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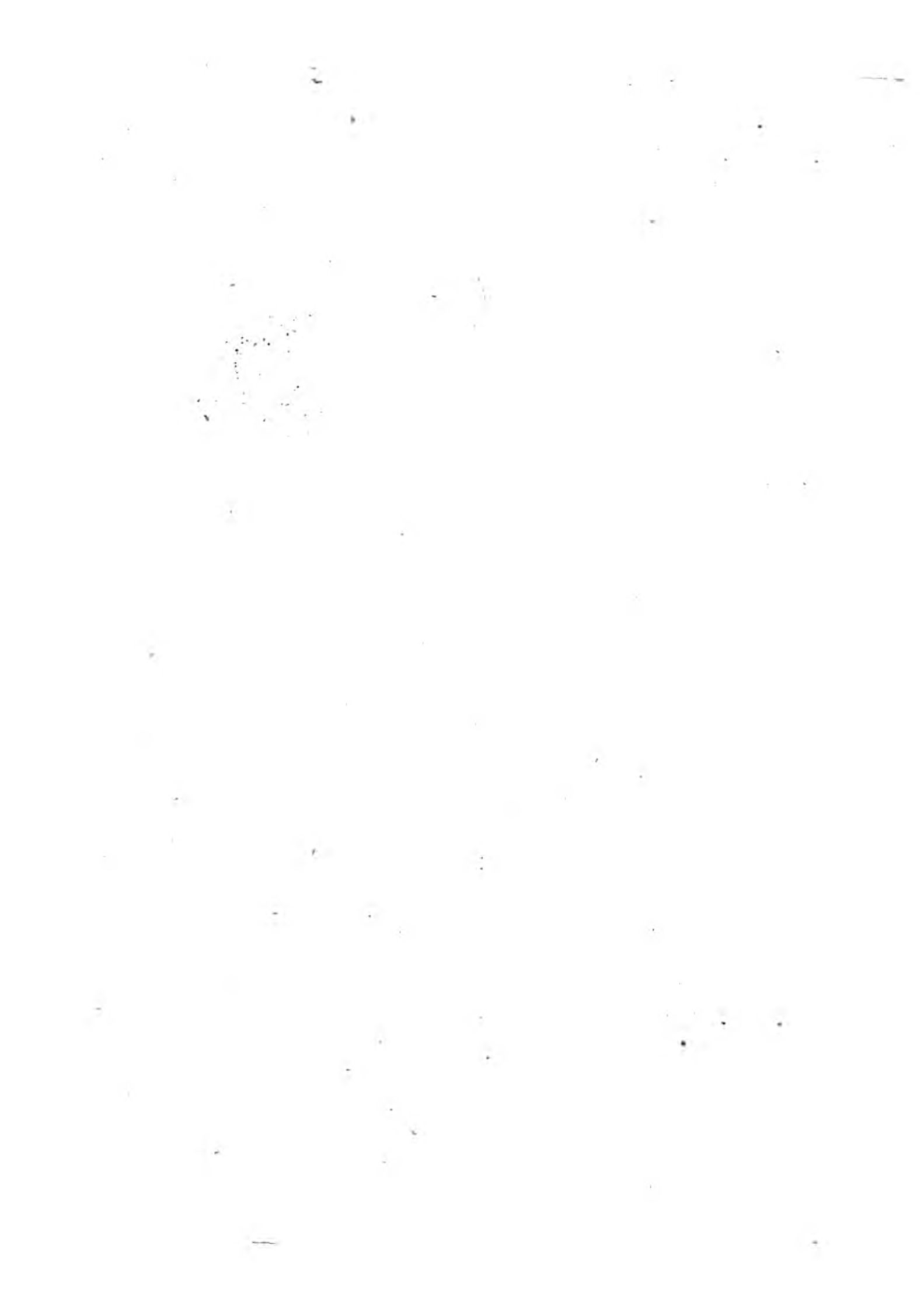
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(453)

D U K E

O F



Buckingham's

SPEECH;

Spoken in the House of LORDS,
FEB. 15th. 1676.

Proving that the PARLIAMENT is
DISSOLVED.

*Whose Suffering's Sweet, since Honour doth Adorn it;
Who Sights Revenge; not that he Fears, but Scorns it.*

Amsterdam, 1677.

(454)

THE
DUKE
OF
Buckingham's
SPEECH, &c.

My Lords,

I Have often troubled your Lordships with my Discourse in this House, but I confess I never did it with more trouble to my self than I do at this time; For I scarce know how I should begin what I have to say to your Lordships.

On the one side, I am afraid of being thought an Unquiet and a Pragmatical Man; for in this Age every man that cannot bear every thing, is called Unquiet, and he who does but ask Questions, tho' about those matters for which he ought to be most concern'd, is look'd upon as Pragmatical.

On the other side, I am more afraid of being thought a Dishonest Man, and of all men, I am most afraid of being thought so by my self; for every one is best Judge of the integrity of his own Intentions. And though it does not alwayes follow, that he is Pragmatical, whom others take to be so, yet this never failes to be true, That he is most certainly a Knave, who takes himself to be so.

No body is answerable for more Understanding than God Almighty has given him; and therefore though I should be in the wrong, if I tell your Lordships plainly and

truly what I am really convinced of, I shall behave my self like an Honest Man; For it is my Duty, as long as I have the Honour to Sit in this House, to hide nothing from your Lordships, which I think may concern either his Majesties Service, your Lordships Interest, or the Good and Quiet of the People of *England*.

The *Question*, which in my Opinion does now lie before your Lordships, Is not what we are to do, but, Whether at this time we can do any thing as a Parliament? It being very clear to me, That the *Parliament is Dissolved*. And if in this Opinion I have the misfortune to be mistaken, I have another misfortune joyned to it, A desire to maintain this Argument with all the Judges and Lawyers in *England*, and leave it afterwards to your Lordships to decide, Whether I am in the Right or no. This, my Lords, I speak not out of Arrogance, but in my own Justification. Because if I were not througly convinced, that what I have now to urge, were grounded upon the Fundamental Laws of *England*, and that the not pressing it at this time, might prove to be of a most dangerous consequence, both to his Majesty and the whole Nation, I should have been loath to start a Notion, which perhaps may not be very agreeable to some People. And yet, my Lords, when I consider where I am, who I now speak to, and what was spoken in this Place about the time of the last *Prorogation*, I can hardly believe that what I have to say, will be distastful to your Lordships.

I remember very well how your Lordships were then displeas'd with the House of Commons, and I remember too as well, what Reasons they gave you to be so. It is not so long since, but that I suppose your Lordships may easily call to mind, that after several odd passages between us, your Lordships were so incens'd, that a motion was made here, for to address to his Majesty, about the *Dissolution* of this Parliament. And tho' it fail'd of being carried in the Affirmative by two or three Voices, yet this in the Debate was remark-

able, That it prevail'd with much the *Major* part of your Lordships that were here present, and was only over-power'd by the Proxies of those Lords who never heard the Arguments. What Change there has been since either in their Behaviour, or in the state of our Affairs, that should make your Lordships change your Opinion, I have not yet heard. And therefore if I can make it appear (as I presume I shall) that by Law the Parliament is *Dissolved*, I presume your Lordships ought not to be offended at me for it.

I have often wondred how it should come to pass, that this House of Commons, in which there are so many Honest, and so many worthy Gentlemen, should yet be less respectful to your Lordships, as certainly they have been, than any House of Commons that ever were chosen in *England*; and yet if the matter be a little enquired into, the reason of it will plainly appear. For my *Lords*, the very nature of the House of Commons is changed: They do not think now that they are an Assembly that are to return to their own homes, and become Private men again (as by the Laws of the Land and the Antient Constitution of Parliaments they ought to be) but they look upon themselves as a standing Senate, and as a number of men pickt out to be *Legislators* for the rest of their whole Lives. And if that be the case my *Lords*, they have reason to believe themselves our Equals.

But, my *Lords*, it is a dangerous thing to try new Experiments in a Government; Men do not foresee the ill Consequences that must happen when they go about to alter those essential parts of it, upon which the whole Frame of the Government depends, as now in our Case, the Customs and Constitutions of Parliament. For all Governments are artificial things; and every part of them has a dependance one upon another. And as in Clocks and Watches, if you should put Great *VV*heels in the place of Little ones, and the

Little Wheels in the place of Great ones, all the Fabrick would stand still: So we cannot alter any one part of a Government without prejudicing the motions of the whole. If this, my Lords, were well considered, people would be more cautious how they went out of the old, honest, *English* way and method of proceedings. But it is not my business to find Faults, and therefore if your Lordships will give me leave, I shall go on to shew you, why, in my opinion, we are no Parliament.

The Ground of this Opinion of mine is taken from the antient and unquestionable Statutes of this Realm, and give me leave to tell your Lordships by the way, That Statutes are not like Women, for they are not one jot the worse for being Old. The first Statute I shall take notice off is, That in the fourth year of *Edward* the Third, *Chap.* 14, thus set down in the printed Book;

Item, It is accorded, That a Parliament shall be holden every year once, and more often if need be. Now though these words be as plain as a Pike-Staff, and that no man living that is not a Scholar could possibly mistake the meaning of them, yet the *Grammarians* of those dayes did make a shift to explain, that the words, *If need be*, did relate as well to the words *Every year once*, as to the words *more often*; and so by this *Grammaticall Whimsy* of theirs, had made this Statute to signify just nothing at all. For this Reason, my Lords, in the 36th. year of the same Kings Reign, a New Act of Parliament was made, in which these unfortunate words, *If need be*, were left out, and that Act of Parliament is printed thus; relating to *Magna Charta*, and other Statutes made for publick Good:

Item, For maintenance of these Articles and Statutes, and the redress of divers Mischiefs and Grievances which daily happen, A Parliament, shall be holden every year: as another time was Ordained by another Statute.

Here now, my Lords, there is not left the least Colour or
Shadow

Shadow for any further mistake, for it is plainly declared, That the Kings of *England* must Call a Parliament once within a Year : And the Reasons why they are bound to do so, are as plainly set down, Namely, For the maintainance of *Magna Charta*, and other Statutes of the same Importance, and for preventing the *Mischiefs* and *Grievances* which daily happen.

The Question then remaineth, Whether these Statutes have been since Repealed by any other Statutes or no ?

The only Statutes I ever heard mentioned for that, are the two *Triennal Bills*, the one made in the last Kings, and the other in this Kings Reign.

The *Triennial Bill* in the last Kings Reign, was made for the Confirmation of the two mentioned Statutes of *Edw. 3.* For Parliaments having been omitted to be Called every year according to those Statutes. A Statute was made in the last Kings Reign to this purpose, *That if the King should fail of Calling a Parliament, according to those Statutes of Edw. 3. Then the Third year the People should Meet of themselves without any Writts at all, and Choose their Parliament-Men.*

This way of the Peoples Choosing *Parliament-Men* of themselves, being thought disrespectful to the King, A Statute was made by this last Parliament, which Repealed the *Triennial Bill*; And after the Repealing Clause (which took notice only of the *Triennial Bill* made in the last Kings Reign) There was in this Statute a *Paragraph* to this purpose : *That because by the Antient Statutes of this Realm, made in the Reign of Edw. 3. Parliaments are to be held very often, It should be Enacted, That within three years after the Determination of that present Parliament, Parliaments should not be discontinued above three years at most, and should be holden oftener if need required.*

There have been several half kind of Arguments drawn out of these *Triennial Bills* against the Statutes of *Edm. 3.*
which

which I confefs I could never remember, nor indeed those that urged them to me ever durst own; For they alwayes laid their faults upon some body else, like ugly offish Children, which because of their Deformity and want of wit, the Parents are ashamed of, and so turn them out to the Parish. But, My Lords, let the Arguments be what they will, I have this short Answer to all that can be wrested out of these *Triennial Bills*. *That the first Triennial Bill was Repealed before the matter now disputed of was in Question, and the last Triennial Bill will not be in force till the Question be Decided, that is, till this Parliament is Dissolved.*

The whole matter therefore, My Lords, is reduced to this short *Dilemma*, Either the *Kings of England* are bound by the Acts mentioned of *Edrv. 3.* or else the whole Government of *England* by Parliaments, and by Law is absolutely at an End. For if the *Kings of England* have Power by an Order of theirs to invalidate an Act made for the maintenance of *Magna Charta*, they have also Power by an Order of theirs to invalidate *Magna Charta* it self; And if they have Power by an Order of theirs to invalidate an Act made for the maintenance of the Statute, *De Tallagio non concedendo*, they have also Power when they please, by an Order of theirs to invalidate the Statute it self *De Tallagio non concedendo*; and then they may not only without the help of a Parliament, raise Money when they please, but also take away any man's Estate when they please, and deprive every one of his Liberty or Life as they please.

This, My Lords, I think is a Power that no Judge nor Lawyer will pretend the *Kings of England* have; and yet this Power must be allowed them, or else we that are Met here this Day cannot Act as a Parliament. For we are now met by virtue of the last Prorogation, and that Prorogation is an Order of the *King's* point blank contrary to the two Acts of *Edrv. 3.* For the Acts say, *That a Parliament shall be holden once within a year*; And the Prorogation saith,

A Parliament shall not be held within a year, but some months after, and this (I conceive) is a plain contradiction, and consequently that the Prorogation is void. Now if we cannot Act as a Parliament, by virtue of the last Prorogation, I beseech your Lordships by virtue of what else can we Act? Shall we Act by virtue of the Kings Proclamation? Pray, my Lords, How so? Is a Proclamation of more force than a Prorogation? Or, if a thing that hath been Ordered the first time be not Valid, Doth the Ordering it the second time make it good in Law? I have heard indeed, that two Negatives make an Affirmative, but I never heard before, that two nothings ever made any thing. Well, But how then do we meet? Is it by our own Adjournment? I suppose no body has the confidence to say that: Which way then is it? Do we meet here by accident? That I think might be granted, but an accidental Meeting can no more make a Parliament, than an accidental clapping a Crown upon a Mans Head, can make a King. There is a great deal of Ceremony required, to give a matter of that moment a legal Sanction.

The Laws have reposed so great a Trust, and so great a Power in the hands of a Parliament, that every Circumstance relating to the manner of their Electing, Meeting and Proceeding, is look'd after with the nicest Circumspection imaginable.

For this reason the Kings Writts about the Summons of Parliament, are to be issued out verbatim according to the Form prescribed by the Law, or else that Parliament is void and null. For the same reason, if a Parliament Summoned by the Kings Writ, does not meet at the very same day it is summoned to meet upon, that Parliament is void and null: And by the same Reason, if Parliaments be not Legally Adjourned *De die in diem*, those Parliaments must also be void and null.

Oh, but some say, There is nothing in the two Acts of

Edw. 3. to take away the Kings power in Prorogation, and therefore the Prorogation is good. My Lords, under favour that is a very gross mistake; for pray examine the words of the Acts: The Acts say, *A Parliament shall be holden once a year*; Now to whom can these words be directed, but to them that are to Call a Parliament? And who are they but the Kings of *England*? It is very true, that this does not take away the Kings power of proroguing Parliaments; but it most certainly limits it to be within a year.

Well then, but it is said again, If that Prorogation be null and void, then things are just as they were before, and therefore the Parliament is still in being.

My Lords, I confess there would be some weight in this but for one thing, which is, that not one word of it is true; for if when the King had Prorogued us, we had taken no notice of the Prorogation, but had gon on like a Parliament, and had Adjourn'd our selves *De die in diem*; then I confess things had been just as they were before: But since upon the Prorogation we went away, and took no care our selves for our Meeting again, if we cannot meet and Act by virtue of that Prorogation, there is an impossibility of our meeting and acting any other way. One may as properly say, that a man who is kill'd by Assault is still alive, because he was killed Unlawfully; as that the Parliament is still alive, because the Prorogation was Unlawful.

The next Argument that those are reduc'd to who would maintain this to be yet a Parliament, is, that the Parliament is Prorogued *Sine die*, and therefore the King may Call them again by a Proclamation.

In the first part of this Proposition, I shall not only agree with them, but also do them the favour to prove that it is so in the eye of the Law, which I never heard they have yet done. For the Statutes say, *That a Parliament shall be holden once within a year*; and the Prorogation having put them off till a day without the year, and consequently excepted against
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by the Law; that day in the eye of the Law is no day at all, that is, *Sine die*; and the *Prorogation* might as well have put them off till so many months after *Dooms-day*; and then I think no body would have doubted, but that it had been a very sufficient Dissolution.

Besides, My Lords, I shall desire your Lordships to take notice, that in former times the usual way of Dissolving *Parliaments* was to Dismiss them *Sine die*; For the King when he Dissolved them, used to say no more, but that he desired them to go home, till he sent for them again, which is a Dismission *Sine die*.

Now if there were forty ways of Dissolving *Parliaments*, if I can prove this *Parliament* has been Dissolved by any one of them, I suppose there is no great need of the other thirty nine.

Another thing which they much insist upon is, that they have found out a President in Queen *Elizabeth's* time, when a *Parliament* was once *Prorogued* three days beyond a year. In which I cannot chuse but observe, That it is a very great confirmation of the Value and Esteem all people ever had of the forementioned Acts of *Edward the Third*, since from that time to this, there can but one President be found for the *Proroguing* a *Parliament* above a year, and that was but for three days neither.

Besides, my Lords, This President is of a very Odd kind of nature; For it was in the time of a very great Plague, when every Body of a suddain was forced to run away one from another, and so being in haste, had not leisure to calculate well the time of the *Prorogation*, though the appointing it to be within three days of the year is an Argument to me, that their Design was to keep within the Bounds of the Acts of *Parliament*. And if the mistake had been taken notice of in Queen *Elizabeth's* time, I make no question but She would have given a lawfull Remedy to it.

Now I beseech your Lordships, what more can be drawn from the shewing this President, but only that because once upon a time a thing was done illegally, therefore your Lordships should do so again now: Tho' *My Lords*, under favour, Ours is a very different Case from theirs; for this President they mention was never taken notice off; and all Lawyers will tell you, that a President that passes *Sub Silentio*, is of no Validity at all, and will never be admitted in any Judicial Court where 'tis Pleaded.

Nay, Judge *Kaughan* saies, in his Reports, *That in Cases which depend upon Fundamental Principles, from which Demonstrations may be drawn, Millions of Presidents are to no purpose.*

Oh but say they, you must think prudentially of the Inconveniencies which will follow upon it: For if this be allowed all those Acts which were made in that Sessions of *Parliament*, will be then Void.

Whether that be so or no, I shall not now examine; But this I will pretend to say, That no man ought to pass for a prudential person, who only takes notice of the Inconveniencies of one side; it is the part of a wise man to examine the Inconveniencies of both sides, to weigh which are the greatest, and to be sure to avoid them. And, *My Lords*, to that kind of Examination I willingly submit this Cause; for I presume it will be easie for your Lordships to judge, which of these two will be of the most dangerous consequence to the Nation, either to allow, that the Statutes made in that particular Sessions in *Queen Elizabeth's* time are Void, (which may be easily confirmed at any time by a lawful *Parliament*) Or to lay it down for a Maxime, *That the Kings of England by a particular Order of theirs, have Power to break all the Lawes of England when they please.*

And, *My Lords*, with all the Duty we owe his Majesty, it is no disrespect to him to say, That his Majesty is bound up by the *Lawes of England*; For the Great King of Hea-

ven and Earth, God Almighty himself is bound by his own Decrees : And what is an Act of *Parliament* but a Decree of the Kings made in the most Solemn manner it is possible for him to make it, that is, with the consent of the *Lords* and *Commons*.

It is plain then in my Opinion, that we are no more a *Parliament*, and I humbly conceive, your *Lordships* ought to give God thanks for it, since it has pleased him thus by his Providence to take you out of a condition, wherein you must have been entirely useless to his Majesty, to your selves, and the whole Nation : For, I do beseech your *Lordships*, if nothing of this I have urged were true, what honourable Excuse could we find for our acting again with this House of Commons? Except we could pretend to such an exquisite art of forgetfulness as to avoid calling to mind all that passed between us the last Sessions, and unless we could have also a faculty of teaching the same Art to the whole Nation ; What opinion could they have of us, if it should happen that the very same men, who were so earnest the last Sessions, for having this House of Commons Dissolved, when there was no question of their lawful sitting, should be now willing to joyn with them again, when without question they are Dissolved.

Nothing can be more dangerous to a King or a People, than that Laws should be made by an Assembly, of which there can be a doubt Whether they have power to make Laws or no : And it would be in us so much the more unexcusable, if we should overlook this Danger, since there is for it so easie a Remedy ; A Remedy which the *Law* requires, and which all the Nation longs for,

The Calling of a New Parliament.

It is That only can put his Majesty into a possibility of receiving Supplies ; That can secure to your *Lordships* the Honour of Sitting in this House like Peers, and of being serviceable to your *King* and *Country* ; and That can Restore to all

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the *People of England* their undoubted *Rights* of Chusing Men frequently to represent their Grievances in *Parliament*. Without this all we can do would be in vain; the Nation might languish a while, but must Perish at last : We should become a Burden to our Selves, and a Prey to our Neighbours.

My Motion therefore to your *Lordships* shall be, that we humbly Address our selves to his Majesty, and beg of him for his own sake, as well as for all the Peoples sakes to give us speedily a *New Parliament*. That so we may unanimously, before it is too late, use our utmost Endeavours for his Majesty's Service, and for the Safety, the Wellfare, and the Glory of the *English Nation*.

THE END.

Whil'ft another *Lord* was speaking, the *Duke* took a Pen and wrote this *Sylogism* : And then appealed to the *Bishops*, Wether it were not a True *Sylogism* ; And to the Judges, Whether the *Propositions* were not True in *Lavy* ?

The Sylogism.

I *T is a Maxime in the Lavy of England, That the Kings of England are so bound up by all Statutes made pro bono Publico, that every Order or Direction of theirs contrary to the Scope and full Intent of any such Statute is Void and Null in Lavy*

But the last Prorogation of the Parliament vvas an Order of the King's contrary to an Act of Edward the Third, made for the greatest Common Good, Viz. The Maintenance of all the Statutes of England, and for the Prevention of the Mischiefs and Grievances vvhich daily happen.

Wherefore the last Prorogation of the Parliament is Void and Null in Lavy.

