Claiming the divine right of kings, English monarch Charles Stuart insisted upon absolute power and meddled in religion once too often. In 1649, a rump faction of Parliament’s House of Commons decided to oust him. They had no legal precedent, but they winged it with a trial, a conviction, and a beheading. When the American founders wrote the Constitution the following century, they studied the story of Charles I.

The concept of divine right was based on the belief that God had anointed a particular family and its heirs to rule a nation. England had been ruled by a succession of dynasties. When Queen Elizabeth I, the Virgin Queen, died in 1603, ending the Tudor dynasty, James VI of Scotland, son of Elizabeth’s enemy, Mary, Queen of Scots, became James I of England, the first Stuart king. Hard-drinking, big-spending, and too fond of his dashing favorite, George Villiers, Duke of Buckingham, James was a learned man who wrote books advancing his argument for absolutism. In 1610, James told Parliament: “The state of monarchy is the supremest thing upon earth. . . . Kings are justly called Gods, for that they exercise a manner or resemblance of divine

In contrast, England’s Parliament had developed its political power incrementally over several centuries. In the Magna Carta, signed by King John I at Runnymede after the barons’ revolt in 1215, the nobles insisted on a government in which no free man should be punished “but by lawful judgment of his peers or by the law of the land.” Parliament, which began in 1295 under Edward I, grew not from lofty principles, but from the monarch’s need for money. The word “parliamentum”—a talking together—had been used for meetings of the Great Council when king, bishops, and barons discussed big issues. The king convened Parliament when he required funds to maintain his household or to finance a war. Parliament remained subservient to the king.

King Edward I began to invite wealthy men from the communities to Parliament, and they later became the House of Commons. As they controlled the purse strings, they expected political power. Much of the country’s wealth was held by gentry surrounded by sheep and by merchants trading in textiles. No one spoke for the tenant farmers who cultivated the land. J. Thorn, R. Lockyer & D. Smith, *A History of England* (1961).

Conflicts emerged during the reign of James I, who had already successfully ruled Scotland and was adamant that Parliament should have no control over his foreign policy. He tried to create a balance of power. The problems were complicated by religion. King Henry VIII had split from the Vatican because of his divorce and established the Church of England. The Reformation swept in from Europe and added Protestants to the mix. James reigned over the kingdoms of Anglican England, Presbyterian Scotland, and Catholic Ireland. Fiercely anti-Catholic, Parliament was furious when James attempted to arrange a marriage between his son, Charles, and the daughter of Philip III of Spain. When that fell through, he managed a marriage between Charles and the Catholic princess Henrietta Maria, daughter of Henry IV of France. James kept the peace, promoted the King James version of the Bible, and died in 1625.

Charles Stuart was 25 years old when he became king. He had been a fragile child with a lingering stammer, but he grew strong and athletic. Edward Hyde, a supporter and historian, described Charles: “He had a tenderness and compassion of nature which restrained him from ever doing a hard-hearted thing.” Charles, a patron of the arts, had his portrait painted by Sir Anthony Van

Raised in the old feudal and social codes, Charles was confronted by a dizzying array of sects and conflicting interests and morals. He was head of the Church of England, but he relaxed penal laws against Catholics and allowed his new queen to practice her religion. Charles became a loving husband and father of six children. No scandal touched him. Poet John Milton said Charles’s only vice was reading too much Shakespeare. But his personal happiness was not reflected in his relationship with Parliament, where sources of contention were religion, money, and the law. C. Carlton, *Charles I* (1941).

Shortly after his succession, Charles opened his first Parliament, which he expected would finance a war against Spain. Commons provided inadequate funding and limited his right to levy tonnage and poundage (export and import duties) to a one-year term. Charles dissolved Parliament two months later. In 1626, after joining with the Duke of Buckingham in an unsuccessful attack on Spain at Cadiz, Charles was almost bankrupt. He called his second Parliament, but it was dissolved after impeaching Buckingham and without voting funds. In 1628, his third Parliament listed its grievances in a Petition of Right, a constitutional landmark. The king could no longer arbitrarily commit his subjects to prison, quarter the military with them, or subject them to martial law. The king also required Parliament’s consent to assess taxes. W.&A. Durant, *The Story of Civilization*, vol. 7 (1961).

Charles, ever wary of relinquishing his authority, reluctantly signed the petition. In return, he expected Commons to vote him money and grant him tonnage and poundage duties. Instead, they voted the Remonstrance, declaring that by collecting duties, Charles had violated the law. Parliament requested the king to dismiss the rash Buckingham. He refused. The issue became moot when an ex-soldier walked 60 miles to London and stabbed Buckingham to death. Commons, dominated by Presbyterians, continued its attack, condemning High Church Arminianism, which asserted that man is saved by good works as well as faith. Instead, Commons promoted the Calvinist doctrine of predestination, which maintained that God had already decided who would be saved and who would be damned.

Charles’s vision of an orderly world coincided with the Arminian view. Alarmed that Catholic monarchies had grasped power
throughout Europe, Commons proposed a strictly Calvinistic interpretation of the Thirty-Nine Articles, the founding statement of the Church of England. Charles insisted on the king’s absolute right to rule. He claimed that the alternative was anarchy, and he ordered Parliament to adjourn. Parliament refused until the king’s troops approached. Charles ordered nine members imprisoned for sedition. Thorn, Lockyer & Smith, supra; J.N. Larned, A History of England (1900).

In 1629, Charles dissolved Parliament and ruled as an absolute monarch for 11 years. During this period, he took advantage of the undefined term “taxes” in the petition and levied tonnage and poundage on shippers without Parliament’s consent. He extended a ship money tax to inland areas, convened the court of Star Chamber for non-jury trials to punish his enemies, and imposed enormous fines. Yet the 1630s were peaceful, and the arts flourished. Architect Inigo Jones built the Banqueting House in Whitehall, where the ceiling was decorated by Rubens. In the distance was civil war and Charles’s death outside this magnificent structure. E.W. Knappman, ed., Great World Trials (1997).

Religion continued to be the most explosive issue. Charles supported the Anglican bishops, but Parliament was afraid that under William Laud, archbishop of Canterbury, the Church of England was growing closer to its Roman Catholic roots. Laud, with Charles’s support, began imposing a standard plan of worship on the clergy. Puritans who had simplified the ceremonies and decor were taken to court, while the Star Chamber punished those who distributed Puritan tracts. Many Puritans emigrated to settlements in New England.

Laud also attempted to bring the Scottish church under his control. In July 1637, Charles’s insistence on forcing a new Anglicized prayer book on the Scottish Presbyterian kirk caused riots in Edinburgh. Although Charles abandoned the prayer book, thousands of Scots signed a National Covenant to defend the Presbyterian faith. The Scots demanded an ouster of bishops, but Charles refused. His father had said, “No bishop, no throne.” Their support was essential. The Scots took up arms. Queen Henrietta Maria, later, as an exiled widow in France, realized that Laud’s actions had led to civil war and referred to “that fatal book.” Carlton, supra; B. Axner & E. Sagarin, World’s Great Trials (1985).

In 1640, the “Short Parliament” was called by Charles, who hoped Commons would help subdue the Scots. John Pym, who
controlled Commons, smothered that hope, and Parliament was dissolved. Charles summoned the English peers, who reluctantly provided a motley army. The Scots easily won at Newburn and marched into England. Charles agreed to an armistice in which the Scottish troops would occupy England’s northern counties and be paid 860 pounds per day until a peace treaty was signed. Charles was humiliated. J. Miller, *The Stuarts* (2004).

The fifth, or “Long Parliament,” met in November and forced the king to agree that the Parliament could not be dissolved without its consent. Commons had ensured its future. Pym, leading extremists including Oliver Cromwell, made a list of complaints against Charles—a Grand Remonstrance—and attacked the Anglican Church. That was too much for moderates. Led by Edward Hyde, they fought passage of the bill because they believed it would transfer executive power to Parliament and leave the king impotent. Cromwell later said that if the bill had failed, he would have taken a ship to America. But Pym won by 11 votes and introduced a militia bill, giving Parliament control of army appointments. The conflict between king and Parliament reached a crisis in 1642 when Charles forced his way into Commons in a vain attempt to arrest five members, including Pym, accusing them of treason. Charles resolved to fight. He thought he could rally most of the peers and a third of Commons. Thorn, Lockyer & Smith, *supra*; Durant, *supra*.

**Civil War**

In August 1642, civil war broke out at Nottingham between the Royalists, known as Cavaliers, and the Parliamentarians, called Roundheads. Cromwell convinced Parliament to pass a “Self-Denying Ordinance” in which all members, including lords, gave up their commissions. The superior New Model army was created. It was commanded by Thomas Fairfax. Cromwell was second in command. The New Model defeated the main royal army at Naseby in 1645. Fairfax and Cromwell removed pockets of resistance in country houses. At Basing House, Cromwell battered the walls with cannons. The army removed its treasures and took the clothes from 70-year-old Inigo Jones, leaving him only a blanket. It was the end of Cavalier England. Thorn, Lockyer & Smith, *supra*.

Charles was tossed like a hot potato from one side to another. He surrendered to the Scots in 1646, ending the first civil war. He attempted to negotiate with his fellow countrymen. The Scots offered help if he would sign the Presbyterian Covenant and make
the Presbyterian Church compulsory throughout Britain. Charles refused. Parliament paid the Scots to return home, and they delivered Charles as a prisoner to English commissioners. The Presbyterian majority in Parliament, who felt threatened that the Independents (Puritans) controlled the army, hastily negotiated with the king in 1645. They almost reached an agreement to restore him if he accepted the Presbyterian Covenant for a three-year period.

It was too late. The New Model army was owed back pay and refused to disband. Cromwell ordered Charles to be taken to army headquarters. The army formed a Grand Council composed of officers and men. It claimed to speak for the English people. But the army was divided. Most officers, led by Cromwell, who came from a comfortable background, wanted to improve the traditional English government. Some officers and most men, a group called Levelers, wanted to remove the king and the House of Lords and give every man a right to vote. Cromwell quieted the dissenters. In August, the troops entered London, bringing Charles with them. Cromwell maintained order in the city. Thorn, Lockyer & Smith, supra.

Charles escaped to the Isle of Wight, where Scottish commissioners secretly promised him an army if he would adopt the Presbyterian faith and suppress other religions. They would accept Charles’s offer of a three-year trial period. Parliament was alarmed when it saw itself subordinated to Scotland and quickly made peace with Cromwell. Charles was again taken prisoner by the army on December 1, 1648, after the army had subdued some local revolts in the “second civil war” and Cromwell’s force had crushed the Scots. Some army leaders vowed that it was their duty to call Charles Stuart to account for the bloodshed.

The plot twisted and turned. Parliament, saved from the Scots by the army, now attempted to free itself of the army by reopening negotiations with Charles. Presbyterian success was unacceptable to the Puritans. Early in December, Cromwell ordered Colonel Thomas Pride and a file of musketeers to purge the Presbyterian and Royalist members from Commons. He arrested about 40 members of Parliament and kept out about 60. Many members protested by staying away. A minority, mostly Puritan Independents, remained. This small group was disparagingly called the Rump, but it claimed the full authority of Parliament. Larned, supra; Thorn, Lockyer and Smith, supra; Durant, supra; Miller, supra.
The Rump passed an ordinance accusing the king of treason. Three judges and 135 commissioners were appointed to try Charles. The commission was composed of Parliament members, army officers, aldermen, and county gentlemen. On January 1, 1649, the House of Lords, with twelve members voting, rejected the ordinance. Five days later, in a close vote, Commons approved an Ordinance for Trial. The three judges refused to participate.

One commissioner told Cromwell that they had no legal authority to try the king. Cromwell lost patience. “I tell you,” he replied, “we will cut off his head with the crown upon it.” The army tried once more to avoid regicide. They offered to acquit Charles if he would sell the bishops’ lands and give up the power to veto parliamentary ordinances. Charles refused, saying he had sworn to be faithful to the Church of England. Edwards, supra; Durant, supra.

Trial

On Saturday afternoon, January 20, 1649, the trial began. Charles was arraigned for committing treason. It was the only time in history that a king of England was publicly tried by his subjects. Only 67 of the commissioners sat as judges. John Bradshaw, an obscure lawyer, became lord president. Bradshaw spoke directly to the king and read the indictment:

Charles Stuart, King of England, the Commons in England assembled in Parliament, being sensible of the evils and calamities that have been brought upon this nation and of the innocent blood that hath been shed in it, have resolved to make inquisition for this blood, and according to the debt they owe to God, to Justice, the kingdom and themselves, and according to that fundamental power that is vested, and trust reposed in them by the People (other means failing through your default) have resolved to bring you to trial and judgment, and have therefore constituted this high court of justice....Where you are to hear your charge, upon which the court will proceed according to justice.

As John Cook, the acting attorney general and prosecutor, showed the charge to the court and spectators, the king tapped Cook with his cane and said, “Hold.” Bradshaw answered, “The court commands the charge shall be read: if you have anything to say, after, the court will hear you.” Cook continued: “High Treason
and other High Crimes . . . for and on behalf of the people of England against Charles Stuart, King of England." He passed the charge to the court clerk.

Cook continued: “The king has attempted . . . to erect and uphold in himself an unlimited and tyrannical power, to rule according to his will and to overthrow the rights and liberties of the people . . . and hath traitorously and maliciously levied war against the present Parliament and the people therein represented.” Charles was accused of causing the civil wars in which “much innocent blood of the free people of this nation hath been spilt, many families have been undone, the public treasure wasted and exhausted, trade destructed and miserably decayed, vast expense to the nation incurred and many parts of the land spoiled, some of them even to desolation.”

The king was charged as a tyrant, traitor, murderer, and public and implacable enemy to the Commonwealth of England. Charles laughed at this accusation. He represented himself and attacked the court’s jurisdiction. Charles reminded Parliament that the English monarchy was not elective but hereditary for a thousand years. He said, “I will stand for the privilege of the Commons, rightly understood, as any man whatsoever. . . . I see no House of Lords here that may constitute a Parliament.” Charles was unyielding: “I am your king. . . . I have a trust committed to me by God, by old and lawful descent. I will not betray that trust to answer to a new unlawful authority. I stand more for the liberty of my people than any here that sitteth to be my judge.”

Charles’s position never changed. Each day he appeared alone, adamant in his defense that he ruled by divine right. As king, he was above the law. Charles claimed the court’s authority rested only on force, and if he, as king, submitted. “I do not know what subject . . . can be sure of his life or anything he calls his own. . . . I do plead for the liberties of the people of England.”

Divine right was explained by Henry of Bracton, an English judge, who wrote that English monarchs were anointed with holy oils by the archbishop of Canterbury, ordaining them to monarchy. Bracton referred to the earlier writings of Augustine of Hippo and Paul of Tarsus. Charles’s claim to absolute power was bolstered by the philosophy of Thomas Hobbes. Henry of Bracton, On the Laws and Customs of England (c. 1265); T. Hobbes, Leviathan (1651); B. Russell, A History of Western Philosophy (1945).

It became obvious that Charles would never accept Parliament’s
jurisdiction, and the trial proceeded. The prosecution presented witnesses who testified that Charles had acted against the interests of the English people. On January 29, Charles, convicted as a tyrant and enemy of the nation, was sentenced to death by “severing his head from his body.” After sentence was passed, Charles wanted to speak, but Bradshaw ordered guards to remove him. “I am not suffered to speak,” Charles commented. “Expect what justice other people will have.” Edwards, supra; Thorn, Lockyer & Smith, supra.

The next day, Tuesday, January 30, 1649, Charles was taken to a scaffold covered in black cloth built outside his own Banqueting Hall at Whitehall. He spoke to the crowd: “For the people... truly I desire their liberty and freedom as much as anybody... but I must tell you that their liberty and freedom consist in having of government—those laws by which their lives and goods may be most their own. It is not for having a share in government... that is nothing pertaining to them. A subject and a sovereign are clean different things.” He placed himself in an appropriate position so the executioner could strike his neck and sever his head with one blow, and he indicated by stretching out his hands that he was ready. After his death, his body lay at St. James Palace until he was buried at St. George’s Chapel, Windsor, on February 7. Charles I’s trial marked the end of unchallenged absolute monarchy.

Afterword

On February 5, 1649, the Scots proclaimed Charles I’s son, the Prince of Wales, as King Charles II. Unlike his father, Charles II took the covenant of the reformed Calvinistic Kirk of Scotland. In March, Commons abolished the monarchy and the House of Lords. It declared a commonwealth, a republic governed by a Council of State. John Milton was the Latin (foreign) secretary.

In 1650, Cromwell, who became lord general, led a successful invasion of Scotland, and the next year, he defeated Charles II and his forces at Worcester. Charles II escaped to France. Cromwell’s military success was blemished by massacres of Catholic rebels in Ireland. Cromwell believed in religious liberty only for the “godly.” In December 1653, Cromwell established a protectorate that remained in place until his death in 1658, when his son Richard, known as “Tumble-down Dick,” became protector. Richard was weak, and when the monarchy was restored in 1660, Charles II became king. R. Kee, The Green Flag, The Most Distressful Country (1972); Edwards, supra.
Although Charles II called for pardons, reprisals occurred. Cromwell’s body was exhumed, decapitated, and his skull was set on a spike. The Anglican Church was restored. Monarchs might continue to believe in divine right, but they owed their position to Parliament. Charles II, who had many mistresses but no heir, ruled until 1685.

His brother, the Catholic James II, succeeded him. Three years later, after Protestant leaders invited William of Orange to invade England, James II was allowed to escape to France. William’s mother was Charles I’s daughter, Mary, and William’s wife, also named Mary, was a Protestant daughter of James II, so the kingdom remained linked to the family when King William III and Queen Mary II agreed in 1689 to rule as constitutional monarchs.

During this Glorious Revolution, Parliament’s authority increased dramatically. The Habeas Corpus Act had been passed in 1679. Parliament passed the 1689 Bill of Rights, limiting the power of the Crown. Catholics were barred from the throne. A Toleration Act permitted Non-Conformists to hold services, and Catholics were denied freedom of worship but were no longer prosecuted. Non-Conformists and Catholics were banned from public service. Edwards, supra; Thorn, Lockyer & Smith, supra; N. Cantor, *Imagining the Law* (1997).

William III died in 1702 after he was thrown by his horse, and James II’s daughter, Anne, an Anglican, became the final Stuart monarch. At the time of her death in 1714, property owners dominated Parliament, religious fervor had diminished, and the eighteenth century was becoming the Age of Reason. Miller, supra.

The eighteenth century also brought the American Revolution. Following the Declaration of Independence in 1776, the nation’s founders created a government informed by their knowledge of English history. They protected individual freedom with constitutional safeguards such as habeas corpus, and they ensured the separation of church and state through the establishment clause of the First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the full exercise thereof.” The phrase “a hedge or wall of separation” was first used by Roger Williams, founder of the Rhode Island Colony. It was popularized by Thomas Jefferson. A.R. Amar, *America’s Constitution* (2005).

Parliament was a blueprint for the two houses of Congress. The Constitution stated that the members of Congress would
meet annually, be elected for fixed terms, and be paid from the national treasury. Congress would decide where to locate the permanent national district. The powers of the legislative branch, the executive branch, and the federal courts were separated into Articles I, II, and III.

English common law contained no mechanism for removing a monarch, but the Constitution provided for a president to be impeached. By a majority vote, the House of Representatives, acting as a special grand jury, could impeach the president “for treason, bribery and other high crimes and misdemeanors.” The Senate was empowered to try an impeached defendant with the chief justice presiding. President Andrew Johnson was impeached in 1868, as was President Bill Clinton in 1998, but both were acquitted. Neither was in danger of losing his head.