

Charles I and the Theory of the
Divine Right of Kings

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Chapter 1.

The course of the life of Charles I of England leading to his death on the scaffold in 1649 is indicative of the importance of political theory in the lives of men. Acceptance of a theory gives a man a place to stand, a point of reference, a structure to which he can fit the values that he instinctively holds as good. Charles' whole life was directed to the theory of Divine Right. The king's training, education, religion, and temperament all prepared him for a system wherein he himself was the divinely appointed ultimate authority responsible only to God. Charles held this belief with every fiber of his being, and no martyr ever more willingly chose death rather than compromise his principles in any way.

That Charles failed points up another important fact about political theory. Theories result from interpretations of facts, and such interpretations can distort the facts. Both Charles I and his contemporary in France, Louis XIII, believed in the Divine Right of kings. But these two monarchs stood at the end of two different historical traditions. France's history could be traced through generations of able monarchs and ministers who skillfully strengthened the central power at the expense of all other forces in the kingdom. France was prepared and conditioned to accept absolutist rule.

England was not. King John's thirteenth-century tyranny had led to the Magna Carta which placed royal approval on the

idea of a definite order and limit in government.¹ This order received the support of several centuries of historical practice before the Stuarts came to the throne with their absolutist pretensions. Charles faced dedicated men unwilling to admit his claims and capable of using the tradition of constitutionalism as a weapon to crush the Divine Right monarchy in England.

Charles failed to appreciate the fact that his political beliefs were no longer valid in seventeenth-century England. The king did not appreciate that his claim to be responsible to God alone was meaningless to men to whom misrule meant ruin. His claim to be the sole interpreter of Church doctrine was abhorrent to men whose whole religious experience was different from his own. Charles' devoted belief in the correctness of his claims blinded him to the facts of contemporary political life and led to the tragedy of the Civil War. The king's actions through war, captivity, trial, and death are comprehensible only when viewed as results of his political faith.

THE EUROPEAN EXPERIENCE

The theory of the Divine right of kings was not always the discredited relic it is today. There was a time when it was the most clearly thought out, firmly based, and strongly supported theory of civil government. Its adherents believed that it was rooted in the nature of man and the will of God

and drew their support from history, Thomas Aquinas, and the Scriptures. The origins of the theory lie in the period when Christianity dominated men's lives and thought more than it ever has since. Politics could not be thought of apart from theology. Whatever form of rule a political thinker proposed he had to bring forth some sign or indication of divine approbation for it. It is not unnatural, therefore, that a theory of government that seemed most like God's own government of the universe should attain such a high place in the middle ages and the centuries immediately following.

The immediate roots of the Divine Right theory lay in the ideal of Holy Roman Empire. This vast theocracy was Christendom's way of realizing the rule of Christ on earth. In fact, Christ was regarded as the only true head of the empire. He was the ultimate ruler on whose authority all other lesser power was based. Under Christ, there stood the two chief executors of His will: the Pope and the emperor. In the idealized Empire, these men were conceived of as administrators of a power that came down to them from above, rather than exercisers of ultimate power of their own.² The sovereignty of the world was divided between them. The Pope was supreme in all matters concerning the doctrine and administration of the Christian Church. His divine appointment and office were obvious. The emperor was supreme in temporal matters to keep peace and protect the Church. That his office was

also of divine origin was accepted by the Popes themselves and emphasized by the anointing of the emperor with sacred oil.³ The Pope and the emperor were ideally the co-equal vice-regents of Christ's own kingdom on earth.

But ideals are shortlived at best. The awareness of the immediacy of Christ's participation in the Empire was quickly lost. With this vital keystone gone, each of the recognized supreme authorities began to assert claims of complete independence and authority. First papal claims based upon the Pope's spiritual position in a Christian world, asserted his supremacy in all matters due to His obviously divine office. This was met by imperial claims for absolute supremacy also based on God's direct appointment.⁴

The papal position centered on the superiority of spiritual over temporal concerns in the Christian world which should be a type of the kingdom of God. In the Old Law, earthly goods were promised to the chosen people, and so the kings had been supreme over the priests. But the coming of Christ had changed this. The heavenly and spiritual orientation of Christianity raised the nature of its priesthood to a higher level than that of the old Jewish tradition. The new priests, especially the Pope, were superior to all in this spirit-centered world; even kings were their subjects.⁵ On this premise the Popes rested their case for final authority in all matters temporal and spiritual.

The emperor had a less obviously spiritual office, and developing a theologically-centered argument for his supremacy required more subtlety. One manner of argument that seemed to accomplish this was adopted by an anonymous Norman writer of the twelfth century. He took both emperor and the Pope as being image of Christ in the offices they performed. The Pope acted in the image of Christ the Priest, and hence of the human nature of Christ. On the other hand, the emperor acted in the image of Christ the King, or in the divine nature of Christ.⁶ Thus the imperial office was superior to the papal as the divine nature of Christ was superior to the human.

But in the long run, the only importance of the imperialist writers was to supply supporting theory to the rulers of the developing national states. Though the emperor might from time to time gain a momentary advantage, he could never hope to do battle on truly equal terms. The stakes, the supremacy of Christendom, were just too high. The papal head of the Catholic Church securely held a recognized, centuries-old position of spiritual and temporal authority reinforced time and again by the emperors themselves. According to most men's memory, the Pope had made the emperor and first bestowed the crown. Emperors came and went, but the papacy, far more sacred and important than the individual who occupied it,

remained. The German emperor, still very much dependent upon the electors and papal sanctions, played no real part in the practical development of the theory of Divine Right.⁷

But the arguments of the emperor's supporters were very important to the kings of the developing states from the twelfth century on. The national kings had two distinct advantages over the emperor. First of all their goals were much more limited. They abandoned unrealistic ideals of world supremacy for the tangible reality of more limited but more real power. The national kings sought supremacy only within their own state and so had a better opportunity of enforcing their will.

The King's second advantage lay in the nature of this social unit they sought to dominate. The new kingdoms of Europe were the secular foundations of the modern nations. Nationalism developed rapidly after the eleventh century giving to each national people a sense of its solidarity of character and purpose and a resentment of foreign influences including papal. This solidarity came to be expressed in the king. So when the peoples of the national states faced two authorities, pope and king, claiming unlimited allegiance they tended to offer their first allegiance to the king for the sake of the political union.⁸

So we see that the first importance of the Divine Right theory lay in its theoretical justifications of the rejection

of papal claims to universal jurisdiction which threatened to stifle the national states into a narrow code of Italian and Papal-dominated life and politics directed by the inquisitor.⁹ This can be very clearly seen in English history in the steady march away from John's crafty submission to the papacy (1213) through Edward III's refusal of the papal authority (1336). The Tudors slashed the last bonds of foreign control and secured all authority, secular and religious, in the crown (1529-34). Charles I culminated this tradition in England dying rather than accepting any superior other than God. But Charles died at the hands of internal national forces for his internal policies and claims. An understanding of these claims necessitates a study of the particularly English history of the Divine Right.

THE ENGLISH EXPERIENCE

The first germ of the theory of Divine Right appeared in England, as elsewhere, in the claims of tribal chieftans to divine parentage.¹⁰ The kings of the emerging tribal groups found it useful to strengthen their authority by claiming direct descent from Wodin. Thus they added a sort of supernatural sanction to their rule and placed new bonds of loyalty on their subjects. When Christianity made such claims impossible, the rulers began to seek a divine backing through the idea of divine call. God had specially chosen the king to protect and rule the people. Kings as early as Offa of

Mercia (d. 796) called himself, "Dei Gratia Rex Merciorum."¹¹

But it must be remembered that this is only the simplest seed of the theory of divine right as held by Charles I. The rulers of the early Anglo-Saxon principalities neither held nor sought anything resembling the power exercised and claimed by the king of a mighty nation state in the seventeenth century. The early kings were regarded more as national representatives around whom the nation rallied to oppose outside forces rather than as the centers of national authority.

The seeds of change were sown by the Norman Conquest. The very pragmatic step of the Conqueror in compelling all landholders to swear fealty to himself directly and solely (thus making their tenure legally dependent upon continued service to himself) was rich in its implications for the future of the theory of kingship. This action led to the conception of territorial sovereignty of the crown as well as the passage of the crown by primogeniture, or leaving the entire fief to the first born son. These two ideas are very much inter-related and share a great importance for the development of Divine Right Theory.

The oath of the landholders directly to the king made him in feudal law the supreme landholder as well as a symbol of national unity. All land was his, and those who used it did so only by his leave and favor.¹² All England was, in theory

at least, a royal estate with every Englishman directly subservient to the estate owner, the king, owing to him the obedience of a serf to his lord.

The concept of England as a private estate naturally made it subject to the developing laws regarding the inheritance of fiefs. At the time of the Conquest, the large landholders were already realizing the impracticability of the system that divided a man's holdings among his heirs rather than maintaining them intact under a single heir. More and more the advantage of the latter system won adherents for the practice of primogeniture. This law came by natural extension and the conqueror's oath to apply to the crown as the greatest of fiefs. At about the same time, the kings (principally Edward I, 1239-1307) managed to rid themselves entirely of even the formality of an interregnum and election. The two principles of heredity and primogeniture merged to definitely set the line of future descent of the crown. By the beginning of the fourteenth century, the crown had become a birthright.¹³

In the fifteenth century, the War of the Roses brought confusion. Bosworth Field gave the throne to an adventurer, Henry Tudor, whose claims of hereditary right was secondary to his military dominance. Still Henry VII did have some vague claim, and by his marriage to Elizabeth of York, he united the major claims to the throne and so secured the hereditary title for his dynasty.

The principle of hereditary succession was very important to the Stuart kings. Their sole claim to the throne rested on their descent from Henry VII. James I was not English but Scottisch, and he never saw England until his triumphal entrance in 1603. He had even been barred from the throne by two acts of Parliament. Still he came peacefully and was welcomed solely because of his royal descent.¹⁴ This descent, an act of God, was alone responsible for placing James on the throne. It is not strange, therefore, that James' son would carry this to its natural conclusion and claim that, in turn, the king was responsible only to God.

Chapter 2

The theory of the Divine Right of Kings in its most complete form involves the following propositions: (1) Monarchy in a divinely ordained institution, (2) Hereditary right is indefeasible, (3) Kings are accountable to God alone, (4) Non-resistance and passive obedience are enjoined by God.¹ For purposes of investigation, these four propositions can be divided by twos. The first two statements are concerned with the source and justification of monarchial authority. They express the nature of the power of the king and the manner in which it came to him. Propositions three and four deal with the exercise of this power, showing the extent of the power and how it relates to other men. The first two propositions will be developed in this chapter, the other two in the following final chapter.

The king's power did not originate in himself. It was given to him by God who ultimately held all power over the universe. At various times and to various people, God delegated some vestiges of his power that men might have the proper authority to do God's work on earth. God gave authority to parents that they might raise their children. He gave authority to priests that they might lead the people in worship and prayer. All legitimate authority could ultimately be traced to the hand of God. The highest authority that God gave to man was that which he gave to the king. The king was God's "vice-regent

on earth and so adorned and furnished with some sparkles of Divinitie."² The monarch was God's most immediate lieutenant here below and sat upon God's throne to be a guide and protection to the people committed to him. His authority was derived from God and, was as extensive, in his realm, as God's own.

That God should so trust the ruling of His world to a single man seemed only natural and necessary to the heirs of the medieval and imperial traditions where monarchy was the accepted form of government and where it was unquestioned by any political thinker of contemporary repute.

It must be remembered that the ideas of the political philosophers were not developed in a vacuum. Thinkers such as Robert Filmer³ contended that kingship was accepted as divinely ordained because it was the most natural form of government and must therefore originate in God as the author of nature.⁴ Men accepted for centuries the view of St. Thomas Aquinas and his successors that in any multiplicity of things there must be a governing principle guiding them to their end and purpose.⁵ This was as true of the state as any other multiplicity.

The welfare and safety of a multitude formed into a society lies in the preservation of its unity, which is called peace.... The more efficacious a government is in keeping the unity of peace, the more useful it will be.... It is manifest that what is itself one can more efficaciously bring about unity than several.... Therefore the rule of one man is more useful than the rule of many.⁶

The peace and survival of a society, therefore, depended upon some ultimate singular authority to settle dissension within society and to guide it as a unit in relations with external force. In the theory of Divine Right, this authority was the king. Charles saw himself as ruling the people as a shepherd and guide. All England and every Englishmen submitted to his care that he might preserve internal peace and protect the nation from external aggression. The safety of English society lay in acceptance of his unique authority. The statement, "A Subject and a Sovereign, are clean different things,"⁷ expresses powerfully Charles' conviction that he was apart from the people to establish peace and unity by his all-embracing authority. Men needed to accept the distinction between king and people. He must rule; they must be ruled. The only alternative to this situation was chaos and anarchy.

Charles' sovereignty was for him an article of faith. God had entrusted him with power that was sacred and decreed the safety of the people lay in his will.⁸ Charles could even cite instances where God had shown his closeness to and approval of the king. For instance, during his captivity at Newport in 1648, the country people maintained the custom of bringing their children to him to be exposed to the healing royal touch.

One girl, blind in one eye, on whom he laid his hand, cried out that her eye was restored. Experiments with a candle showed that indeed, to a certain extent, it was. The king maintained his habitual restraint, but was visibly moved by the incident.⁹

God's signs of approval were seldom so dramatic, but they could easily be found in Charlemagne's historical mission or David's biblical life. The definition that the Convocation of Clergy of 1640 assigned to be read once each quarter by every clergyman offers an excellent summary of Charles' view of his position.

The most high and sacred order of kings is of divine right, being the ordinance of God Himself, founded in the prime laws of nature, and clearly established by express texts both of the Old and New Testaments. A supreme power is given to this most excellent order by God Himself in the Scriptures, which is, that kings should rule and command in their several dominions all persons of what rank or estate soever.¹⁰

So magnificent was the king in his God-given powers that, at various times in the development of Divine Rights theory, he was recognized as a dual person. In his natural person, the king was a normal human being like any other. But upon this natural person, God's grace imposed another person superior to all others. It was by this grace, which resulted almost in a deification, that the king ruled.¹¹ It was to this power, rather than to the individual man, that subjects owed worshipful obedience. But that there could be any distinction between the two persons in the king, between the individual and the power (as Parliament was to claim), had

been condemned by the courts as early as the fourteenth century.¹² In this line of thought, Parliament's contention that it fought the king's person only in defense of his throne was merely a fabrication.

The Divine Right theorists saw the state as a patriarchy. In this view, they traced arguments to Genesis and professed to find there support for the king as a familial ruler with patriarchal authority. "If Adam himself were still living and now ready to die, it is certain there is one man, and but one in the world that is next heir, although the knowledge who should be that one man be quite lost."¹³ The knowledge is in fact lost beyond hope of recall, as Filmer admits. In the situation, all that can be salvaged is the principle that possession gives the best right where there is no better found.¹⁴ Thus the possessor of the throne could be seen to rule in the place of the elder son of Adam, the father of all men.

Possession alone, however did not make a king. Charles I refused to yield his claims even after his royal power had ceased to carry meaningful authority, and in a practical way, he no longer possessed the throne.¹⁵ Charles saw himself as committed to an ancient and lawful trust that had come down to him through the generations of his fathers. His power had no basis other than his royal birth. No one was responsible for granting him the throne but only God. The passage of the

throne by hereditary succession was intimately bound into the Divine Right of Kings, so that neither could stand without the other.

Ultimately, the indefeasibility of hereditary right can be traced to a Christian attitude expressed by St. Paul in First Corinthians: "I am what I am by God's grace." Removed from its original context of Paul's thanksgiving for his Christianity, this statement was frequently used by Church and state to justify the existing order. God had set up the order of things, and it was maintained by His will. It was sinful to attempt to upset the conditions of the world. Thorndike declared in his authoritative exposition of Anglican views, Laws of the Church (1641) that Christianity obliged superior and inferior to maintain the relations in which they found themselves.¹⁶

The birth of an heir to the throne was seen as a judgement of God. This child, by virtue of the fact that he was born a king's son, was chosen by God to one day sit on the throne and guide God's people in justice and peace. That only God could make an heir was a legal maxim of inheritance from the thirteenth century on.¹⁷ Eventually birth came to be the only path to the throne. No king felt secure unless the crown had come to him by unquestioned birthright. That the usurper Henry IV should strengthen his claim to the throne with the tale that his ancestor Edmund Crouchback was older than his

brother Edward I, when this was known to be false, demonstrated the devotion to legitism even in the fourteenth century.¹⁸

The importance of hereditary right to the Stuarts has already been noted above. Descent was the only force capable of raising the Scottish Stuarts to the English Tudor throne. Faith in legitimism was strengthened early in the dynasty when Justice Coke issued a decision (Calvin's Case, 1609) stating that the king held the kingdom " by birth-right inherent " and that the title came to him by descent from the blood royal. No ceremony of crowning or popular consent had any real meaning or effect upon the king's claim. Coronation was " but a royal ornament and a solemnization of the royal descent, but no part of the title. " ¹⁹

Charles had unquestioning faith in the legitimacy and necessity of hereditary succession. He saw it as the force responsible for his own kingship and the only rightful path to the throne. His concern is reflected in his messages to his children before his death referring to the passage of the crown after him. Charles attempted to smooth James's jealousy by telling him that the prince of Wales was no longer his brother only, but now his sovereign was well.²⁰ The king's words to the eight year old Duke of Gloucester, then in the control of Parliament, show even more powerfully his concern with the passage of the crown.

Mark, child, what I say, they will cut off my head, and perhaps make thee a king: but Mark what I say, you must not be a king so long as your brothers Charles and James do live; for they will cut off your brothers' heads (when they can catch them) and cut off your head too, at last, and therefore I charge you, do not be made a king by them.²¹

The boy's answer that he would be torn to pieces first greatly pleased the doomed king. For Charles I believed that his oldest son would never yield his right to the throne. Indeed, he should not. So until Charles II was recognized and accepted as the rightful king, there was no hope for true peace in England. There should not be. For only under the God-appointed king could there be true government.

This was Charles I's belief about his office and person. God had decreed that a king should be the absolute ruler of the people and exercise a power second only to God's own. God had shown by means of royal birth that Charles Stuart was the man chosen to fill this position of ruler. Charles was willing to die for this belief. He was also willing to lead other men to death and England into destruction because of this belief. Charles saw himself as the divinely ordained guardian of the English Church and English constitution against iconoclastic Puritans and anarchist Parliaments.²² The king was the true defender of established doctrine and of the liberties of his subjects. Charles said on trial, "I have a trust committed to me by God, by old and lawful descent; I will not betray it!"²³ Apart from the king, Church and constitu-

tion, doctrine and liberty could not be maintained. The king was justified in taking whatever action, even civil war, was necessary to defend himself and his rights. In doing so, he was defending the kingdom and its people. It is only with this in mind that the devious, trecherous, bloody course of Charles's action in the Civil War and his captivity can be understood.

Chapter 3

Having considered the source of Charles' power, we now move on to a consideration of the exercise of that power and the king's responsibility for that exercise. The use of the royal authority can best be studied in three areas: the Church which was the strongest and most consistent upholder of Divine Right: the Parliament which was the main ground of opposition to the king: and the courts which were the king's principle instruments of his justice.

In the general theory of the Divine Right of Kings, no person in the kingdom was excepted from royal authority. The entire kingdom was entrusted to the king's rule which meant that both laity and clergy were his subjects. Government necessarily included regulations concerning Christian interests, including first the appointment of clerical officers and eventually, interventions in doctrine.¹

This was especially true in seventeenth century England where, in the previous century, the Tudors had succeeded in completely subordinating the Church to the secular power.² All foreign power, international influences were excluded. The English Church became the Church exclusively of England and Englishmen, subject solely and completely to the English crown. The king, though neither priest nor bishop, was by his peculiar divine appointment the protector and ruler of the Church on earth. All ecclesiastical offices were at the crown's disposal since divine grace gave the king a superior

judgement of men. That same grace gave him the discernment that made him guard and judge of true doctrine.

Charles' father, James I, had a particular pride in the ecclesiastical position in England largely because of his unfortunate earlier experiences with Scottish Presbyterianism. James' championing of the Anglican bishops built a bond of mutual dependence between the crown and the episcopacy that was summed up by James himself in "No bishop, no king."³ Stuart devotion to the Church of England is easy to understand when one notices that the Anglican hierarchy was the only substantial force in the kingdom that James and Charles could consistently expect to support them.

Charles' view of his ecclesiastical supremacy is demonstrated by the affair of Dr. Montagu.⁴ When this minister's pamphlet, "A New Gag for an Old Goose" (1624), was judged to express popish tendencies, he was sent home to reconsider his views. When consideration only hardened his convictions, Montagu wrote "Appello Caesarem" (1625) which expressed more definitely the same views as his previous work. Charles' first Parliament (1625) summoned him to its bar for trial.⁵

Charles intervened at this point in his role as guardian of doctrine which as king he was duty-bound to uphold. The difficulty was that Charles believed himself to be the sole true judge of right doctrine.⁶ Charles backed Montagu's position and made him one of his own chaplains. The king then informed

Parliament that they were no longer to concern themselves with the matter since he had taken it into his own hands.⁷ Parliament attempted to pursue the case but could make no headway against the royal position. In 1628, Charles made Montagu the Bishop of Chichester.

By such action, Charles cemented the bond between the crown and the Arminian movement⁸ which had first been formed in his father's time. This movement, while rejecting Papal supremacy, placed great emphasis on the age-old hierarchy and ceremonies. Charles felt that the Anglican Church alone preserved the true doctrines and traditions of apostolic times and so was naturally drawn to the High Church. The king felt that the new Puritan tendencies of freedom of doctrine, simplification of rites, and weakening of hierarchical discipline had to be suppressed in the interests of true Christianity. This was one of the two main sources of his troubles with Parliament.

Charles' experience with Parliament was bad from the beginning. The twin problems of taxation and religion poisoned all attempts at cooperation. Until 1640, the king was able to maintain his domination only by prorogation and dissolution. After the Long Parliament assembled, political circumstances robbed him even of that weapon.⁹ The king was left with no power to subdue Parliament except force of arms.

Charles saw this situation as the result of Parliament's

attempts to usurp powers that did not belong to it. In Charles' theory of Divine Right, all power resided in the king. The Parliament existed only as a consulting body and a vehicle for popular expressions of consent to the royal will. Parliament was not, as James informed its members in 1606, "a place for every for every rash and harebrained fellow to propose new laws of his own invention."¹⁰ Charles added in proroguing Parliament in 1628, "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."¹¹

The king and Parliament clashed first over ministerial responsibility, particularly in the case of the Duke of Buckingham. Parliament disapproved of the Duke and his policies and made this known time and again. Until the Duke's death, Parliament was willing to attempt any line of attack to gain some measure of control over his actions. Charles could not tolerate this. The Duke was his servant and according to prevailing constitutional theory and a hundred years of precedent, was responsible to the king alone.¹²

One office where this stands out due to a shift in the direction of responsibility under Charles was that of the Speaker of the House of Commons. At the beginning of Charles' reign, the Speaker, who presided over the Commons' debates, was a royal agent charged with managing the king's business

in the Commons, as the Lord Chancellor did in the Lords. This accorded with Charles' concept of Parliament as a consultative body. So in 1629, when Charles ordered Parliament to adjourn in order to stop its ecclesiastical interference, Speaker Finch had to be forcibly restrained from carrying out the king's order.¹³ By the time of the Long Parliament, things had changed. Parliament had ceased to think of itself as consultative and now felt itself to be a legal force separate from the king. So when Charles made his famous raid to attempt the arrest of the Five Members¹⁴ in defense of his threatened prerogative, Speaker Lenthall answered the king's inquiry, " May it please your Majesty, I have neither eyes to see nor tongue to speak in this place but as this House is pleased to direct me, whose servant I am here."¹⁵ Not just a few rebels, but the whole spirit of the Commons had moved from a Divine Right to a constitutionalist position.

Another area of conflict between king and Parliament was taxation. For several centuries, Parliament had been given the right to levy taxes.¹⁶ Due to either the skill of the ruler or the compliancy of Parliament, this did not cause any unsurmountable problems before 1603. But Stuart extravagance and the rising cost of running a nation-state demanded more than Parliament was willing to give. This was especially true when Parliament began to realize that it could use its financial rights to gain a more effective position in

in governing the land.

Stuart theories of monarchy did not allow for this kind of opposition. Charles believed Dante's arguments that all power was committed by Christ to the ruler and to divide that power was contrary to his office.¹⁷ The king could delegate power, but it remained his and could be recalled at will. This is what Charles did in the face of Parliament's opposition and after 1629, in Parliament's absence, he continued to tax and collect money as though Parliamentary approval were unnecessary. Royalist Roger Manwaring¹⁸ said that refusal to pay the king's demands was not only a crime against the state but a sin against God. Parliament impeached him, but Charles came to his rescue and gave him a crown living in 1628.¹⁹

Taxation was also the source of much of Charles' conflict in the law courts as well as the occasion of some of the clearest definitions of the prerogative of a Divine Right monarch. The king regarded the courts as simply another instrument of the royal will. Judges were crown servants, and so act against the crown was a violation of their office. The judge's chief duty was to maintain the sovereign's authority. If he did otherwise, acted to weaken the king's authority, it was the king's right and duty to remove him.²⁰ For this reason Charles removed Chief Justice Crew²¹ in 1626 when the latter refused to admit the legality of the forced loans.²²

The seventeenth-century royalist writers held a concept

of law that contended that in the state there must be some power above the law to impose and enforce the law. Law, like all other dependent things, had to result from another outside itself. In Divine Right theory, this could only be the king.²³ All of the law was an emanation of the king's will. He was its support and its only true interpreter.

The king's will and the law were interchangeable. All law was rooted directly in that will and was a royal concession.²⁴ As such it was an unilateral act of the king. It was the king's servant which he gave to his people as an instrument for the right ordering of their lives.²⁵ The people had no inherent right to this. It was a gift of the king that they might conform to his, and hence to God's will. The subject's only concern with the law was to observe it.²⁶ All law came from above, from the king who was "lex loquens, a living, a speaking, an acting law."²⁷ The king was "above the law as the author and giver of strength thereto."²⁸

So if the king were above the law, this lessened his responsibility under the law. Though the good king would delight to conform himself to the laws that he set for his subjects, yet there was no power on earth that could hold the king answerable, if he did not. The king was himself author, interpreter, and enforcer of the law, and so there could be no superior power capable of calling him to account. The king was responsible only to the source of his power. "I must avow," said

Charles in June of 1628, " that I owe the account of my action to God alone. "²⁹

God had set up the king in His almighty wisdom. His choice of the ruler was a judgment on the people. If the king was good and ruled justly, the people should be thankful for God's mercy. If the king were evil, the people could only accept his rule as punishment for their sins. But the people could never oppose the king. He was God's appointed ruler, and to oppose him was to strike against God. As the Clergy Convocation of 1640 said, " For subjects to bear arms against their kings, offensive or defensive, upon any pretence whatever, is at least to resist the powers which are ordained by God: and... they shall receive to themselves damnation. "³⁰

The subject could do nothing to resist an evil or oppressive king. The king was God's appointed and must be left to God's judgement.

The court that tried Charles I openly called this doctrine into question. Previously, kings had been variously disposed of by subjects to whom the ruler had been a threat. But to formally condemn a reigning monarch by a legal proceeding was unknown.³¹ Cromwell and the others who tried the king had rejected the theory of the Divine Right of Kings and held a king answerable to the laws like any other man. In their view, Charles was responsible for the wars, and now they would call him to account.³²

Charles and his party, however, held to their principles. Charles denied from the beginning the validity of the court and refused to answer the charge. " Let me see a legal authority warranted by the Word of God, the Scriptures, or warranted by the constitution of the kingdom and I will answer. "33 His continued refusal to plead prevented a trial and caused him to be judged on a technical plea of guilty. His condemnation was met with intense dismay by all royalist and many others besides.

Never was such damnable doctrine vented before in the world, for the persons of sovereign Princes have ever been sacred...even among the most barbarous Nations; and though in many Kingdoms they have been regulated by force of arms and sometimes...deposed and afterwards privately murdered, yet in no History can we find a parallel for this, that ever the rage of Rebels extended so far to bring their Sovereign lord to public trial and execution, it being contrary to the laws of Nature, the custom of Nations, and the Sacred Scriptures. 34

Charles died a martyr in his own eyes and in those of uncounted royalists. He was a martyr not only of the Anglican faith, which he defended against Puritans, but also of the Divine Right theory, which he defended against usurping Parliaments. Charles saw himself as God's anointed, the holder of an office next to God's in dignity. The office had been established by God himself to provide the people with the true peace of unity and the true liberty of following God's will. Charles had come to this office by a judgment of God, his royal birth, which set him apart as God's appointed

ruler. All the kingdom was subject to his will, and the happiness of the people was dependent upon submission to it. Their submission must be complete, accepting the bad with the good. For the king was God's own special instrument, and no earthly force could justly oppose him.

This was Charles' view of the theory of the Divine Right of Kings, a view that he was willing to fight for, to suffer for and to die for. The order of society was so instituted by God that all things depended on the king. If Charles failed in his mission, English society would fall into anarchy and chaos. To yield his rights would be the worst failure of all. It was to preserve the unifying power of the king that Charles led England through eight years of bloody civil war and finally gave his life.

Footnotes

Chapter 1

¹Walter Ullman, Principles of Government and Politics in the Middle Ages. New York: Barnes and Noble, 1961, p. 190.

²John Figgis, The Divine Right of Kings. New York: Harper and Row, 1965, p.40.

³Fritz Kern, Kingship and Law in the Middle Ages, Translated by S. B. Chrimes. Oxford: Basil Blackwell, 1956, p.42.

⁴John Figgis, op. cit., p.15.

⁵Thomas Aquinas, On Kingship, quoted in William Ebenstein, Great Political Thinkers. New York: Rinehart and Co., 1960, p.229.

⁶Quoted in Ernst Kantorowitz, The King's Two Bodies, Princeton: Princeton University Press, 1957, p. 22.

⁷Fritz Kern; op. cit., pp. 49-50.

⁸John Figgis, op. cit., p. 93.

⁹John Figgis, ibid, p. 168.

¹⁰John Figgis, ibid, p. 18.

¹¹Walter Ullman, op. cit., p. 129.

¹²John Figgis, op. cit., p. 22.

¹³John Figgis, ibid, p. 27.

¹⁴John Figgis, ibid, p. 137.

Chapter 2

¹John Figgis, The Divine Right of Kings, pp. 5-6.

²Speech of James I to Parliament, 1606, quoted in Godfrey Davies, The Early Stuarts, 1603-1660. Oxford: Clarendon Press, 1952, p. 8.

³Sir Robert Filmer (d. 1653), a strong royalist polemical writer knighted by Charles I.

⁴John Figgis, op. cit., pp. 149-150.

⁵William Ebenstein, Great Political Thinkers, p. 218.

⁶Thomas Aquinas, On Kingship, quoted in Ebenstein, op. cit. p. 225.

⁷Charles I's speech from the scaffold, found in Herbert Rowen, From Absolutism to Revolution: 1648-1848. New York: Macmillan Co., 1963, p. 17.

⁸Cicely Wedgwood, A Coffin for King Charles. New York: Time Inc., 1964, p. 12.

⁹Cicely Wedgwood, ibid, p. 9.

¹⁰Quoted in Davies, op. cit., p. 92.

¹¹Anonymous Norman tract of the twelfth century quoted in Kantorowicz, The King's Two Bodies, p. 46.

¹²John Figgis, op. cit., pp. 29-30.

¹³Sir Robert Filmer's Patriarcha, quoted in Figgis, op. cit., p. 7.

¹⁴John Figgis, op. cit., p. 159.

¹⁵Charles' first answer to the charge, quoted in Wedgwood, op. cit., p. 121.

¹⁶G. Gooch and H. Laski, English Democratic Ideas in the Seventeenth Century, second edition. Cambridge: University Press, 1954, p. 84.

¹⁷John Figgis, op. cit., p. 36.

¹⁸John Figgis, ibid, p. 81.

¹⁹Ernst Kantorowicz, op. cit., p. 316.

²⁰Cicely Wedgwood, op. cit., p. 166.

²¹Cicely Wedgwood, ibid, p. 168.

²²Godfrey Davies, The Early Stuarts: 1603-1660, p. 79.

²³Cicely Wedgwood, op. cit., p. 121.

Chapter 3

¹Walter Ullman, Principles of Government and Politics in the Middle Ages, p. 122.

²Christopher Hill, Intellectual Origins of the English Revolution. Oxford: Clarendon Press, 1965, p. 227.

³Godfrey Davies, The Early Stuarts: 1603-1660, p. 69.

⁴Richard Montagu (1577-1641), controversialist and bishop.

⁵Joseph Tanner, English Constitutional Conflicts of the Seventeenth Century: 1603-1689. Cambridge: University Press, 1937, p. 52.

⁶Godfrey Davies, op. cit., p. 79.

⁷Joseph Tanner, op. cit., p. 53.

⁸Arminianism was a term derived from the latinized form of the name of a Dutch theologian (Arminius).

⁹The Long Parliament met on November 3, 1640. The king was prevented from dismissing it by the need for money to pay the Scottish armies then in the North of England. In May, 1641, Charles agreed not to dissolve Parliament without its own consent.

¹⁰Godfrey Davies, op. cit., p. 8.

¹¹Quoted in Brian Tierney, Great Issues In Western Civilization. New York: Random House, 1967, p. 600-601.

¹²Joseph Tanner, op. cit., p. 65.

¹³Joseph Tanner, idem.

¹⁴Pym, Hampden, Hollis, Hasterig, and Strode whom the king suspected of attempting to impeach the queen.

¹⁵Joseph Tanner, op. cit., p. 115.

¹⁶Magna Carta stated that neither "aid nor scutage" could be levied without the consent of the curia regis. Under Henry III, it was established that such levies could be refused by the curia regis. In Edward I's reign, the representatives of the shires (Commons) became associated with the process. (S. K. Mitchell in Origins of the English Parliament, edited by Peter Spufford. New York: Barnes and Noble, 1967, pp. 184-185.)

- 17 William Ebenstein, Great Political Thinkers, p. 253.
- 18 Rogar Manwaring (1590-1653), Bishop of St. David's.
- 19 Christopher Hibbert, Charles I. New York: Harper and Row, 1968, p. 106.
- 20 Cicely Wedgwood, The King's Peace, London: Collins, 1959, p. 136.
- 21 Sir Randolph Crew (1558-1646).
- 22 Joseph Tanner, op. cit., p. 60.
- 23 John Figgis, op. cit., p. 35.
- 24 Walter Ullman, op. cit., p. 123.
- 25 Godfrey Davies, op. cit., p. 83.
- 26 Godfrey Davies, ibid, p. 80.
- 27 Judgment of Sir Robert Berkeley in Hampden's Case, 1638, quoted in Samuel Gardiner, The Constitutional Documents of the Puritan Revolution, 1625-1660. Oxford: Clarendon Press, 1906, p. 122.
- 28 James I, True Law of Free Monarchies, quoted in Brian Tierney, Great Issues in Western Civilization, p. 594.
- 29 Godfrey Davies, op. cit., p. 32.
- 30 Godfrey Davies, ibid, p. 92.
- 31 Fritz Kern, Kingship and Law in the Middle Ages, p. 87.
- 32 Cicely Wedgwood, A Coffin for King Charles, p. 120.
- 33 Cicely Wedgwood, ibid, p. 122.
- 34 A Plea for the King and Kingdom, a pamphlet published in London in November, 1648, probably by Marchamont Nedham, a royalist polemical writer and newspaper editor, quoted in Cicely Wedgwood, A Coffin for King Charles, p. 2.

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