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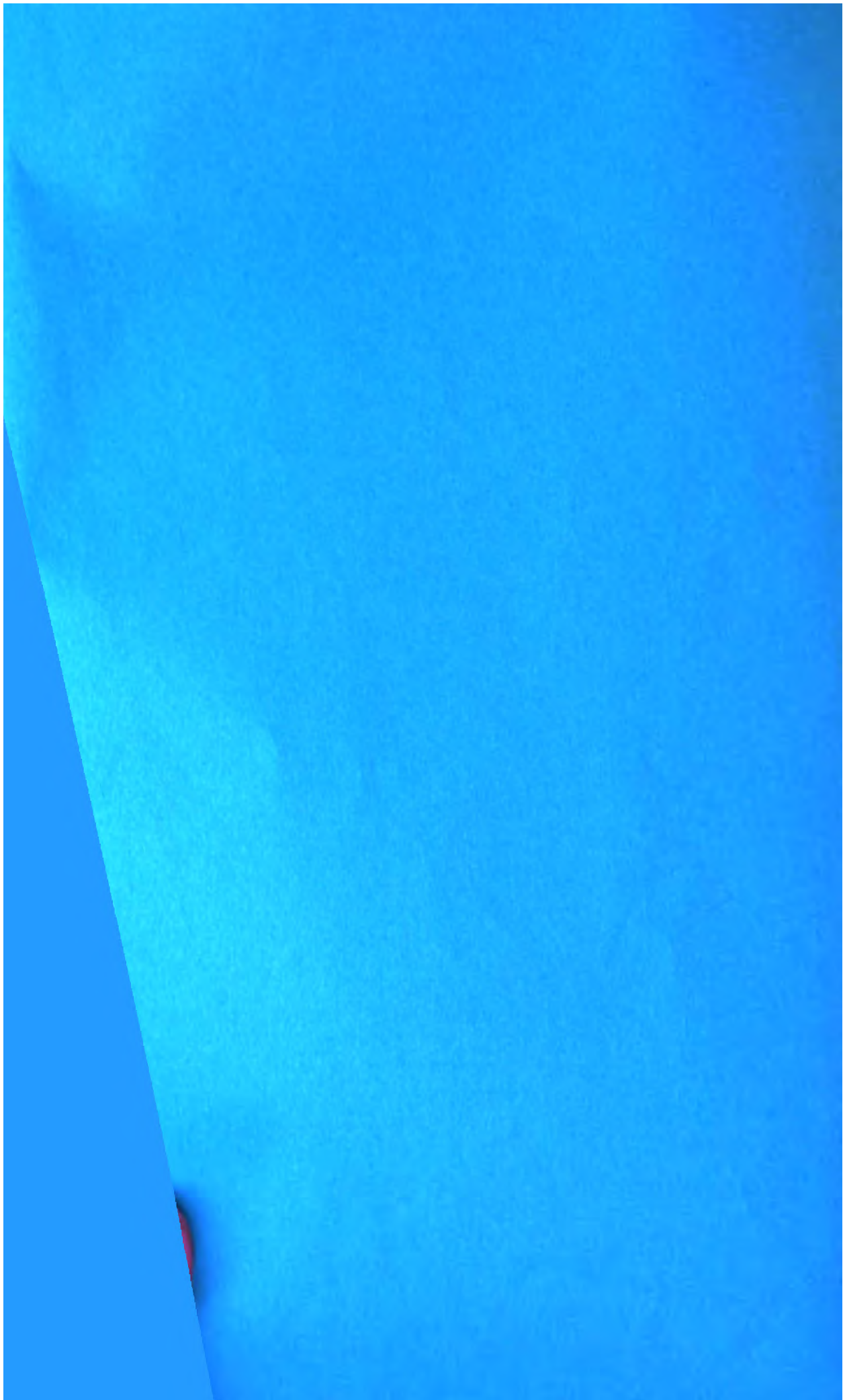
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# OBSERVATIONS

UPON THE LATE

NATIONAL EMBARRASSMENT,

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AND THE

PROCEEDINGS IN PARLIAMENT

RELATIVE TO THE SAME.

By JOHN LEWIS DE LOLME, LL.D.



L O N D O N

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## ADVERTISEMENT.

**T**HIS Pamphlet was written previous to the 23d of January; and the publication of the same was withdrawn, on account of the national business having since continued in a progressive state, and certain important measures having been positively effected after such publication was begun. The Pamphlet is again offered to the Public, with considerable alterations made in it, especially from page 16 to 47, which were become necessary for rendering the subject sufficiently intelligible.

A Postscript has been added, containing an explanation of the rights of the Heir apparent, and also a sketch of the opposite measures of the two opposite Parties, in the course of the late proceedings.

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THE PRESENT

NATIONAL EMBARRASSMENT

CONSIDERED.

**T**HE Questions by which the attention of the kingdom is at the present time engaged, have been misunderstood in regard to three points.

I. The King's present situation, that is to say, his *political* situation, has not been considered in the properest light.

II. The legal claims of the Heir apparent have been misrepresented.

III. The legal situation and claims of the Parliament, at the present juncture, have also been mistated.

The imperfect representations which have been given of the above three questions, have caused the true exigency of public affairs to be misconceived: the

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real nature of the measures to be pursued in the present circumstances, the *quid faciendum* of the political problem, have not been clearly understood.

*The present political situation of the King.*

THE present inability of the King to discharge his royal office, has been termed by some Statesmen and Politicians a case of *sickness* or *infirmity*: others have compared it to a state of *infancy*. Precedents of the above two cases have been searched for in the English History.

The present situation of the King cannot be called a state of sickness or infirmity, as these words are generally used. In a state of sickness, a Man is disabled from going through certain manual exercises, or from performing certain bodily operations. But such bodily operations and exercises are not positively required from a King: it is enough if he can give *directions*. The Emperor Severus being  
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confined by the gout, his Sons took that opportunity to revolt : he sent his Generals against them, who defeated them in battle, and brought them prisoners to him. The Emperor dismissed his Sons unpunished ; only warning them to remember that it is the *head which governs, and not the feet.*

Even in a state of health, Kings do not bodily perform several very important operations. They do not use to carry their orders personally themselves : they do not use to affix their own great or privy seals with their own hands : nay, they do not always choose to sign their own names themselves. It is recorded among other anecdotes of a certain King of France, that, when his Minister, who was a Bishop, brought papers for him to sign, he used to tell the Bishop, *Sign, Father, sign for me.*

Neither can the King's present situation be termed a state of *infancy*. A King, in a state of *infancy*, is not positively considered as being incapable of having a *will* :

he is considered as being only incapable of declaring that will: a Guardian is appointed to him, whose office is to declare the King's will.

In a state of sickness or infirmity, a King has a *will*; only, he cannot declare it so readily and easily as the rest of men are able to do: but the peculiar situation of the King, at this present time, is positively that he *can have no will*. An *infant* King is also, in some sense, allowed to have a *will*; but he is considered as being unable, we have just said, to declare this will: a Guardian is appointed to perform the office. To which add, that there is a certain term, or period of time, expressly fixed by the law to the *infant* King's inability to declare his will: the day and hour on which this legal disability is to be ended, are positively named. The infant King's *natural* abilities are moreover continually increasing every day; they become evident before the day of his *legal* ability is expressly arrived.

Also



Also add, that the Guardian appointed to an infant King, is to keep close possession of the King's person, for fear any other Men should intrude, and presume to attempt to declare the King's will. This close possession of the person of an infant King, which is expressly required of a *Guardian*, makes it evident that his office is understood to be, to *consult* with the infant King, and *declare* the King's will.— Such close adherence to the King is not to be considered as a part of the duty of the Person who, in the issue of the present national embarrassment, will be intrusted with the exercise of the royal authority. This may lead to observe, that the word *Regent*, which has become, through general use, to imply the signification of a King's *Guardian*, will not perhaps be a proper word for expressing the office of the Person who is to be appointed a Representative to the King.

Neither can the King's present situation be compared to a common case of *absence*. Two facts have been quoted as being  
extracted

extracted from Mr. Hatfell's published *Collection of Precedents of the House of Commons*. In the one instance, King Charles II. being taken suddenly ill, and unable to open the Session on the day he had appointed, the Queen sent notice of the circumstance to the Parliament, at the same time naming a day on which she said the King would come. In the second instance, King William III. having been detained by contrary winds in his passage from the Continent, and thereby prevented from meeting the Parliament on the prefixed day, the Queen sent information that the King was landed within the realm, and that his delay could not be long. In the first-named instance, the Queen named a short day on which the King was to appear. In the second instance, the Queen said the King was within the realm, and was coming in his own person.

But the King's present situation is widely different from the above-mentioned cases. No Minister can tell where the King is, or when he is to appear again. On the  
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day on which it was expected that the King would have opened the Session, the Ministers, in both Houses, said, "they had been prevented by the severity of the King's illness from approaching his person and receiving his commands." They meant to express themselves mysteriously; and their expressions were proper: but they would have given a more accurate description of the case, if they had said, *they had sought for the King, and had not been able to find him.*

The King is *absent*; and no person can say where he is to be found. He is absent; and no man can tell when he will come back. Nay, it is not known whether he will come back. Nay more, in case he does come back, it is not known whether he will be able to make himself acknowledged to be the *same person.*

This circumstance we have just mentioned, namely, the prospect of a difficulty at some future time in ascertaining the King's real *return*, and the true *identity* of his person, is a farther perplexing circumstance  
added

added to the present national dilemma. The prospect of such difficulty, which is not much thought of as yet, considerably increases the nicety and importance of the provisions meant to be made in the present emergency.

The instance of Don Sebastian, King of Portugal, may be mentioned in this place. Having landed in Africa with an army, he disappeared in a battle he fought against the Moors: he remained absent from his kingdom; no body could tell what was become of him, or whether he would ever return. A few years afterwards two Men made successively their appearance, pretending to be King Don Sebastian: the Spanish Government, who had seized upon the Crown of Portugal, caused them both to be put to death. A third Man assumed the character of Don Sebastian; he made his first appearance at Venice; as he was kept out of Portugal. The Spanish Government demanded his being delivered up to them. The Venetian Senate postponed complying with the request

quest, and appointed Judges to examine into the affair. The Man, as Historians relate, bore a remarkable resemblance to King Don Sebastian: his voice was acknowledged to be perfectly similar. He produced on his body certain peculiar marks which were known to have been observable on King Don Sebastian. He shewed himself informed of certain secret negociations that had formerly taken place between the State of Venice and King Don Sebastian, and gave a proper account of them to the Judges. Some Historians have considered the affair as having been mysterious and problematic. For supporting this opinion it might be alledged, that the Venetians neither would deliver up the Man, nor hurt him: they only ordered him out of their territories. The Spanish Government, after they had procured him to be seized in some other part of Italy, neither brought him to a trial, nor put him to death; and the whole Portuguese Nation continued to be loud in their complaints, that their lawful King was detained from them: though their

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complaints

complaints might perhaps be owing only to their dissatisfaction with being subjected to the Spanish Government.

The present situation of the King of England might, in some sense, be compared with the case of Don Sebastian, that is, with the case of a King, who is living, and perhaps present, but the identity of whose person is doubtful and questioned: we are here supposing that the Man who assumed the character of Don Sebastian, might be the real person. However, the comparison is not very exact. The difficulty and perplexity in ascertaining the true *identity*, or *return*, of the King's person, is only a future possible period of the present national dilemma: a period which is not arrived yet; but may happen. The real present political situation of the King is similar to the case of Don Sebastian, while that King was a captive in Africa; a captive in an unknown land, in unknown hands; an access to his person being in every respect deemed impossible, and even not to be thought of.

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A similar instance of a thorough absence of a King, occurs in the English History. The instance alluded to, is the well-known fact of King Richard I. This King, being on his return from the *Holy Land*, by sea, was shipwrecked near Aquileia, on the northern coast of the Adriatic, where he found himself under a necessity of pursuing his journey to his kingdom, by land, through the dominions of his enemies, namely, the Duke of Austria, Leopold, with whom he had had a violent personal quarrel in the Holy Land, and the Emperor of Germany, Henry VI. between whom and Richard there was also a serious cause of enmity: in regard to attempting to go through France, it was a still worse measure, as the King of France, Philip, with whom Richard had also quarrelled in Palestine, was the most dangerous enemy into whose hands he might fall. In a situation of so much danger, Richard put on the disguise of a common Pilgrim: but a suspicion or report having gone about the Country that he had landed from the ship

that had been wrecked on the coast, he was pursued, and obliged to wander so far out of his course, to the southward, as Ragusa; where he turned to the North again, and at length reached Vienna, still in the same disguise of a Pilgrim. At Vienna, the capital Town of the Duke of Austria, one of the Duke's attendants knew and ascertained Richard's person; who was secretly seized. Information of the fact was sent to the Emperor, who claimed the prisoner; paid Duke Leopold a reward in money; and, upon Richard's being delivered up to him, caused him to be shut up in a dungeon. The King's Subjects in England were for a long time uncertain of his fate: no news were received about him: only, hopes were entertained of his having been able to land in some part of Europe, where he might possibly be detained through unaccountable accidents. A French Minstrel, born in Richard's dominions in France, went in search of his Master, through the different parts of Europe; a difficult task in those days, when  
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there was so little intercourse between different nations. However, the Minstrel, who, we may suppose, had made many fruitless trials of his ingenuity about several different Castles and strong holds, at length fixed his suspicions and endeavours upon the right spot, that is to say, around the real Castle in which Richard was actually detained. The Minstrel immediately hastened to England, bringing news that he was positively convinced he had discovered the spot where the King was still living, and might be found. The intelligence brought by the Minstrel proved to be true. The interest of Pope Celestine, and afterwards of the German Princes, was exerted to procure Richard's liberty, which was at length effected; the Emperor being compelled to release him; and the King's Mother, Queen Eleanor, went in her own person to Germany, where she paid the very large sum of money which the Emperor exacted for the King's ransom.

The situation of the English Kingdom, previous to the day the intelligence was brought

brought by the Minstrel, was, *politically* speaking, the same with that in which the Nation is at this present time placed.

A King might happen to fall into a case of absence similar either to that of King Sebastian, or of King Richard, through a train of circumstances different from those above recited. For instance, in the above-mentioned case of King William III. the information received and communicated by the Queen, that the King had landed within the realm, might have been premature; his ship might have been forced down the Channel by the violence of the wind, and separated from all other Ships: the King might have been driven by the continuation of easterly winds, and the duration of the gale, to seek for a place of shelter on the other side of the Atlantic, or perhaps might have been lost at sea. A like accident might have befallen King George II. who was once, in his passage from Holland, driven out of his course, and did at last land with difficulty at *Rye*, in *Suffex*. The present King, some years ago, as the public

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lic news mentioned at the time, failed from Portsmouth out of sight from the land. He might have been carried out of the Channel : he might have been either lost at sea, or driven to some unknown land. If no account had been received of him, Men would have continued for a long time in a state of uncertainty concerning his fate. Hopes would have been at first entertained of his having been able to reach some European Country : then it might have been thought he had perhaps been cast, or landed, on some of the *Azores*, or western Islands : then on some unfrequented part of North America : then, at length, on the remoter coast of Brazil, or some more distant shore of the extensive and desert South-American coast ; from which there might be a possibility of his being able to return. In such circumstances, the *political* state of the Kingdom would not have been different from what it is in the present circumstances.

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A King might also be carried off, or slain and hid perhaps for ever, by treacherous or lurking enemies, &c.

*Enquiries are made after the King's situation.*

ON the 20th of November the Parliament met, as they had been appointed. No Minister could tell where the King was ; this was a real absence : neither did they attempt to say whether he would return again. Such was the political state of the Country, on the day when the Parliament assembled.

Physicians were appointed to make a report of the King's situation. They might be considered as *Messengers*, sent to enquire after the King, by sea and land.

The account that was brought and given to the Parliament, was, that there was no reason for deeming the King to be dead ; that his return might be hoped for ; but that his return was uncertain ; and no time  
might

might be named when he might be expected to be seen again.

*Provisions are to be made for the emergency.  
The Rights of the Heir apparent.*

IN such an unforeseen absence, or deficiency of the presence, of the King, it was agreed that the stoppage in the Government, arising from such absence, must be remedied by some means or other.

Two different Parties, or opposite sets of Politicians, were formed on the occasion. The one Party gave it as their opinion, that the Heir apparent was entitled to *assume* the exercise of the royal authority directly, as being his *right*.

The manner in which this opinion was in the first instance proffered, and the turn of the expressions with which the same was afterwards argued, suggested an idea of the Prince being invested with rights contradistinguished from, and opposite to, the rights of his royal Father. The argument was taken up in that light by the adverse Party, or Politicians, who affirmed that the Heir apparent had *no* right to the exercise of the royal authority.

Before examining this question, concerning the rights of the Heir apparent, it is proper to repeat the state of facts, as it was published by the Parliament, and was universally agreed to by all Parties: *The King is absent; but his return may be hoped for.*

In such a state of things, it must be confessed that the Prince of Wales has no *right* to assume the exercise of the Royal authority in such a manner as to set the King's rights aside. Since the King is not dead, the rights of the Prince, relative to him, are only *future* rights. The rights of the King must be considered as still continuing to exist: he is absent; but his rights are present: they hinder and oppose the rights of the Prince of Wales.

The Prince's situation may be compared with that of a Man who is Heir at law to an estate, the owner of which is *missing*. Till the Heir at law can produce proofs of the death of the Owner, no Tenant will pay rent to him: he can bring nobody to account: nobody will account to him. If those persons who have advanced that the Prince of Wales had a *right to assume* the exercise of the royal authority, thereby meant to speak of an unqualified right, their  
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their opinion was remarkable, as they did not attempt to controvert the truth of the account that had been published, namely, that the King might be able again to govern his Kingdom. In such a state of things, the King's situation could not properly be compared with the case of a thorough or *natural demise*, nor could arguments be borrowed from such a case.

So long as the Heir apparent does not pledge himself, either that the King is dead, or has expressly resigned his royal office to him, the rights of the Prince, considered as contra-distinguished from those of the King, are only future rights.

Notwithstanding what is said here, the Prince possesses *rights*, however:—what these rights are, will be attempted to be explained in another place.

*Is the Parliament now assembled at Westminster entitled to assume the royal authority? Are they to be considered in the same light with the Convention Parliament who were sitting at the time of the Revolution in the year 1688?*

THE same Party, or set of Politicians above mentioned, who denied that the

Prince of Wales possessed any rights, proceeded one step farther in their opinions : they now affirmed that those rights which the Prince did not possess, were possessed by the Parliament, and that the Parliament were empowered to assume that royal authority which was denied the Prince. For supporting this opinion, the situation of the present Parliament was represented as being similar to that in which the *Convention* Parliament stood ; who, in fact, assumed the royal authority to themselves, and disposed of the same in what manner they thought expedient.

But it is evident that the situation of the present Parliament is very different from that of the *Convention* Parliament.

In the first place, the present Parliament are a Parliament called together by a *King*, in consequence of *Writs* issued from a *King* :—whereas the *Convention* Parliament was a self-assembled Parliament,—a self-named Parliament, that is to say, a Parliament named by the People of their own accord, in consequence, not of regal *Writs*, but of *Circular Letters*, promoted round the Country, among themselves. To which add, that no other period was defined to



the duration of this *Convention* Parliament except their own choice; whereas the existence of the Parliament now met at Westminster, is depending both upon the life and the will of the King.

To this add, that the first, introductory, step, taken by the *Convention* Parliament when they met, was positively the reverse of those steps which have been pursued by the present Parliament. The first measure entered upon by the *Convention* Parliament, was to proclaim that the THRONE was *vacant*: King James II. was declared to have abdicated his Throne, in such a manner that it was become *vacant*. Instead of this, the present Parliament have begun their proceedings with declaring that the Throne is *not* vacant; that the King continues to reign; and that it is *necessary his authority should be maintained entire*. In fact, the continuation of their existence as a Parliament depends upon the continuation of the authority of the King: such is the condition on which they have been named by their Constituents: they cannot declare that the Throne is vacant, without putting an end to their own existence.

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The situation of the Parliament, now met at Westminster, is, in short, the very reverse to that of a *Convention* Parliament.

A *Convention* Parliament is a *People's* Parliament: the present Parliament is a *King's* Parliament.

*Have the present Parliament, in the first stage of their proceedings, considered themselves in the light of a *Convention* Parliament ?*

THEY have at first entertained such an idea; as appears from the Declaration issued by them in last December. In the beginning of this Declaration they mention their Right and Duty, being *now assembled, and lawfully, fully, and freely representing all the Estates of the People of this Realm*; from which it seems they intended to act upon the ground of a *free* and independent Parliament, a *People's* Parliament: but they have presently dropped this idea of a *People's* Parliament, and of the *free* independent rights of the *People*: they have immediately professed an intention to procure the royal assent, *the King's assent* (if possible), in order by it to strengthen their proceedings: they have averred the idea that the

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Constitutional authority of the King continues to be entire, and they have *resolved* to exert themselves for maintaining this authority in the same *entire* state, *in the name of the King*. (The reader will find a copy of the Declaration and Resolution here alluded to, in pages 39, 40.)

*Upon what ground are the present Parliament proceeding to assume the royal authority?*

SINCE they have abnegated the idea of independent rights of the People, and of independent rights of their own, and in short since they have averred that the King's authority continues *entire*, they cannot assume, or any how meddle with, such *entire* authority, otherwise than by virtue of a King's Trust and Charge to that purpose. There is no possible method of assuming the authority of a Man, especially a King, except by alledging and proving a *Trust* from him—or if not, by using false pretences, or even perhaps forgeries. But it is impossible to admit the idea of the Parliament of Great-Britain indulging themselves in any thing like acts of falshood, especially if the fatal consequences

sequences that would result from so bad an example are considered. We are therefore to judge, that, since the Members now assembled at Westminster, profess an intention to exercise the royal authority, they think they are truly empowered so to do by virtue of the King's *Trust* and *Charge* to that purpose. And, as a proof that they mean to proceed from the King's Trust, it is to be observed that they profess a power positively to give his *royal Assent*; and give it too, which way they please, and as often as they please.

*How have the Parliament proved such general Trust from the King?*

THEY have proved the same, not by means of any *Writing* from the King, expressive of such Trust: the Parliament have grounded the general Trust they claim, upon circumstances: they have, it appears, grounded this Trust upon the circumstance of the King having originally called them together,—of his having met them at different times,—and of his having appointed them to meet him on the 20th day of last November;

vember ; on which day they did accordingly assemble. These circumstances supply no bad plea or claim : the Parliament have considered them as amounting to a King's general *Trust* for governing his kingdom, and exercising his royal authority in his name : this Trust they have accepted ; and they are accordingly preparing to discharge the same, and exercise the royal authority :—or, to speak in the words used in the RESOLUTION issued in December last, they are preparing “ to order the *royal Assent* to be given in Parliament to such Bills as may be passed by the two Houses, respecting the exercise of the *powers* and *authorities* of the Crown, in the name and on the behalf of the King.”—This royal Assent they deem themselves empowered to give : and they may of course give it as often, and which way, they choose.

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*What is the consequence of the Parliament having accepted such general Trust from the King, for governing his kingdom in his name ?*

IF so, if the present Parliament have really accepted such high Office and Trust,

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the consequence is, that the Members of the Lower House must be considered as having given up their seats in Parliament.

*How can that be ?*

IN the first place, the spirit of the Constitution requires it to be so; to which spirit it is repugnant that the exercise of the *legislative* and *executive* authorities should centre in the same Persons or sets of Persons: it is repugnant to the nature of the Constitution that the King's Trusts for exercising his royal authority, in his name and on his behalf, should be placed in the whole House of Commons. But this is not all: the *spirit of the Constitution* has been confirmed, or rather farther extended, by an Act of the Legislature, passed in the reign of Queen Anne. It has been settled by this Act, that, if any Member accepts a mere particular Office of power and Trust, under the Crown, his seat becomes void. (See Blackstone's Com. Book 1. c. 2.) The acceptance of a general Office, or Trust, for governing the kingdom in the King's name, with even occasionally using the outward form of his *royal Assent*, must  
still

still more effectuate the disqualification of Members accepting such a high Office. To which is to be added, that there is no need of a formal dismissal, or resignation, of Members accepting Offices: their seats become *ipso facto* vacated, upon their accepting Offices.

It may, on this occasion, be observed, that the situation of the present Parliament now sitting at Westminster has been represented as being similar to that of the *Convention* Parliament who sat at the Revolution in 1688. The fact is not so. But the situation of the present Parliament is, in one important circumstance, very similar to that in which the *Long Parliament* stood, in the reign of Charles the first, after that King had surrendered the power of dissolving them. The peculiar situation of the present Parliament is, in fact, that they cannot be dissolved; for, they cannot be dissolved by any Person except by *George the third*: he has called them together; he has appointed them to meet: they have met: he is absent: they are waiting for him; and they are resolved to wait till his return. In such a situation, the present Parliament have a favourable opportunity,

tunity, it seems, for acting the same part as the *Long Parliament* did, in the reign of Charles the first, that is to say, the part of a Parliament that cannot be dissolved, and who to such an advantage, that *they cannot be dissolved*, add an allegation of their being possessed of the King's *Trust* for governing in his name, and who do, in fact, exert such *Trust*. The Statute by which it is enacted that a new Parliament must be called, after the expiration of seven years, supplies but a slow and distant remedy against the proceedings of a Parliament acting upon such principles, and even a precarious remedy. For instance, the Parliament now sitting at Westminster might say, when the time for the next new Election shall come, that they cannot consider themselves as being dissolved, till the dissolution is effected in the usual form, by an act issued from the King; and in short, that they will not, and shall not, be dissolved by any other persons, positively, than the King himself; nor will they dissolve themselves. In such a situation they might stand their ground, and go on, uniting the King's alledged *Trust* with their capacities of Representatives of the People, giving the royal assent,



assent, and conducting the national business, in their own way, consulting the modes of proceeding set before them by the *Long Parliament*, issuing royal writs and warrants by their own commands, and only adjourning to days of their own choosing. Such a mode of proceeding, grounded upon a supposed union of the King's Trust for governing the kingdom in his name, together with the capacity of Representatives of the People, would certainly be contrary to the *spirit of the Constitution*. At the same time this spirit of the Constitution can never be fully proved; and therefore it happened that, Subjects, in the reign of Charles the first, who had only the spirit of the Constitution to point at, and dwell upon, in opposition to the doings of their *Long Parliament*, were in reality destitute of a proper remedy. But the *Legislature* has, in latter times, provided such proper remedy against the renewal of the like proceedings. The remedy exists in that Statute above quoted, by which it is enacted, that if any Members of the House of Commons accept an Office, or Post of trust, under the Crown, they vacate their seats. This Statute

tute has in fact provided for the case, or political evil, of a King being surpris'd into an engagement *not to dissolve* his Parliament, as Charles the first was : though the intention of those who fram'd the Statute was not perhaps positively directed that way. Should a Parliament now happen to be so far embolden'd by the advantage of *indissolubility*, any how obtained, as to positively alledge a King's general Trust for governing his kingdom in his name, the consequence, since the passing the above Act, is, that their seats, as Representatives of the People, become vacated, on account of their having jointly accepted a Trust and a most important one too, under the Crown.

The Members of the present Parliament, by accepting the above most important Trust, as it is evident they have from their above quoted Declaration issued in December last, must be considered as having placed themselves in that state of disqualification just mentioned. After accepting the high Trust and Office of governing the kingdom in the King's name and on his behalf, they must be considered in the same light, at least, as if they had jointly and severally accepted the *Chiltern Hundreds*.

It

It must be observed that the high Office and Post of Trust under the Crown, the Members of the present Parliament have jointly accepted, is greatly higher than that of Lords of the Treasury, or Lords of the Admiralty, or Masters of the Board of Ordnance. Their Office is in reality to be joint *Lords Justices of the Kingdom*. In the year 1695, King William, being preparing to pass to the Continent in order to command the Allied armies, he named seven Lords Justices of the Kingdom, to whom he trusted the representation of his person; the whole power being lodged in any *four* of them. Bishop Burnet remarks that these seven Lords were careful not to appear in any company in the number of *four*; but did so only at the *Board*, when it was necessary. (See Burnet, iv. pag. 217. 218.) The Members of the present Parliament are Joint *Lords Justices of the Kingdom*, like unto the Lords Justices of King William; having the regal authority vested in them, to use Bishop Burnet's expressions, together with the representation of the King's person; and exerting a power of appointing any small number of persons, or Lords, to act as Officers

ficers to them, in order to go through the outward forms commonly used for giving the royal Assent, whenever there may be occasion for such assent to be given with full ceremony, pomp, and formality.

To which add, that the present Lords Justices of the Kingdom are positively and completely left to follow their own discretion in the discharge of their high Trust: which was not the case with the seven Justices of King William: they took care, Bishop Burnet observes, to do nothing *except in matters of course*; and only used "to transmit the King's orders, to which they adhered exactly."

But the Members now assembled at Westminster are entrusted with the managing and exercising of the royal authorities, in an unconfined manner, without any limitation of time.

They are King's Joint Trustees *cum liberâ*; giving his *royal Assent*, on what occasion, and in what form and which way they please.

They are King's Joint Lieutenants *cum liberâ*; not for any particular and single County; but for the whole Kingdom of Great-Britain: they are the King's univer-  
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representatives. All these are certainly Offices both of great trust, and of great advantage, honour, dignity, and profit.

By accepting the above high Office, of *King's discretionary Lieutenants and Trustees*, and universal Representatives of the King, the Members of the present Parliament must be considered as having vacated their *seats*, both by virtue of the *spirit of the Constitution*, and by virtue of the above-mentioned Statute: the acceptance of such an high Office and discretionary Lieutenantship must needs be of more importance for vacating seats in Parliament, than the acceptance of that nominal Government under the Crown, the *Chiltern Hundreds*.

It has been observed, in a former page, that the mere *accepting* of Offices is sufficient for the effectual vacating of *seats*: the King's declaration, or any ceremonial forms of *dismission* or *dissolution*, are positively not requisite. The expressions in the Act are, "And a new writ shall issue for a new election, as if such Person, so accepting, was naturally dead."

Nay, the Members now assembled at Westminster have done more than barely accepting the Office of King's *universal Trustees*:

Trustees: they have already entered, it appears, upon the discharge of the Office.

They have already begun to dispose of the places of honour and profit in the King's household.

They have also begun to make provisions relative to granting the honour of Peerage, and also concerning pensions and places for life, or in reversion, &c. :—these provisions are to last till the King's Trustees shall think proper to alter them, and to provide *otherwise* by means of fresh different Bills, with the *royal assent* to them; which *assent*, it seems, they have an unlimited power to give.

The King's *universal Trustees* have also begun to make regulations relative to the King's private pecuniary property, and best management of the same.

To the above considerations ought to be added, that the Members of the present Parliament, now that they have accepted the above high and profitable Offices, are without an opportunity of getting themselves re-elected to their seats; for, who shall issue the necessary *Writs* for such re-elections, or elections? It may be said, the Members will cause the *Writs* to be issued  
by

by virtue of their own commands, and by an exertion of that high discretionary *Joint Trust* which is vested in them. But it is much to be doubted whether the Constituents will regard Writs issued in this manner: they will object that the King cannot be considered as having had any share in issuing these Writs; that his authority has been declared *to be interrupted*. A few Constituents will perhaps say, they are proper Writs: the others will continue to insist that they are not; that the same Persons ought not to represent both the Crown and the People: battles and feuds will take place in every County and Borough; and the Joint Lords Justices of the Kingdom, and discretionary *Trustees* of the King, instead of succeeding in getting themselves re-elected to their seats, will only raise civil wars in every district.

Nay, it might perhaps be averred, that the Members now assembled at Westminster, are positively incapable of being re-elected to their seats, supposing they were to attempt such re-elections.

In the first place, being King's Joint Lieutenants for the whole Kingdom, they are excluded by that Act of Parliament which

prohibits Lieutenants of Counties from interfering in elections.

Being Joint Lords Justices of the Kingdom, they are also excluded from Parliament by that same provision which excludes Sheriffs of Counties, Mayors and Bailiffs of Boroughs, from being elected within their own jurisdictions.

The Members now at Westminster may also be considered as being totally excluded by an article in that same Act relative to parliamentary exclusions we have above quoted. The expressions in this article are, " That no Person who shall be invested  
 " with any Office or Place of profit whatsoever, under the Crown, created or erected  
 " posterior to the 25th of October, 1705,  
 " shall be capable of being elected, or sitting as a Member, in any Parliament  
 " which shall be hereafter summoned and holden:"—this article has been farther explained by a subsequent Act, passed in the reign of George II. for the expressed purpose of "*Farther limiting and reducing  
 " the number of Officers capable of sitting in  
 " the House of Commons.*" Now, it might be affirmed that the high discretionary Office with which the Members now sitting

at



at Westminster are entrusted, namely, the Office of governing the Kingdom in the King's name and on his behalf, and giving his royal assent, whenever and which way they please, to Bills framed and propounded by themselves, is an Office perfectly new in the Constitution of the Kingdom: it is an Office undoubtedly created or erected posterior to the 25th of October, 1705: it is, in short, an Office quite newly and lately erected. The Office is different from that assumed by the Members of the *Long Parliament*, in one very capital, essential, point; which is, that the *Long Parliament* were acting in the King's name, evidently *against* the King; whereas, the present Members profess themselves to act in the King's name, *and on his behalf*. (See the *Resolution* of December last, hereafter inserted, page 40.)

One more decisive circumstance may be mentioned, as giving cause to think that the Members at present assembled at Westminster are excluded from Parliament: this circumstance is, their having begun to make provisions relative to the best management and the safety of the King's private property, the putting it out to lease, &c. it

thence appears that the Members consider the management of the King's property and revenue as being part of their *Trust*: therefore, they may be considered as being also excluded from Parliament by virtue of those jealous provisions repeatedly made for excluding Officers of the *Revenue* from being Members in any Parliament.

In short, the King's *Trust*, possessed by the Members now assembled at Westminster, is *universal*:—it is unlimited, and extends to every thing: they can frame Bills upon any subject, and give the *royal assent* to any Bills they please, which way they please.

These things being so, it may be observed that the present Parliament at Westminster have no occasion for a Regent: they have all they can want: they are the *Regent* themselves.

Nay, they are more than a Regent: they do not barely represent the King's *will*, as a *Regent* would; but they actually represent his presence and his *Person*; giving his *royal assent* with the outward form of his presence, by means of a certain number of Persons, or Lords, appointed for that particular purpose, whenever useful, and acting under the direction of Parliament. In such a  
state

state of things, nothing is wanting for the proper government of the Country: the King is present by his high and universal Trustees: both his government and his presence are continued by his full Trust; in the same manner as if he was only on a journey to Holland or Hanover. The Parliament have contradicted themselves, when, claiming so full and extensive a Trust from the King as that which they hold forth, they have said that the personal exercise of the royal authority is *interrupted*.

The contradiction just pointed at, leads us to observe, that the whole management of the present important national business, seems to be grounded upon some kind of considerable error. The two DECLARATIONS and the RESOLUTIONS issued by the two Houses, as the ground-work of their proceedings, in December last, offer a series of contradictions: the second article contradicts the first; and the third contradicts the second. The following is a copy of those three Articles or Declarations.

“ I. That it is the opinion of this Committee,  
 “ That his Majesty is prevented, by his  
 “ present indisposition, from coming to  
 “ his

“ his Parliament, and from attending to  
“ public business; and that the personal  
“ exercise of the Royal Authority is there-  
“ by for the present interrupted.”

“ II. That it is the opinion of this Com-  
“ mittee,

“ That it is the Right and Duty of the  
“ Lords Spiritual and Temporal, and Com-  
“ mons of Great-Britain now assembled,  
“ and lawfully, fully, and freely repre-  
“ senting all the Estates of the people of  
“ this Realm, to provide the means of  
“ supplying the defect of the personal  
“ exercise of the Royal Authority, arising  
“ from his Majesty’s said indisposition, in  
“ such manner as the exigencies of the  
“ case may require.

“ RESOLVED,

“ That for this purpose, and for main-  
“ taining entire the Constitutional Autho-  
“ rity of the King, it is necessary that the  
“ said Lords Spiritual and Temporal, and  
“ Commons of Great-Britain, should de-  
“ termine on the means whereby the Royal  
“ Assent may be given in Parliament to  
“ such Bills as may be passed by the two  
“ Houses of Parliament, respecting the  
“ exercise of the powers and authorities of  
“ the Crown, in the name and on the be-  
“ half of the King, during the continu-  
“ ance of his Majesty’s present indisposi-  
“ tion.”

*December 16—29, 1788.*

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In the first of these Articles the King's authority is represented as being only *interrupted for the present time*. This position of the fact was grounded on the report collected and published by the Parliament themselves, purporting that the King might possibly recover: the meaning of the article was that the King was not to be deemed either to be dead, or to have resigned; but that he continued to reign; and the Parliament called by him were not *demised*. Now, the Second Article immediately contradicts that idea, of the Throne being *filled*, and introduces the notion of a *Convention* Parliament; a notion which cannot exist but in the case of the Throne being *vacant*. The right and duty of the Parliament now assembled, lawfully, fully, and *freely* representing all the Estates of the People, are held forth, in this second Article; but neither the Parliament, nor their Constituents, nor the People, can alledge any *right*, so long as the Throne is not *vacant*. In order to talk of the rights of the People, a *vacancy* of the Throne

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must

must be effected first, or at the least, it must be first professed or declared.

In the Third Article, such *vacancy* of the Throne is positively contradicted: so far from its being declared, it is on the contrary positively averred that the Throne is *not* vacant, and that the authority of the King still continues: the professed design of the Article is positively to maintain this authority in an entire state, instead of vacating it.

The design of this Third Article is moreover to provide the means of giving the *royal assent* in Parliament to such Bills as may be framed. But since a possibility of giving the *royal assent* exists, it follows that the King is *represented*, and the *exercise* of his authority is not interrupted: the conclusion of this Third Article therefore contradicts the First Article, in which it is affirmed that the exercise of the royal authority is interrupted: so long as there exist persons who can lawfully give the *royal assent*, the exercise of the royal authority cannot be said to be interrupted.

It

It has been above observed that the present Parliament assembled at Westminster, being considered as a *Long Parliament*, are different from the Long Parliament in the reign of Charles I. in that the present Parliament positively profess to act in the name of the King, *and on his behalf*. The following peculiarities may be observed of the same present Parliament, considered as a *Convention Parliament*; namely, that the present Parliament are not a very violent *Convention Parliament*; for, instead of declaring the reigning King to have forfeited his rights and those of his family, to perpetuity, they take care even to save his private property for him. They are so far from declaring that the Throne is *vacant*—they are so little disposed to proceed without the co-operation of the reigning King, that they have begun with professing a *Resolution* “to determine about the means how to procure his royal assent,” and procure it too, in his name and on his behalf.

As another peculiarity in the proceedings of the present Parliament assembled at Westminster, it may be mentioned that they have held out a design of *maintaining entire the Constitutional authority of the King* (See the Third Article of the Declaration

and Resolution above quoted); and yet, they are now expressing intentions to parcel out that authority, and sever the whole royal household from the main trunk of it.

Again, the present Parliament have complained in the first Article of their *Declaration*, that the royal authority is interrupted; and what have they since said they would do for remedying this inconvenience? they have said they would increase this interruption still farther; they have begun to take measures, it seems, for *interrupting* those important branches of the royal authority, the power of creating Peers, and the power of granting rewards and places. These two powers the Parliament are about to *interrupt* for *three years*, or rather during their *own pleasure*: instead of helping the royal authority to go on, they wish to cramp it still worse; instead of remedying the stoppage of the royal powers, they prolong the interruption of them.

The great pains taken by the Parliament, for the purpose of appointing a *Regent*, may also be mentioned as another surprising instance of their proceedings: what need may they have of a *Regent*, since they profess so full a power as that of giving, at any time, the royal assent to Bills framed by themselves?

*The*



*The nature of the power and political situation of the Parliament.*

IT would be an attempt of no great service, to endeavour to explain the contradictions in the proceedings of the Parliament. This, however, seems to be fact (at this day the 20th of January, 1789) that they positively mean to assert the power claimed by them in their Resolution, namely, the power of giving the *royal assent* to Bills framed by themselves, assuming "the powers and authorities of the Crown, in the name and on the behalf of the King." They will, of course, frame new Bills, and assent to them, as often as they please, upon whatever subject they please. And it is probable that a certain number of Persons, or Lords, will be occasionally appointed to act as *Officers* to the Parliament, for the purpose of declaring this *parliamentary assent*; which parliamentary assent will be called the *royal assent*, by way of greater solemnity.

So full a power claimed by the present Parliament (lawfully no doubt), shews the extreme extensiveness and fulness of the *Trust* placed in them by the King. At the  
same

same time, it is to be observed that this extensive power and Trust, possessed by the Parliament, of giving the royal assent as often as they please, to their own Resolves of any sort, includes, in a kind of *epitome*, the whole *mass* of those separate Offices of trust and profit which severally operate as disqualifications from having seats in Parliament. Such an extensive, collective power amounts to an universal *Justiceship of the Kingdom* — an unrestrained joint Commission to govern the Kingdom without limitation of time. And therefore, if the Members of the Parliament now met at Westminster, mean to accept the above described Office, they must remove from St. Stephen's Chapel, and settle themselves in some other part of the Fabric, in order there to perform this Office of universal Justices, and unrestrained High joint Commissioners of the Kingdom.

To which add, that the Members giving up their seats in St. Stephen's Chapel, will perhaps prove no reason for making afterwards their universal Justiceship, and unrestrained joint Commission to govern the Kingdom, pass smoothly and unopposed. The generality of the People

will perhaps observe that the circumstance of the King having appointed the present Parliament to meet him on the 20th of last November, cannot possibly be mentioned as a sufficient ground for assuming so extraordinary a Commission, without limitation of time: yet, the mere accepting, or avowed intent to accept, a Commission, vacates the seat; whatever the event, or success, or profits, may afterwards turn out to be: so that it may happen that the present Members, after vacating their seats for the sake of the Commission, will not perhaps be able to make the Commission good at last.

*The real present state and political situation of the Parliament now assembled at Westminster.*

THEIR real situation is as follows: the fact is, that they cannot be displaced or dissolved: they have it perfectly in their power to say that they will not be either dissolved,

dissolved, or governed, by any person except George the Third: they may oppose and prevent any Government from being formed: so long as they keep upon that ground, they are safe:—but, when they proceed farther, and, instead of barely opposing the forming of a Government, they proceed to form one, with themselves, claiming powers and Commissions from the King for that purpose, even a power to give the royal assent, they fall within the reach, or sphere of action, of the Acts passed since the reign of Queen Anne, relative to the disqualification of Members; they give up their present advantage of not being to be dissolved; they, in short, dismiss themselves, and dissolve their *indissolubility*.

*What is the consequence to be derived from the preceding pages?*

THE consequence to be derived from the whole of the preceding observations, is, that the Members now assembled at Westminster cannot avail themselves of the present  
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sent national emergency for gratifying their own private ambition with any probability of success: their endeavours that way can only in the end terminate in leaving the Nation without a Parliament at the present difficult juncture, and throwing things into confusion.]

*What does the public good require in the present circumstances?*

THE public good requires that the National business should be enabled to go on; and for that purpose it is necessary that a Government should be settled.

The state of the National case is as follows: The King is absent: at the same time he is absent in such a manner that he cannot possibly give any directions: he is out of the way; he is positively *missing*. To which is to be added, that his *absence* was totally unforeseen by him: it is the peculiar misfortune of his situation that he could not possibly make any previous

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provisions

provisions for the case of his absence; as Kings always use to do, when preparing to absent themselves for any considerable time from the seat of their government. The King has left no directions whatever concerning what is to be done in his absence, nor in any shape appointed or commissioned any persons who can represent him, at least for some short time, in the beginning. His absence is more complete than that of King Richard; for, King Richard had foreseen his absence, in the first instance, and at first provided for it, by leaving two *Justiciaries* of the Kingdom, to whom he continued to send some sort of directions from the *Holy Land*: these two *Justiciaries* continued to represent him for some time after it was known that the King was *missing*; till they were interrupted in the manner that will be mentioned in the sequel. But the King has left no such beginning of provisions, however imperfect, for the case of his absence: his *Ministers* do not offer to produce any kind whatever of provisions made by him, nor name a day  
when

when he is to be expected to appear again : all that can be said of him, is, that he is not dead. Since he is not dead, a Successor to him ought not to be acknowledged as yet : but the national good, in the meantime, must be provided for : things cannot safely remain at a stand for any length of time : a Representative to the King ought therefore to be agreed upon, for discharging the King's office ; though in the King's name, since he is not dead.

It ought to be observed that a certain particular qualification is essentially requisite, in the present circumstance, for constituting a proper Representative of the King.

*What qualification is essentially requisite for constituting a proper Representative of the King ?*

THE essential qualification is, that he must be able to procure the ratification of the next Successor to the Crown, or the

next King, for every thing that is meant to be transacted in future. This circumstance shews that the Prince of Wales is the only Person who can be agreed upon, at the present juncture, as a proper Person for discharging the royal office; for he is certainly the only Man who can insure the ratification of the next King, and next Successor to the Crown.

This importance, at all events, of securing the ratification of the next Successor to the Crown, and binding him to abide by, and for ever observe, every transaction of the Government, is the secret reason why this next Successor is always resorted to, if capable, as the most proper Person to fill the office of a *Regent*, in the case of an infant King: notwithstanding the most weighty objections at first sight seem to offer against trusting the very precarious life of a child, perhaps only one or two years old, and trusting it without restrictions, in the hands of the very Person who is to derive the whole tempting advantage that is to arise from the *disappearance*  
of



of the infant. The importance of securing the ratification of the next apparent Successor causes such objections or considerations to be over-ruled; even though there is no positive certainty of this apparent Successor coming afterwards to the Crown; for, the infant King may both live, and have progeny.

But the situation of the Prince of Wales is remarkable. In the course of nature, it is to be supposed he will outlive his royal Father: no possible Heirs or Persons can, according to the Law of the Country, intervene between him and the Crown, or between him and the King, George the Third.

Nay more, the personal importance of the Heir apparent is greatly increased by the peculiar nature of the present emergency: for, who knows but the Heir apparent is perhaps even already *George the Fourth*? If his royal Father happens never to be able again to govern, who knows but the Prince's Lawyers will advise him to reckon the beginning of his reign from the 20th

day of last November, the day on which  
 the inability of his royal Father to go on  
 with his royal office was avowed to the  
 Nation? King Charles II. did not reckon  
 the beginning of his reign from the year  
 1660, the year of his *Restoration*, but from  
 the year 1648 : the year of his Restoration is  
 called the 12th year of his reign, both in all  
 Histories, and in Acts of Parliament. The  
 Prince's Lawyers will perhaps say, that,  
 since the King never recovered, the Prince's  
*Kingship*, till the day of his Father's natural  
 death, was only kept in suspense ; that his  
*reign* in reality commenced on that day  
 when his royal Father disappeared to the  
 Nation and to Mankind ; in the same man-  
 ner as if a King had been missing through  
 accidents at sea, his next Heir would date  
 the commencement of his reign from the  
 day on which the King was seen for the last  
 time by the last Mortal who can give an  
 account of him.

The above considerations shew, that the  
Prince of Wales cannot be left out of any  
system that may be adopted for governing  
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the Nation in the present circumstances :  
his co-operation is indispensable for the certainty both of foreign and domestic transactions: without him no Acts of Parliament are to be relied upon: nay, without him, the very expenditure of the public money may fail of its intended efficiency; for, who knows but those who may have accepted it, may be made in time to refund it, as having received it from hands that had no business with the dispensing of it?

*Is it proper the Prince of Wales should have Associates in his office of representing his royal Father, and exercising the royal authority?*

THE nature of that office or business the Prince of Wales may be called upon to undertake, will decide the question.

What is the nature of that office or business? It may be defined in two words;  
*it*

*it is, to produce strength and stability by producing union.*

Now, if a certain number of Associates are joined to the Regent, under the name of a *Council of Regency*, this Council will be liable to disagree among themselves: therefore, how will they secure a prospect of bringing national matters to a final *union*?

To which add, that the mode of governing adopted in this Country renders *union* at the Head more necessary than in other States. The dissensions in Parliament are sometimes such that the whole undivided efficiency of the Crown is but barely equal to the task of composing them: but what may the consequence be expected to be, if the Head of the Government becomes the original seat of those differences and heats, it is positively its office to over-rule and compose. Should a Council of Regency be formed, experience will shew they cannot possibly govern by the present mode of a *Parliament*. A Re-  
gent has no occasion for any other Council

than

than the Privy Council, as that Council is modelled.

*Should the governing powers of a Regent be made less than those of the reigning King ?*

NO ; if the reigning King has, by the Constitution of the Country, but just power enough to go through the successful discharge of his office. Thus, for instance, to deprive a Regent, or Representative of the King, of the power of bestowing rewards in an extensive degree, would be hindering him from performing that very function he is expected to perform. If a King, or his Representative, possessed a power of sending *Mutes*, with *strings*, to unruly Great Men, and by that means to put a speedy end to differences and oppositions, in the manner practised by the Turkish Sultan and other Eastern Monarchs, the power of bestowing rewards might perhaps be in great measure dispensed with: but as this effectual mode of governing, the *bow-string*, is not adopted

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in this Country, the softer methods of rewards, of allurements to ambition, to vanity, to avidity of every kind, become necessary. Should a Regent, or King's Representative, be very materially restrained in his power of exerting the above-mentioned methods, he could not discharge his intended office; he would, for instance, find a great difficulty, in the beginning, to govern with a Parliament, that is to say, by means of a Parliament; and soon afterwards, he would find the business absolutely impracticable.

*Should the powers of the King be divided, and allotted to different distinct persons?*

THIS method would be liable to still worse inconveniences than the above-mentioned mode, of a *Council* of Regency. By the mode of such a Council, some outward appearance of *unity* in the head of Government, is preserved: though this appearance would, in the event, prove to be but fallacious. But, to allot the powers of the  
Crown

Crown to distinct separate persons, is at once pointing out that want of unity in the Government, which ought to be hid, that is to say, to be hid as long as possible. To attempt to govern by means of such distinct Powers, together with a sitting Parliament, would only be adding confusion to confusion: the business could not go on for above ten or twelve days.

The events that took place in the absence of King Richard may be mentioned in this place. Before setting out for the *Holy Land*, the King had appointed two Commissioners, or *Justiciaries* of the Kingdom: the name of the one was *Longchamp*, and the other was the Bishop of Durham. As soon as the King began to be *missing*, these two distinct Powers began to quarrel, and at last fought. Longchamp succeeded in locking up the Bishop in the Tower. Letters were produced, as if coming from the King, ordering the Bishop to be released: but Longchamp answered that he knew the King's intentions too well to mind such letters. The Bishop's

friends took to other methods; which induced Longchamp to supply himself with a numerous armed guard. At length, the Nobles assembled in a powerful body at Reading; when Longchamp was obliged to shelter himself and also take his abode in the Tower; whence he escaped beyond sea. If the case of King Richard's absence does not supply a precedent concerning what is to be done in the present national emergency, the whole case at least hints what ought to be *avoided*, namely, the dividing of the governing authority, in whatever shape such division may be attempted to be effected.

*How is the care or custody of the King, in his present situation, to be settled?*

IT is very difficult to give a certain decision of the question, from those principles upon which the present national business has been taken up from the beginning.

The question is the most important to be decided at the present juncture, and at  
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the same time the most difficult. The whole business, all together, is difficult.

The King's absence or disappearance was quite unforeseen, as has been above observed. No previous provision whatever was made for the case. The King has disappeared much in the same manner as *Palinurus*, Æneas's Pilot, was flung from the helm, being lulled asleep by the artifice of an adverse God in the shape of *Phorbas*; and, in his fall into the sea, carried the rudder along with him, as he afterwards related to Æneas, in the shades.

*Namque gubernaculum, multâ vi forte revulsum,  
Cui datus hærebam custos, cursusque regebam,  
Præcipitans traxi mecùm. ÆNEID. L. v. & vi.*

There are other circumstances of difficulty. The King's situation is of a very peculiar nature. It has been before mentioned that his situation is different from a case of infancy: the hour is positively named and known when such case of infancy is to be ended; and the infant King's abilities increase and become more  
and

and more evident every day. But here, no future term can be named as the period to the King's situation. Besides, a time may arrive when Mankind shall positively be in doubt in regard to his real case or state.

Who shall proclaim that the King is really returned from his absence or captivity? that he is the same King who formerly governed? Who shall decide that he is truly George the Third? that he is the real *Don Sebastian*? It will perhaps be necessary at some future time to have the question decided; and when it is decided, it must be with certainty.

Before such *certain* decision takes place—that decision which nobody shall object to, rumours will circulate: the situation of the then Governors, whoever they may be, and however conjoined they may be, will perhaps prove difficult. The *absent* King, instead of being a prisoner in distant unknown hands, or in an enemy's castle, like King Richard in the castle of the Austrian Duke, will perhaps turn out to be an instrument in the hands, or a prisoner in the castle

castle, of a faction at home: there is no foreseeing or foretelling what in time may happen.

The vague, contradictory, reports about his situation may perhaps be used like the ghosts of the three *Don Sebastians*, or of the false *Demetriuses* in Russia, or of *Perkin Warbeck*,—keeping the then Government in a constant state of doubt and alarm.

It will prove a serious division of the executive authority, when such a Claimant to that authority shall be, not come back or *returned*, for then the difficulty will likely be ended, but when a general belief shall continue to be promoted, that he is the next day or the day after to make his appearance.

This mode of weakening and alarming a Government, by means of a Competitor kept in a state of readiness for the purpose, is the method commonly used by the Turks for securing the subjection of certain distant Provinces or Principalities. The other Eastern Monarchs, and the Mogul Emperors, have constantly practised the same expedient. And the European Nations in India have learned this kind of state craft: their power  
has

has been both commenced and secured, in the Carnatic by means of *Mohammed Ali* and *Chunda-sabeb*, and in Bengal by means of *Mir Jaffer* and *Mir Cossim*, &c.

Who shall give a declaration of the King's *return*: for, some sort of authentic declaration will probably be requisite? Physicians, it seems, are to be the persons. They have already been applied to with constancy and anxiety: they have given Reports *upon oaths*: provisions are moreover about to be made for the obtaining farther future Reports from them, also *upon their oaths*.

The Gentlemen of the Faculty are, it seems, to grant the King his *certificate*. By means of such certificate, attested *upon their oaths*, the King is to be admitted to be King again—to have his *Jus postliminii* granted him, like a Roman Citizen who after having been taken in war by enemies, was restored to his former rights, upon his proving that he was the same person; thereby obtaining to have it admitted, and taken for granted, that he had never been absent.

*Quia hi qui ab hostibus capti sunt, si reversi fuerint*

*fuert omnia pristina jura recipiunt; nam postliminium fingit eum qui captus est in civitate semper fuisse.* Instit. L. i. Tit. 12.

The weighty national concern is, in short, to be decided by *the oaths* of Medical Gentlemen: the government of the Nation has already moved from St. James's to Westminster: there is a prospect of its being again removed farther, and finally settling in the College of Physicians in *Warwick-Lane*. Thoughts have already been had, it is said, to desire the separate Kingdom of Ireland to join, and also send Physicians from that Country.

The providing for the future care and guardianship of the King's person is a measure both of great importance, and at the same time, of great nicety.

• The whole business of providing for the present national emergency, is, all together, a business of considerable difficulty.

Possibly, the right principles from which the business might be settled, have not been fallen upon: owing to this, the affair offers the appearance of a *riddle*.

*The Conclusion.*

THE observations contained in the preceding pages, relative to the measure of forming a *Regent*, have been introduced merely by way of distant general hints, only fit to be attended to, in case the forming of a *Regent* becomes, at any future time, to be thought a necessary measure. The fact is, that, at this present time, there is no occasion for a *Regent*—no business for a *Regent*. The Parliament now assembled at Westminster possess powers fully sufficient, more than sufficient, for the governing of the Nation. They are not the *Regent* themselves; because they possess more power than a *Regent*, if appointed, could possibly alledge. A *Regent* could only plead a supposed Commission from the King: but the Parliament now assembled at Westminster, alledge a direct Commission from the King,—an unlimited Commission, —and a *special* Commission too; for they alledge a Commission to represent his Person, and give his *royal assent*.

Their Commission is both special and universal, and unlimited.

A Commission of this nature sets aside the office of a Regent, supposing there existed one: a Regent, so long as a Commission of this kind exists, becomes an useless Officer.

The Parliament having a special Commission from the King, to represent his person, acting *in his name and on his behalf*, are superior in point of dignity to a Regent. They are moreover greatly superior to the power which a Regent could possibly possess: for they have more power, greatly more, than the King himself would enjoy, if he was present and actually governing in his own person. If the King was personally governing, he would not be allowed to frame Bills: the King would only be allowed to declare his opinion about Bills presented to him, without the power of framing them: and the Parliament would only be allowed to frame Bills, without the power afterwards of *assenting* to them. This usual division of the supreme legislative authority certainly weakens the same, and renders the operations of Government dilatory; they even become, at particular times, sluggish. But here, this inconvenience, this prejudicial dilatoriness, is removed. The present Par-

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liament,

liament, as it appears, unite in themselves the power of framing Bills in what manner they please, and upon what matters they please, together with the power of *assenting* to such Bills which way they choose. Those persons who have expressed wishes for an *efficient* Government, or efficient powers to be established, at the present juncture, ought to be perfectly satisfied with the present course of measures. If Parliament wish for an *efficient* power to be formed, they need not look elsewhere than among themselves. The Parliament now assembled at Westminster, being invested with that royal Commission which they are holding forth, have all they want for the purpose of an *efficient* Government: they can think of no persons better circumstanced than themselves for governing the Country.

They can think of no persons better circumstanced than themselves, that is to say, they are under no difficulty except that expressed before, in the pages 33—35, namely, the difficulty how to consult their Constituents, and also the difficulty expressed in pages 46 and 47.

F I N I S.

January 23, 1789.



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## P O S T S C R I P T.

*Feb. 24th.*

**T**HE foregoing Pamphlet had been written with a view to shew that there must needs have existed some kind of important errors in the management of the late National business, since the progress of it offers a series of inconsistencies and contradictions; (See back, pag. 39—40)—and also in order to suggest that possibly the Parliament, with those claims which they had put forth and on that line which they had chosen, could not be able to go on any length, that is to say, for any considerable time.

A second Part to this Pamphlet may perhaps be hereafter published. In the mean time it may be observed that the confusion that has taken place in the management of the national business in the late emergency, has been in a great measure owing to the subject of the *rights* of the Heir apparent not having been at first introduced, or understood, in the pro-  
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perest manner. A short explanation relative to those rights of the Heir apparent may not prove unacceptable to the reader.

*Has the Heir apparent a right to interfere with the royal authority in such a manner as to set the King's rights aside?*

NO; he does not possess such right, any more than any common Subject.

*In what manner has the Heir apparent a right to interfere with the royal authority at the present juncture?*

HE has a right to interfere with that authority in the capacity of a Partner, or an *Assistant*, to that authority,—an *Assistant* named, and pointed out, and provided beforehand, by the Law of the Country, for the purpose of supplying the deficiency of the Person with whom the actual management of the royal authority is entrusted: it is here meant to speak of the case of a thorough deficiency, when neither orders nor directions of any kind can possibly be received from the Person to whom this royal authority is trusted. In such a case it is  
not

not only the right, but it is also the duty of the Heir apparent to come forth, and offer his assistance: he is like a Person purposely set apart, and relied upon, by the Law, for such an occasion. The meaning of his being an *Heir apparent*, is positively that he is invested with the *Office* we mention, namely, of supplying the thorough deficiency, or thorough absence, an absence amounting to death, or suspicion of death, of the Person entrusted with the management of the royal authority.

This Office it is the right and duty of the Heir apparent to fill: the Law relies upon him—upon his coming forth immediately, whenever the case of such thorough deficiency happens, in order to prevent the exercise of the royal authority from being *interrupted* thereby. And as a reward for this service which the Law expects from him, namely, the prevention of the *interruption* of the royal authority, he is invested, in his capacity of *Heir apparent*, with certain considerable personal privileges, even during the life or the presence of his Predecessor, which this Predecessor cannot abridge or take from him.

It may be observed that this political evil, the interruption of the royal authority, has been dreaded by the Law of this Country, and guarded against, with a surprising degree of caution. The bare thought of such *interruption* is even in a manner prohibited by the Law: the King is supposed never to die; for his right is said, immediately, *eo instanti*, to vest in the next Heir. The proclaiming of this Heir is then a mere matter of form: and compassing his death, though before such proclamation, is compassing the death of the King. (See Judge *Blackstone's Commentaries*, and *Jacob's Law Dictionary*, at the Articles, King's Prerogative, and the *Perpetuity* of the King.)

In short, the capacity of Heir apparent, or the Heir-apparentship, is positively an Office recognized by the Law of this Country, with a view to prevent the personal exercise of the royal authority from ever being interrupted, even by the case of the death of the Person actually entrusted with the management of this authority: the wisdom and long experience of former ages, combined with the peculiar nature of the Government of the Country, having wrought  
a per-

a persuasion that the royal authority should not be *interrupted*.

The next Heir apparent to a King may therefore be considered as a public National Officer, an Officer belonging to the Nation; and his Office, as the Law is, may be termed the Office of *Remedier and Preventer of the interruption of the royal authority*.

When the case of *interruption* exists, either through the death of the King, or through the supposition of his death, or through an absolute impossibility of communicating with him, it is both the right and duty of the Heir apparent to come forth, and interfere with his assistance.

The assistance of the Heir apparent is then exerted by means of that power of *ratification* we have mentioned in pages 51—54. In such case the next Heir comes forth, and proffers this ratification, which the Law has rendered necessary. For, the inconveniency or political evil under which both the Nation and the Government labour, in the case of *interruption* we are speaking of, is a state of doubtfulness concerning the existence, real or political, of the King. Is he

he King; is he not? Who is the King,—the King we were used to, or his Heir apparent? The presence and ratification of the Heir apparent remedies this state of doubt. In the mean time no imposition is practised upon the Nation. If it be not the King that has the right, it is the Heir apparent: if it be not the one, it is the other: the right lies between them both.

A few more ideas might be added concerning the rights of the Heir apparent.

*A few remarks concerning the errors committed by the two opposite Parties, during the late proceedings. And first, concerning the errors committed by that Party who in the first instance introduced the question of the rights of the Prince.*

THEY introduced the question of these rights too soon, at too early a stage of the business; and then, they did not present the question in a light strictly proper.

After introducing the question of the rights of the Prince in a hasty manner, they deprecated the idea of treating this question:

question: which was tantamount to admitting, that the Prince had *no* right.

They next admitted that the Parliament had the *right* which was denied to the Prince.

The bare admitting that Parliament existed, *as a Parliament*, operated as an overthrow of their own cause. They ought to have denied the *existence* of Parliament. There was a decisive plea for that purpose. And the circumstance of the Parliament having proceeded to assume, and dispose of, the places of profit and trust in the gift of the Crown, became an excellent subsidiary argument,—an argument well suited to the feelings of the People. Even supposing the Parliament really existed as a Parliament, they had given up their existence and seats, by assuming and disposing of Offices which, as the Law stands, cannot be assumed, or meddled with, or merely accepted, without vacating seats in Parliament.

Instead of this, they went on arguing on the supposition of the legality of the proceedings of the Parliament: even the words the *Jurisdiction* of the Parliament were suffered to be repeated.

Through this continuation to argue,—through their bare consenting to talk to their Opponents, they themselves made their own situation worse and worse every minute.

Through the bare continuance of the business and argument, the situation of the Prince was made desperate in appearance, and his friends among the Nation, were rendered torpid and speechless.

*The errors of the other Party.*

THAT Party whom we have above mentioned, had meant to promote what they thought the interests of the Prince; and also to serve themselves; as usual. The opposite Party likewise intended to serve themselves; and, as they conceived, to take the part of the reigning King.

If they had barely opposed the King's authority being invaded, they might have acted properly: but they soon proceeded to assume that authority themselves: they assumed to themselves all those branches of profit, power and trust, which collectively constitute the authority of the Crown, and actually entered upon the business of disposing of them. This bare attempt



tempt to assume the authorities of the

Crown to themselves was unconstitutional:

it was contrary to that Charter by which they hold their seats from their Constituents; —their Constituents send them to watch, and keep back, and check, these authorities of the Crown; but not to *assume* them.

Had they barely assumed those authorities in the manner of a transient deposit or trust, which they meant instantly to convey, and convey undivided and *whole*, as a trust should be conveyed, it would not have done away the unconstitutionality of the measure; however, it would have greatly excused the same in the opinion of many Persons.

But the Party did not proceed upon the disinterested principles we mention. They took care, before transmitting the deposit, to cut it, and shape it, and leave their *barpoons* in it, in such a manner that they might, whenever they pleased, pull the same to themselves again.

During the short time the old Fortress or Fortification of the CROWN was in their hands, they acted in the manner used by an Enemy, in a Town from which they are under a necessity to retreat; dismantling

the same, or effecting such alterations as may enable them, on some future opportunity, to enter again.

They left the Fortification of the CROWN destitute, and wide open to their future attacks; like unto Sampson when he carried off the gates of the Town of *Gaza*:—  
 “ he took the doors of the Gates, and the  
 “ two posts, bar and all, and putting them  
 “ upon his shoulders, carried them up to  
 “ the top of the hill that is before He-  
 “ bron.”

Nay, the Party presently altered their thoughts: they now designed to keep and appropriate to themselves that Place into the middle of which they had introduced themselves, upon a profession of alliance and trust:—like the Grecian Chiefs, when they let themselves down by a rope from that huge hollow wooden *Horse* which they had schemed to build, and had prevailed upon the Trojans to give admittance to, as a present to their Gods, and a token of returned Grecian friendship. They presently seized upon a City immerfed “ in ebriety, and  
 “ slew the Guard,” as Virgil describes; giving the names of the principal Chiefs who joyfully slipped down from the cavity

of the oaken *Horſe*:—*Theſſandrus, Stbelenus,* the hoſtile *Ulyſſes, Athamas, Thoas, Neoptolemus,* and the very firſt, *Machaon,*—and *Menelaus,*—and *Epeus,* the very builder of the *Horſe,*” &c. &c.

—————*illos patefactus ad auras*  
*Reddit Equus, lætique cavo ſe robore promunt*  
*Theſſandrus, Stbelenusque duces, et dirus Ulyſſes*  
*Demiffum lapſi per funem, Athamasque, Thoasque*  
*Pelidesque Neoptolemus, primusque Machaon,*  
*Et Menelaus, et ipſe doli fabricator Epeus.*  
*Invadunt Urbem ſomno vinoque ſepultam:*  
*Cæduntur Vigiles ;*—————

The ſeizure of the old Fortreſs and Fortification of the CROWN the Parliamentary Party effected, in the groſs and at one ſtroke, by aſſuming to themſelves the Great Seal of the Crown, and the Royal Aſſent; uniting the ſame to thoſe powers which they already poſſeſſed. This Great Seal and Royal Aſſent they uſed once, and were preparing to uſe a ſecond time: but ſuch ſecond or repeated uſe is immaterial to our argument: uſing a power of this kind, once, is juſt the ſame as a thouſand times.

By the courſe of meaſures which the Miniſterial and Parliamentary Party had ſucceſſively adopted, and more particularly  
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by their having positively assumed the use of the *Royal Assent*, they had at length given advantages against themselves greater than those which had in the beginning been given to them. These advantages might have been decisively pursued in their turn; and means possibly existed by which it might have proved no impracticable task to take the Greek oaken *Horse*, and all the Greeks in it, at one stroke.

By assuming the use of the royal Assent the Ministerial and Parliamentary Party had engaged themselves in a situation of the utmost difficulty. They had got into a lane which was no thoroughfare, and through which it was impossible for them to get out.

Instead of endeavouring “*to determine on the means whereby the royal Assent might be given in Parliament to Bills passed by the two Houses,*” (see back page 40, for their Declaration) they should have tried to determine on the means by which this Royal Assent might be *dispensed* with. This puts us in mind of the joke that passed between Alcibiades, and one of his Friends, who called upon him one day, and found him deeply engaged in thought.—  
What is the matter, Alcibiades? you seem  
to

to be thoughtful.—I am considering how I shall do to pay my debts.—Well, as for me, I am engaged on quite a different subject; I am considering how I shall do *not* to pay mine. In like manner, the Ministerial and Parliamentary Party, if they had been cunning, would have deliberated how they should do to dispense with the Royal Assent,—how they should positively do without it, for governing the Country.

The event of the King's recovery has put an end to the national *Embarrassment*. Even those persons who least profess an understanding of Politics, express their satisfaction at the change. A kind of faint, dark, remote consciousness was generally entertained that things were going down to some sort of serious confusion; as unavoidably perhaps as water goes slowly down a brook.

By the same event the two contending parliamentary Parties are also brought out of difficulty: *Sic nos servavit Apollo*.

Even if the King's recovery had not been so true an event as it appears it is, the supposing of the *fact*, by mutual consent, might have been, at the present juncture, an eligible, wise measure.