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## Backgrounds— Religious and Economic

*William Haller saw the English revolution as essentially a struggle for religious liberty that broadened into a political conflict.*

### FROM *Tracts on Liberty in the Puritan Revolution*

BY *William Haller*

The pamphlets of the Puritan Revolution have seemed to later generations like relics of a universe

where eldest Night  
And Chaos, ancestors of Nature, hold  
Eternal anarchy, amidst the noise  
Of endless wars,

and yet those "embryon atoms" there engaged in elemental strife were the seeds of the modern world. Controversy in that great crisis revolved in ever-widening circles about religious questions which came to be not solved, so much as dismissed, or, it would be better to say, transformed beyond recognition. To attempt reform of the English Church in the seventeenth century was to attempt the reorganization of society. Dissenting religious minorities, one after another, seized the occasion to demand toleration for themselves, but the argument for toleration supplied ideas, terms and images with which men of any or of no religion might also contend for freedom of thought, of expression, of government and of trade. The religious doctrine of a supernatural law, and of a divine right vested in established institutions, evoked the rational or quasi-rational doctrine of natural law and of natural rights vested in the individual. Thus emerged the modern doctrine of liberty. But the religious and theological terms

William Haller, *Tracts on Liberty in the Puritan Revolution*, Vol. I (1934), pp. 1, 3-4. Reprinted by permission of Columbia University Press.

and images in which that doctrine took form did much to obscure the source from which it sprang. . . .

The reader of Puritan revolutionary literature must, of course, be prepared to cope with modes of thought and discussion which in such connection are now obsolete, even when they are not repellent. Broadly speaking, the men of the seventeenth century thought of organized society as a religious body or church, with which the state was intimately and peculiarly related. The advancement of printing and the spread of literacy made the Bible above all the book, and theology the science, of the people. Consequently, discontent first expressed itself in religious terms. Liberty was conceived first as religious, and as appertaining especially to the church, and the doctrine of liberty was expressed in Biblical images and theological formulas. Thus Lilburne stands up as a soldier of Christ, converted to the true faith. Lord Brooke and Milton present the theory of liberty in terms of a theory of church government. Parker derives the social contract from the fall of Adam. John Goodwin lays hold of the Protestant doctrine of conscience as the justification for rebellion, Walwyn upon that of universal grace as the basis for democratic equality. But as the Revolution moved on, both the objects of revolutionary effort and the terms of revolutionary thought and expression, became less peculiarly religious and theological. . . . Thus the argument that began as a plea for religious liberty and reform of church government rapidly extended itself to include civil liberty and political revolution, and the terms of the argument, so largely scriptural and theological to begin with, became increasingly rationalistic, naturalistic and secular.

*Marxist theory holds that an era of feudalism must be followed by a "bourgeois revolution." Christopher Hill applied this conceptual model to seventeenth-century England. In his opinion, religious rhetoric cloaked economic impulses.*

## FROM *The English Revolution*

BY Christopher Hill

Religious

THE object of this essay is to suggest an interpretation of the events of the seventeenth century different from that which most of us were taught at school. To summarise it briefly, this interpretation is that the English Revolution of 1640–60 was a great social movement like the French Revolution of 1789. An old order that was essentially feudal was destroyed by violence, a new and capitalist social order created in its place. The Civil War was a class war, in which the despotism of Charles I was defended by the reactionary forces of the established Church and feudal landlords. Parliament beat the King because it could appeal to the enthusiastic support of the trading and industrial classes in town

and countryside, to the yeomen and progressive gentry, and to wider masses of the population whenever they were able by free discussion to understand what the struggle was really about. The rest of this essay will try to prove and illustrate these generalisations.

The orthodox attitude to the seventeenth-century revolution is misleading because it does not try to penetrate below the surface, because it takes the actors in the revolution at their face value, and assumes that the best way to find out what people were fighting about is to consider what the reasons readers said they were fighting about. Thus we all know that during the seventeenth century England underwent a profound political revolution. Everyone has heard of Oliver Cromwell and his Roundheads, King Charles and his Cavaliers, and we all know that a King of England had his head cut off. But why did this happen? What was it all about? Has it any significance for us at the present day? . . .

The most usual explanation of the seventeenth-century revolution is one that was put forward by the leaders of the Parliament of 1640 themselves in their propaganda statements and appeals to the people. It has been repeated with additional detail and adornments by Whig and Liberal historians ever since. This explanation says that the Parliamentary armies were fighting for the liberty of the individual and his rights in law against a tyrannical Government. . . . All that is true. And although Parliament in the seventeenth century was even less genuinely representative of ordinary people than it is at the present day, still its victory was important as establishing a certain amount of self-government for the richer classes in society. But further questions are still unanswered. Why did the King become tyrannical? Why did the landed and commercial classes represented in Parliament have to fight for their liberties? . . .

Another school of historians—which we may call “Tory,” as opposed to the Whigs—holds that the royal policy was not tyrannical at all, that Charles I, as he told the Court which sentenced him to death, spoke “not for my own right alone, as I am your King, but for the true liberty of all my subjects.” . . . Their idea is that Charles I and his advisers were really trying to protect ordinary people from economic exploitation by a small class of capitalists on the make; and that the opposition which faced Charles was organised and worked up to serve their own purposes by those business men who identified their interests with the House of Commons in politics and Puritanism in religion.

Now, it is true that the English Revolution of 1640, like the French Revolution of 1789, was a struggle for political, economic and religious power, waged by the middle class, the bourgeoisie, which grew in wealth and strength as capitalism developed. But it is not true that as against them the royal Government stood for the interests of the common people. . . . It represented the bankrupt landowning nobles, and its policy was influenced by a Court clique of aristocratic commercial racketeers and their hangers-on, sucking the life-blood from the whole people by methods of economic exploitation which we shall be considering later on. The middle-class struggle to shake off the control of this group was not merely selfish; it fulfilled a progressive historical func-

tion. . . . It was necessary for the further development of capitalism that this choking parasitism should be ended by the smashing of the feudal state. And free capitalist development was of much more benefit to the masses of the population than the maintenance of an out-moded, unproductive and parasitic feudalism.

The new economic facts of the sixteenth and seventeenth centuries made the feudal economic and social system unworkable, and those of its defenders who looked regretfully back to the stability and relative security of the peasantry in the Middle Ages were quite unrealistic and in effect reactionary. . . .

A third and more familiar theory is emphasised by both sides: that the conflict was to decide which of two religions, ~~Puritanism or Anglicanism~~, was to be dominant in England. Here, again, the effect of this explanation is to make us pity and misunderstand the men of the seventeenth century, and congratulate ourselves on being so much more sensible to-day; however much Anglicans and Nonconformists may dislike one another personally, we say, they no longer fight in the village street. But this is to miss the point. Certainly religious squabbles fill many pages of the pamphlet literature of the seventeenth century: both sides justified their attitude ultimately in religious terms, believed they were fighting God's battles. But "religion" covered something much wider than it does to-day. . . .

The Church, then, defended the existing order, and it was important for the Government to maintain its control over this publicity and propaganda agency. For the same reason, those who wanted to overthrow the feudal state had to attack and seize control of the Church. That is why political theories tended to get wrapped up in religious language. . . . But the fact that men spoke and wrote in religious language should not prevent us realising that there is a social content behind what are apparently purely theological ideas. Each class created and sought to impose the religious outlook best suited to its own needs and interests. But the real clash is between these ~~class interests~~ behind the parson stood the squire.



*A major difficulty in Marxist interpretations of the English civil war is that the leaders of parliamentary opposition to the king were landowning country gentry themselves members of the "feudal" class. Most modern accounts seek to explain what motives—religious, economic, or political—led this class to divide into royalist and anti-royalist factions.*

*In the following readings Lawrence Stone criticizes Hill's views and then suggests some alternative approaches.*

## FROM *The Past and the Present*

BY *Lawrence Stone*

*Stone critic.*

According to Dr Hill the core of the Puritan movement was "the industry of people," namely the small merchants, the self-employed shopkeepers, manufacturers, and the artisans. . . . The political theories of the Puritans demanded the transfer of power from nobles and priests to a wider class of propertied householders, though certainly not to women, children, and the poor. Religious toleration was "the natural concomitant of the economic order of free industrial production and internal free trade."

It is impossible to deny the force of this massively documented and powerfully argued thesis. One may seriously question, however, whether the picture it presents both of Puritanism and of the seventeenth century is more than one aspect of a more complex and ambiguous reality. In the first place, the Puritans are throughout assumed to consist of small merchants, manufacturers and artisans. But a crucial element in the Puritan movement was the landed nobility and gentry who provided the patronage, the protection, and the political weight. Second, it is assumed that in the seventeenth century society ceased to be rural, agricultural, and feudal, and became urban, industrial, and capitalist. Now a good test of modernization is the degree of urbanization. But, even allowing for the explosion of London, the proportion of the population living in towns in 1650 was probably not so very much greater than in 1550; the major shift had to wait till the late eighteenth century. . . . even if we admit, as we have to, that a middle-class culture and a moral ethic developed in the course of the seventeenth century, there is a reluctance to suggest that the dominant political and social interest and dominant value-system remained that of the landed classes well into the eighteenth century. And fourth, this cool, rational analysis of Puritanism as preparation for the new capitalist environment fails to go to the heart of the matter. Where is the blind fanaticism that tormented witches and danced round the maypoles, where the stunning pedantry of Bibliolatry, where the sea of speculation?

*Some modern accounts of the origins of the civil war emphasize a long-standing tension between "Court" and "Country," that is, between a centralizing royal government and a class of independent-minded country gentry who were accustomed to controlling their own localities.*

*Lawrence Stone points out that more specific and concrete grievances were needed to cause an actual breakdown of government and that there was perhaps an element of "historical accident" in the way the different grievances coalesced into an opposition movement.*

The Court/Country polarity in politics is, therefore, little more than a version of the normal state of tension that exists in all organized societies between the centralizing and the decentralizing forces: between Hamilton and Jefferson, for example. Since the polarity continued to play an important political role in England at least for another 75 years after 1640, it cannot be regarded as the exclusive cause for a breakdown of government. This is especially so, since when the crisis came, the lines of division did not run with mathematical precision between the country gentry and the courtiers. Many gentry saw the virtues of strong monarchical rule, and not a few courtiers fell off the bandwagon when it began to totter.

In order to provide a convincing interpretation of the collapse of the central government in 1640, the other forces have therefore to be brought into play. The collapse was caused not only by the undeniable ineptitude of Charles and his advisors, but also by certain specific historical trends. Unfortunately for the crown, the ideals, interests and programs of the Country found powerful allies in two other ideologies and three other interest groups: Puritanism and the Puritans, the Common Law and the common lawyers, and the new West Indies and American trade and the merchants engaged in it. The objectives of none of these groups were the same as those of the Country, but they became linked to them by a process of convergence which owes more to historical accident than inexorable necessity.

As for the Puritans, had Elizabeth, and later the Stuarts, continued to keep their options open, to admit aristocratic and bureaucratic Puritan sympathizers to the privy council and the court, to go easy on the persecution of Puritan dissidents, and to keep the official doctrinal policies and religious ceremonies on the fairly Low Church lines of early Elizabethan Anglicanism, the intimate association of Puritanism with the Country might not have taken place. There was a long prehistory of elective affinity between the two, but there is now little doubt that it was the policy of Archbishop Laud and his associates which finally drove them together in the 1630s. And even so, the gentry still remained solidly Erasmian and had no sympathy for the theocratic pretensions of the Puritan clergy.

As for the lawyers, they had their own grievances against the crown and the prerogative courts, notably their hostility to the interference of the church courts in common law business. They also strongly resented the competition to

the common law courts by the overlapping jurisdictions of the two regional prerogative courts and the several courts at Westminster dealing with particular types of clients, like Admiralty or Exchequer or Wards, or certain types of offenses, like the Star Chamber. This intra-mural dispute between lawyers would not have taken on political overtones had the crown not come too readily to the help of the embattled prerogative courts and of Chancery, and if its search for extra revenue had not led it to stretch its own prerogative powers too far. The result was the growth of a 'Magna Carta' ideology among some lawyers about the nature of the constitutional balance, and an alliance of these common lawyers with the gentry and the Puritans. But once again the basic objectives of the lawyers were not those of the Country; the two were merely tactical allies in a joint battle for control over the central direction of the state.

The third group of allies of the country gentry in their political battle were drawn from the merchant community. They were men who lacked an ideology, but possessed a program. Most merchants stayed on the sidelines, part of the vast silent majority which stood idly by as the tides of war and revolution lapped ever closer around their feet. Others were tied to the royal side by dependence on trade monopoly favors, or on support for the oligarchic control of their own communities in the face of rising pressure from below. But other important merchant elements can now be identified, men interested especially in the American trades, in New England colonization, and in breaking the monopoly of the East India and Levant Companies. They were new men in new fields of entrepreneurial endeavor who chafed at the political and economic stranglehold of the older established monopolistic oligarchies. They were usually Puritan in their religious opinions, they wanted to reorient English foreign policy and commercial policy to a more aggressive and dynamic thrust toward the Americas, and they wanted to open up the Mediterranean and Indian trade to newcomers. These men were important members of the group of radicals who seized control of London at a critical moment in 1641, and so swung the power and influence of the City decisively on the side of parliament. The City was an ally without whom the Country would not have dared to launch a war on its own; indeed parliament would have been defeated in a matter of weeks without the support of London. On the other hand, these merchants had little except a leavening of Puritanism, an interest in North American colonization, and a common enemy to bind them to the grandees of the Country.

## 2

# Law, Religion, and Taxation, 1604–1640

*In the early years of the seventeenth century, although there were some complaints about royal policies, no one dreamed that they could lead on to a civil war. There was broad agreement about the general principles of government. The following reading describes some constitutional ideas that were generally accepted in England at the accession of James I (1603).*

### FROM *The Crisis of the Constitution*

BY Margaret A. Judson

[THE KING] made the important appointments to the council, the law courts, other departments of government, and to the church. As head of the state he summoned and dismissed parliament at his pleasure. Prerogatives of this sort were seldom mentioned in the law courts and, when they were, never denied. They came to be discussed and eventually questioned and challenged in parliament, but they were not directly attacked there until 1641 and 1642. When at that time some members of parliament worked to take away these particular prerogatives from the king and transfer them to parliament, the civil war soon broke out.

In the years leading up to that war, men agreed also that the king as head of the state was peculiarly competent and solely responsible in certain realms they called government. Here he was most particularly the head of the state, practicing the art of governing, a craft possessed only by kings. Within these realms his authority was accepted as absolute. It must be, they believed, or else he would be unable to carry on his craft as a true artist. These realms of government within which his authority was accepted as absolute included foreign

Margaret A. Judson, *The Crisis of the Constitutional and Political Thought in England, 1603–1645* (1949), pp. 24–25, 34, 35, 44–46. Reprinted by permission of Rutgers University Press.



policy, questions of war and peace, the coinage, and the control of industries and supplies necessary for the defense of the realm.

\* \* \*

As kings possessed prerogatives, so subjects possessed rights; and those rights, like the king's prerogative, were part of the law and basic in the constitution. Only when the nature and extent of the subjects' rights are understood is it possible to present some aspects of the prerogative and some controversies concerning it which have not been discussed up to this point.

The most important of these rights were property rights. To protect them was the principal concern of the common law. It was also the main concern of great English subjects in the sixteenth and early seventeenth centuries. . . . Among the many reasons why the growing absolutism of the Tudors did not become complete absolutism under the Stuarts is the fact that the medieval concept of the inviolability of a man's property did not disappear or become weaker in the sixteenth or early seventeenth centuries. Tudor and Stuart noblemen, gentry, and merchants who were acquiring property did not forget that although "government belonged to kings, property belonged to subjects."

\* \* \*

Englishmen entered into the constitutional controversies of the seventeenth century with a profound belief in the importance of law. To them law was not primarily a decree enacted by a sovereign legislature to deal with a particular problem of the moment. Law was normally regarded as more than human, as the reflection of eternal principles of justice. When men considered it in relation to their own England, they looked upon it as a binding, cohesive force in their polity without which there would be no commonwealth, no government, no rights, and no justice.

They believed that the law was impartial—serving well both the king and the subject, enabling the king to fulfill his divine mission of governing with justice and protecting the subject in his God-given rights. To the seventeenth-century mind, rule by the king and rule by law were harmonious and not competing concepts. As the king's authority gave sanction to the law, so the law gave strength to the king's rule. To Yelverton, a faithful servant of Queen Elizabeth, "to live without government is hellish and to governe without lawes is brutish." James himself remarked that both king and parliament have a "union of interest" "in the lawes of the Kingdome, without which as the Prerogative cannot subsist, soe without that the Lawe cannot be maynteyned." . . .

It is well known that the parliamentarians based much of their case against the king on the law, but it is sometimes forgotten that the royalists also looked to the law to sanction the great authority they claimed for the monarch. In the long period of controversy between 1603 and 1642, both royalists and parliamentarians turned to the law to justify their actions, and both believed that

the law was on their side. Even after the civil war broke out with its appeal to force, both groups strove to prove the legality of their actions, and only a few men admitted that the law had failed them.

*James I, as king of Scotland, had propounded a theory of absolute monarchy before he inherited the crown of England. The following extract is from his True Law of Free Monarchies, published in 1598.*

### FROM *True Law of Free Monarchies*

BY *James I*

THE KINGS THEREAFTER in Scotland were before any estates or ranks of men within the same, before any Parliaments were holden or laws made; and by them was the land distributed (which at the first was wholly theirs), states erected and decerned [*decreed—Ed.*], and forms of government devised and established. And it follows of necessity that the Kings were the authors and makers of the laws and not the laws of the Kings. . . . And according to these fundamental laws already alleged, we daily see that in the Parliament (which is nothing else but the head court of the King and his vassals) the laws are but craved by his subjects, and only made by him at their roagation and with their advice. For albeit the King made daily statutes and ordinances, enjoining such pains thereto as he thinks meet, without any advice of Parliament or Estates, yet it lies in the power of no Parliament to make any kind of law or statute without his sceptre be to it for giving it the force of a law. . . . And as ye see it manifest that the King is overlord of the whole land, so is he master over every person that inhabiteth the same, having power over the life and death of every one of them. For although a just prince will not take the life of any of his subjects without a clear law, yet the same laws whereby he taketh them are made by himself or his predecessors, and so the power flows always from himself; as by daily experience we see good and just princes will from time to time make new laws and statutes, adjoining the penalties to the breakers thereof, which before the law was made had been no crime to the subject to have committed. Not that I deny the old definition of a King and of a law which makes the King to be a speaking law and the law a dumb King; for certainly a King that governs not by his law can neither be countable to God for his administration nor have a happy and established reign. For albeit it be true, that I have at length proved, that the King is above the law as both the author and giver of strength thereto, yet a good King will not only delight to rule his subjects by the law, but even will conform himself in his own actions thereunto; always keeping that ground, that the health of the commonwealth be his chief law.

James I, "True Law of Free Monarchies," from J. R. Tanner, *Constitutional Documents of the Reign of James I. 1602–1625* (1930), p. 187. Reprinted by permission of Cambridge University Press.

*Edward Coke, chief justice of the Court of Common Pleas, opposed these views of James I with a doctrine of the supremacy of law. He informed James that a king of England could administer justice only through the anciently established courts.*

### ***Edward Coke on the Supremacy of Law***

THEN THE KING SAID that he thought the law was founded upon reason, and that he and others had reason as well as the Judges. To which it was answered by me, that true it was that God had endowed his Majesty with excellent science and great endowments of nature, but his Majesty was not learned in the laws of his realm of England; and causes which concern the life or inheritance or goods or fortunes of his subjects are not to be decided by natural reason but by the artificial reason and judgment of law, which law is an act which requires long study and experience before that a man can attain to the cognizance of it; and that the law was the golden metwand and measure to try the causes of the subjects, and which protected his Majesty in safety and peace. With which the King was greatly offended, and said that then he should be under the law, which was treason to affirm, as he said; to which I said that Bracton saith, *quod Rex non debet esse sub homine sed sub Deo et lege* [that the King ought not to be under man but under God and under the law—Ed.J].

*In January 1604 James held a conference of clergy at Hampton Court to discuss the state of the Church of England. His attitude is conveyed in the following account.*

### ***FROM The Sum and Substance of the Conference of Hampton Court***

**BY William Barlow**

SO ADMIRABLY, BOTH for understanding, speech, and judgment, did his Majesty handle all those points, sending us away not with contentment only but astonishment, and, which is pitiful you will say, with shame to us all that a King brought up among Puritans, not the learnedest men in the world, and schooled by them; swaying a kingdom full of business and troubles; naturally given to much exercise and repast; should in points of Divinity shew himself as expedite and perfect as the greatest scholars and most industrious students there present might not outstrip him. But this one thing I might not omit, that his Majesty should profess, howsoever he lived among Puritans and was kept for the most

"Edward Coke on the Supremacy of Law," from J. R. Tanner, *Constitutional Documents of the Reign of James I, 1602-1625*, p. 187. Reprinted by permission of Cambridge University Press. William Barlow, *The Sum and Substance of the Conference of Hampton Court* (London:1625). Reprinted by permission.

with greater love, with greater joy and applause of all his people. This love, this joy, let it flourish in their hearts for ever. Let no suspicion have access to their fearful thoughts that their privileges, which they think by your Majesty should be protected, should now by sinister informations or counsel be violated or impaired, or that those which with dutiful respects to your Majesty speak freely for the right and good of their country shall be oppressed or disgraced. Let your Majesty be pleased to receive public information from our Commons in Parliament as to the civil estate and government, for private informations pass often by practice: the voice of the people, in the things of their knowledge, is said to be as the voice of God. And if your Majesty shall vouchsafe, at your best pleasure and leisure, to enter into your gracious consideration of our petition for the ease of these burdens under which your whole people have of long time mourned, hoping for relief by your Majesty, then may you be assured to be possessed of their hearts, and if of their hearts, of all they can do or have.

And so we Your Majesty's most humble and loyal subjects, whose ancestors have with great loyalty, readiness, and joyfulness served your famous progenitors, Kings and Queens of this Realm, shall with like loyalty and joy, both we and our posterity, serve your Majesty and your most royal issue for ever, with our lives, lands, and goods, and all other our abilities, and by all means endeavour to protect your Majesty honour, with all plenty, tranquillity, content, joy and felicity.

*In 1610 the Commons complained about new customs duties (impositions) levied by the king.*

### *Parliament and Taxation, 1610*

THE POLICY AND CONSTITUTION of this your kingdom appropriates unto the Kings of this realm, with the assent of the Parliament, as well the sovereign power of making laws as that of taxing or imposing upon the subjects' goods or merchandises, wherein they have justly such a propriety as may not without their consent be altered or changed. This is the cause that the people of this kingdom, as they ever shewed themselves faithful and loving to their Kings and ready to aid them in all their just occasions with voluntary contributions, so have they been ever careful to preserve their own liberties and rights when anything hath been done to prejudice or impeach the same. . . . We therefore, your Majesty's most humble Commons assembled in Parliament, following the example of this worthy care of our ancestors and out of a duty to those for whom we serve, finding that your Majesty, without advice or consent of

"Parliament and Taxation," from J. R. Tanner, *Constitutional Documents of the Reign of James I, 1602-1625*, p. 150. Reprinted by permission of Cambridge University Press.



Parliament, hath lately in time of peace set both greater imp  
more in number than any your noble ancestors did ever in ti  
with all humility presumed to present this most just and necess  
your Majesty, That all impositions set without the assent of Pa  
quite abolished and taken away.

*A "protestation" of 1621 declared that any important matter of state wa  
subject for debate in Parliament.*

### *Commons Protestation, 1621*

THE COMMONS NOW ASSEMBLED in Parliament, being justly occasi  
concerning sundry liberties, franchises, and privileges of Parli  
others here mentioned, do make this Protestation following, Th  
franchises, privileges, and jurisdictions of Parliament are th  
undoubted birthright and inheritance of the subjects of Englan  
arduous and urgent affairs concerning the King, State, and defer  
and of the Church of England, and the maintenance and makin  
redress of mischiefs and grievances which daily happen within  
proper subjects and matter of counsel and debate in Parliament;  
handling and proceeding of those businesses every member o  
Parliament hath, and of right ought to have, freedom of speec  
treat, reason, and bring to conclusion the same.

*The accession of Charles I did not improve matters. Charles was, by conv  
High Church Anglican. Moreover, he had married a papist wife (Henriett  
France) and was inclined to tolerate Catholicism. The leaders of the Hou  
Commons were deeply suspicious of his religious policy, and they hated b  
minister, Buckingham. Accordingly, they withheld grants of taxation. Ch  
resorted to forced loans, which led to another constitutional protest, the P  
Right of 1628.*

### *Petition of Right, 1628*

HUMBLY SHOW UNTO OUR Sovereign Lord the King, the Lords  
Temporal, and Commons in Parliament assembled, that whereas  
and enacted by a statute made in the time of the reign of King Ed

"Commons Protestation, 1621," from J. R. Tanner, *Constitutional Documents of the Reign of*  
pp. 288–289. Reprinted by permission of Cambridge University Press.  
"Petition of Right, 1628," from S. R. Gardiner ed., *The Constitutional Documents of the Purita*  
(1899), pp. 66–69. Reprinted by permission Oxford University Press, Oxford

commonly called *Statutum de Tallagio non concedendo*, that no tallage or aid shall be laid or levied by the King or his heirs in this realm, without the goodwill and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other the freemen of the commonalty of this realm: and by authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted, that from thenceforth no person shall be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided, that none should be charged by any charge or imposition, called a Benevolence, or by such like charge, by which the statutes before-mentioned, and other the good laws and statutes of this realm, your subjects have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in Parliament.

Yet nevertheless, of late divers commissions directed to sundry Commissioners in several counties with instructions have issued, by means whereof your people have been in divers places assembled, and required to lend certain sums of money unto your Majesty, and many of them upon their refusal so to do, have had an oath administered unto them, not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give attendance before your Privy Council, and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted. . . .

And where also by the statute called, "The Great Charter of the Liberties of England," it is declared and enacted, that no freeman may be taken or imprisoned or be disseised of his freeholds or liberties, or his free customs, or be outlawed or exiled; or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land.

They do therefore humbly pray your Most Excellent Majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament; and that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof; and that no freeman, in any such manner as is before-mentioned, be imprisoned or detained. . . .

*Charles accepted the Petition of Right. But a new dispute broke out at once over a tax called "tonnage and poundage," not specifically mentioned in the petition. Charles protested that he had never intended to deprive himself of this source of revenue.*

### FROM *Charles I's Speech at the Prorogation of Parliament, 1628*

NOW SINCE I AM TRULY INFORMED, that a second Remonstrance is preparing for me to take away the profit of my Tonnage and Poundage, one of the chiefest maintenances of my Crown, by alleging I have given away my right thereto by my answer to your Petition.

This is so prejudicial unto me, that I am forced to end this Session some few hours before I meant, being not willing to receive any more Remonstrances, to which I must give a harsh answer. And since I see that even the House of Commons begins already to make false constructions of what I granted in your Petition, lest it be worse interpreted in the country, I will now make a declaration concerning the true intent thereof.

The profession of both Houses in the time of hammering this Petition, was no ways to trench upon my Prerogative, saying they had neither intention or power to hurt it. Therefore it must needs be conceived that I have granted no new, but only confirmed the ancient liberties of my subjects; yet to show the clearness of my intentions, that I neither repent, nor mean to recede from anything I have promised you, I do here declare myself, that those things which have been done, whereby many have had some cause to expect the liberties of the subjects to be trenched upon—which indeed was the first and true ground of the Petition—shall not hereafter be drawn into example for your prejudice, and from time to time; in the word of a king, ye shall not have the like cause to complain; but as for Tonnage and Poundage, it is a thing I cannot want, and was never intended by you to ask, nor meant by me—I am sure—to grant.

To conclude, I command you all that are here to take notice of what I have spoken at this time, to be the true intent and meaning of what I granted you in your Petition; but especially, you my Lords the Judges, for to you only under me belongs the interpretation of laws, for none of the Houses of Parliament, either joint or separate (what new doctrine soever may be raised), have any power either to make or declare a law without my consent.

"Charles I's Speech at the Prorogation of Parliament, 1628," from S. R. Gardiner, ed., *The Constitutional Documents of the Puritan Revolution*, pp. 73–74. Reprinted by permission of Oxford University Press.

*The Parliament of 1629 continued to attack the fiscal and religious policies of Charles's government. It ended in the unprecedented scene described next.*

### *FROM A True Relation of . . . Proceedings in Parliament*

THIS DAY, BEING THE LAST DAY of the Assembly, as soon as prayers were ended the Speaker went into the Chair, and delivered the Kings command for the adjournment of the House until Tuesday sevensnight following.

The House returned him answer, that it was not the office of the Speaker to deliver any such command unto them, but for the adjournment of the House it did properly belong unto themselves; and after they had settled some things they thought fit and convenient to be spoken of they would satisfy the King.

The Speaker told them that he had an express command from the King as soon as he had delivered his message to rise; and upon that he left the Chair, but was by force drawn to it again by Mr. Denzil Holles, son of the Earl of Clare, Mr. Valentine, and others. And Mr. Holles, notwithstanding the endeavour of Sir Thomas Edmondess, Sir Humphrey May, and other Privy Councillors to free the Speaker from the Chair, swore, Gods wounds, he should sit still until they pleased to rise. . . .

\* \* \*

Sir John Eliot. God knows I now speak with all duty to the King. It is true the misfortunes we suffer are many, we know what discoveries have been made; how Arminianism creeps in and undermines us, and how Popery comes in upon us; they mask not in strange disguises, but expose themselves to the view of the world. In search whereof we have fixed our eyes not simply on the actors (the Jesuits and priests), but on their masters, they that are in authority, hence it comes we suffer. The fear of them makes these interruptions. You have seen prelates that are their abettors. That great Bishop of Winchester, we know what he hath done to favour them; this fear extends to some others that contract a fear of being discovered, and they draw from hence this jealousy. This is the Lord Treasurer, in whose person all evil is contracted. I find him acting and building on those grounds laid by his Master, the late great Duke of Buckingham, and his spirit is moving for these interruptions. And from this fear they break Parliaments lest Parliaments should break them. I find him the head of all that great party the Papists, and all Jesuits and priests derive from him their shelter and protection.

"A True Relation of . . . Proceedings in Parliament," from Wallace Notestein and Frances H. Relf, eds., *Commons Debates for 1629* (1921), pp. 101–106. Reprinted by permission.



In this great question of Tonnage and Poundage, the instruments moved at his command and pleasure; he dismays our merchants, and invites strangers to come in to drive our trade, and to serve their own ends.

The Remonstrance was put to the question, but the Speaker refused to do it; and said he was otherwise commanded from the King.

Whereupon Mr. Selden spake as followeth:

"You, Mr. Speaker, say you dare not put the question which we command you; if you will not put it we must sit still, and thus we shall never be able to do any thing; they that come after you may say they have the Kings command not to do it. We sit here by commandment of the King, under the great Seal of England; and for you, you are by his Majesty (sitting in his royal chair before both Houses) appointed our Speaker, and yet now you refuse to do us the office and service of a Speaker."

Then they required Mr. Holles to read certain Articles as the Protestations of the House, which were jointly, as they were read, allowed with a loud *Yea* by the House. The effect of which Articles are as followeth:

First, Whosoever shall bring in innovation in Religion, or by favour or countenance, seek to extend or introduce Popery or Arminianism or other opinions disagreeing from the true and orthodox Church, shall be reputed a capital enemy to this Kingdom and Commonwealth.

Secondly, Whosoever shall counsel or advise the taking and levying of the Subsidies of Tonnage and Poundage, not being granted by Parliament, or shall be an actor or instrument therein, shall be likewise reputed an innovator in the government, and a capital enemy to this Kingdom and Commonwealth.

Thirdly, If any merchant or person whatsoever shall voluntarily yield or pay the said subsidies of Tonnage and Poundage, not being granted by Parliament, he shall likewise be reputed a betrayer of the liberties of England and an enemy to the same.

These being read and allowed of, the House rose up after they had sitten down two hours.

The King hearing that the House continued to sit (notwithstanding his command for the adjourning thereof) sent a messenger for the serjeant with the mace, which being taken from the table there can be no further proceeding; but the serjeant was by the House stayed, and the key of the door taken from him, and given to a gentleman of the House to keep.

After this the King sent Maxwell [*the usher—Ed.*] with the black rod for the dissolution of Parliament, but being informed that neither he nor his message would be received by the House, the King grew into much rage and passion, and sent for the Captain of the Pensioners and Guard to force the door, but the rising of the House prevented the bloodshed that might have been spilt.

Notwithstanding the Parliament was but as yet adjourned until that day sevensnight, being the tenth of March, yet were the principal gentlemen attached by pursuivants, some the next morning; and on Wednesday by order from the Council-board sent to sundry prisons.

*After this incident Charles ruled for eleven years without Parliament. He obtained revenue by reviving ancient rights of the crown that had fallen into disuse. When such procedures were challenged in the courts, the judges upheld their legality. The following extracts deal with the "Case of Ship Money" (1637).*

### *Case of Ship Money, 1637*

#### AN ENQUIRY OF CHARLES TO THE JUDGES

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WHEN THE GOOD AND SAFETY of the kingdom in general is concerned; and the whole kingdom in danger, whether may not the King, by writ under the Great Seal of England, command all the subjects of our kingdom at their charge to provide and furnish such a number of ships, with men, victuals, and munition, and for such time as we shall think fit for the defence and safeguard of the kingdom from such danger and peril, and by law compel the doing thereof, in case of refusal or refractoriness; and whether in such a case is not the King the sole judge both of the danger, and when and how the same is to be prevented and avoided?

#### REPLY OF THE JUDGES

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May it please your Most Excellent Majesty:

We have, according to your Majesty's command, every man by himself, and all of us together, taken into serious consideration the case and question signed by your Majesty, and inclosed in your royal letter; and we are of opinion, that when the good and safety of the kingdom in general is concerned, and the kingdom in danger, your Majesty may, by writ under the Great Seal of England, command all your subjects of this your kingdom, at their charge to provide and furnish such a number of ships, with men, victuals, and munition, and for such time as your Majesty shall think fit for the defence and safeguard of this kingdom from such danger and peril: and that by law your Majesty may compel the doing thereof in case of refusal, or refractoriness: and we are also of opinion, that in such case your Majesty is the sole judge both of the danger, and when and how the same is to be prevented and avoided.

"Case of Ship Money, 1637," from S. R. Gardiner, ed., *The Constitutional Documents of the Puritan Revolution*, pp. 108–114. Reprinted by permission of Oxford University Press.

## SPEECH OF OLIVER ST. JOHN AGAINST SHIP MONEY

My Lords, not to burn daylight longer, it must needs be granted that in this business of defence the *suprema potestas* [supreme power—Ed.] is inherent in His Majesty, as part of his crown and kingly dignity.

So that as the care and provision of the law of England extends in the first place to foreign defence, and secondly lays the burden upon all, and for ought I have to say against it, it maketh the quantity of each man's estate the rule whereby this burden is to be equally apportioned upon each person; so likewise hath it in the third place made His Majesty the sole judge of dangers from foreigners, and when and how the same are to be prevented, and to come nearer, hath given him power by writ under the Great Seal of England, to command the inhabitants of each county to provide shipping for the defence of the kingdom, and may by law compel the doing thereof.

So that, my Lords, as I still conceive the question will not be *de persona*, in whom the *suprema potestas* of giving the authorities or powers to the sheriff, which are mentioned in this writ, doth lie, for that it is in the King; but the question is only *de modo*, by what medium or method this supreme power, which is in His Majesty, doth infuse and let out itself into this particular. . . .

And as without the assistance of his Judges, who are his settled counsel at law, His Majesty applies not the law and justice in many cases until his subjects . . . neither can he out of Parliament alter the old laws, nor make new, or make any naturalizations or legitimations, nor do some other things; and yet is the Parliament His Majesty's Court too, as well as other his Courts of Justice.

That amongst the *ardua Regni negotia*, for which Parliaments are called, this of the defence is not only one of them, but even the chief, is cleared by this, that of all the rest none is named particularly in the summons, but only this; for all the summons to Parliament show the cause of the calling of them to be *pro quibusdam arduis negotiis nos et defensionem Regni nostri Angliae et Ecclesiae Anglicanae concernentibus* [for certain arduous affairs concerning us and the defense of our realm of England and of the English church—Ed.].

My Lords, the Parliament, as it is best qualified and fitted to make this supply for some of each rank, and that through all the parts of the kingdom being there met, His Majesty having declared the danger, they best knowing the estates of all men within the realm, are fittest, by comparing the danger and men's estates together, to proportion the aid accordingly.

And secondly, as they are fittest for the preservation of that fundamental propriety which the subject hath in his lands and goods, because each subject's vote is included in whatsoever is there done; so that it cannot be done otherwise, I shall endeavour to prove to your Lordships both by reason and authority.

My first reason is this, that the Parliament by the law is appointed as the ordinary means for supply upon extraordinary occasions, when the ordinary supplies will not do it. . . .

My second reason is taken from the actions of former Kings in this of the defence.

The aids demanded by them, and granted in Parliament, even for this purpose of the defence, and that in times of imminent danger, are so frequent, that I will spare the citing of any of them; it is rare in a subject, and more in a prince, to ask and take that of gift, which he may and ought to have of right, and that without so much as a *salvo*, or declaration of his right.