having passed through both Houses, have received the assent of the Executive authority; which alone will make those acts a part of the Constitution of the country, and permanently binding, as far at least as personal security is concerned.

It being a fundamental *law* in the Constitution, that all the acts of Ministers originate with the King; it follows, that if Ministers have, in any one instance, *acted at all* during the interruption of the Royal functions, that they have USURPED THE KINGLY POWER, the greatest crime that can be committed against the State. The moment that proofs were exhibited before both Houses, that the Regal functions were interrupted, the power of action in the King's Servants ceased. This is a matter of public notoriety. The ascertaining of facts and dates will, therefore, be sufficient to establish the guilt. If nothing actually has been done since the first Vote passed, with respect to the interruption of the Royal authority, delay, though a less one than the former, is still a great crime.

The remedy to all our late misfortunes was obvious. Application should have been made, in the first instance, to the Great Personage appointed by the laws of the Constitution, in the succession, to discharge the Regal functions. He should have been requested to open Parliament according to the usual forms, which alone can render their transactions legal. No *inanimate substance* will ever be allowed to supply the deficiency which the hand of God has occasioned in the government of this nation. To the measure now recommended both Houses must still revert: to give a political life to themselves, they must restore, in a living agent, the Heir Apparent,
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the Executive authority, which is now become, in a manner, extinct. If Regulations are deemed necessary, for circumscribing a little the power of the Regent in exercising the Royal Prerogative, and that for some specific and limited time, let the outlines of those Regulations be communicated to his Royal Highness in the Addresses, which will request him to assume the Executive authority. This is the line pointed out by expediency and reason; and it is that which the Constitution has prescribed. The Revolution furnishes us with a precedent in point. In the Address of the Commons to the Prince of Orange to accept of the throne, they prefixed the articles on which was afterwards founded the Bill of Rights. They did not say to him thus: " Sir, we intend to confer upon you the Regal functions in this country; but your time is not yet arrived. We have some Rights of the People to establish: we have some restrictions on the Royal Prerogative to frame. As we cannot *trust you*, after you are King, to give your assent to any Act that may trench upon your authority, we will make *an inanimate thing*, called the Great Seal, King *pro tempore*, to answer *our* purposes. This *inanimate King* will, in the first instance, open a Parliament; and afterwards give *its* assent to the Bill of Rights. After we have thus secured your *good behaviour*, we will make you the *Seal's Successor*."

.....The language of the Revolution Parliament was the contrary of the above: " We have a good opinion of your talents; and we will not distrust your principles, so far as to suppose it possible, you will refuse your assent to such regulations, respecting the Constitutional Rights of the People, as we may think expedient to make, after you have *legalized* our proceedings, by opening the Session. We, therefore, request, that you will assume the Regal authority, and restore to life the Constitution of this country, which cannot exist, as long as the Executive Government is either *dormant* or *extinct*."