



The Glorious Revolution and the Continuity of Law

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The Glorious Revolution and the Continuity of Law explores the relationship between law and revolution. Revolt - armed or not - is often viewed as the overthrow of legitimate rulers. Historical experience, however, shows that revolutions are frequently accompanied by the invocation rather than the repudiation of law. No example is clearer than that of the Glorious Revolution of 1688-89. At that time the unpopular but lawful Catholic king, James II, lost his throne and was replaced by his Protestant son-in-law and daughter, William of Orange and Mary, with James's attempt to recapture the throne thwarted at the Battle of the Boyne in Ireland. The revolutionaries had to negotiate two contradictory but intensely held convictions. The first was that the essential role of law in defining and regulating the activity of the state must be maintained. The second was that constitutional arrangements to limit the unilateral authority of the monarch and preserve an indispensable role for the houses of parliament in public decision-making had to be established. In the circumstances of 1688-89, the revolutionaries could not be faithful to the second without betraying the first. Their attempts to reconcile these conflicting objectives involved the frequent employment of legal rhetoric to justify their actions. In so doing, they necessarily used the word "law" in different ways. It could denote the specific rules of positive law; it could simply express devotion to the large political and social values that underlay the legal system; or it could do something in between. In 1688-89 it meant all those things to different participants at different times. This study adds a new dimension to the literature of the Glorious Revolution by describing, analyzing and elaborating this central paradox: the revolutionaries tried to break the rules of the constitution and, at the same time, be true to them.

ABOUT THE AUTHOR

Richard S. Kay is the Wallace Stevens Professor of Law, University of Connecticut School of Law.

PRAISE FOR THE BOOK

"A first-rate history based on thorough and extensive research, including many important original sources . . . the best account so far of the relevant constitutional, legal, and political issues debated and resolved during and after the Glorious Revolution." --Donald E. Wilkes, Jr., Professor of Law, University of Georgia School of Law

"Digs deeper and more rewardingly into important aspects of the Glorious Revolution than anything yet produced and it will be recognized as a good argument for returning to telling legal matters that are often overlooked in prevailing approaches." --Thomas Green, Professor Emeritus, University of Michigan Law

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