



# MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

# Právní dějiny

Vojáček



MASARYKOVA UNIVERZITA  
PRÁVNICKÁ FAKULTA

# Konstitucionalismus (příklad: Anglie)

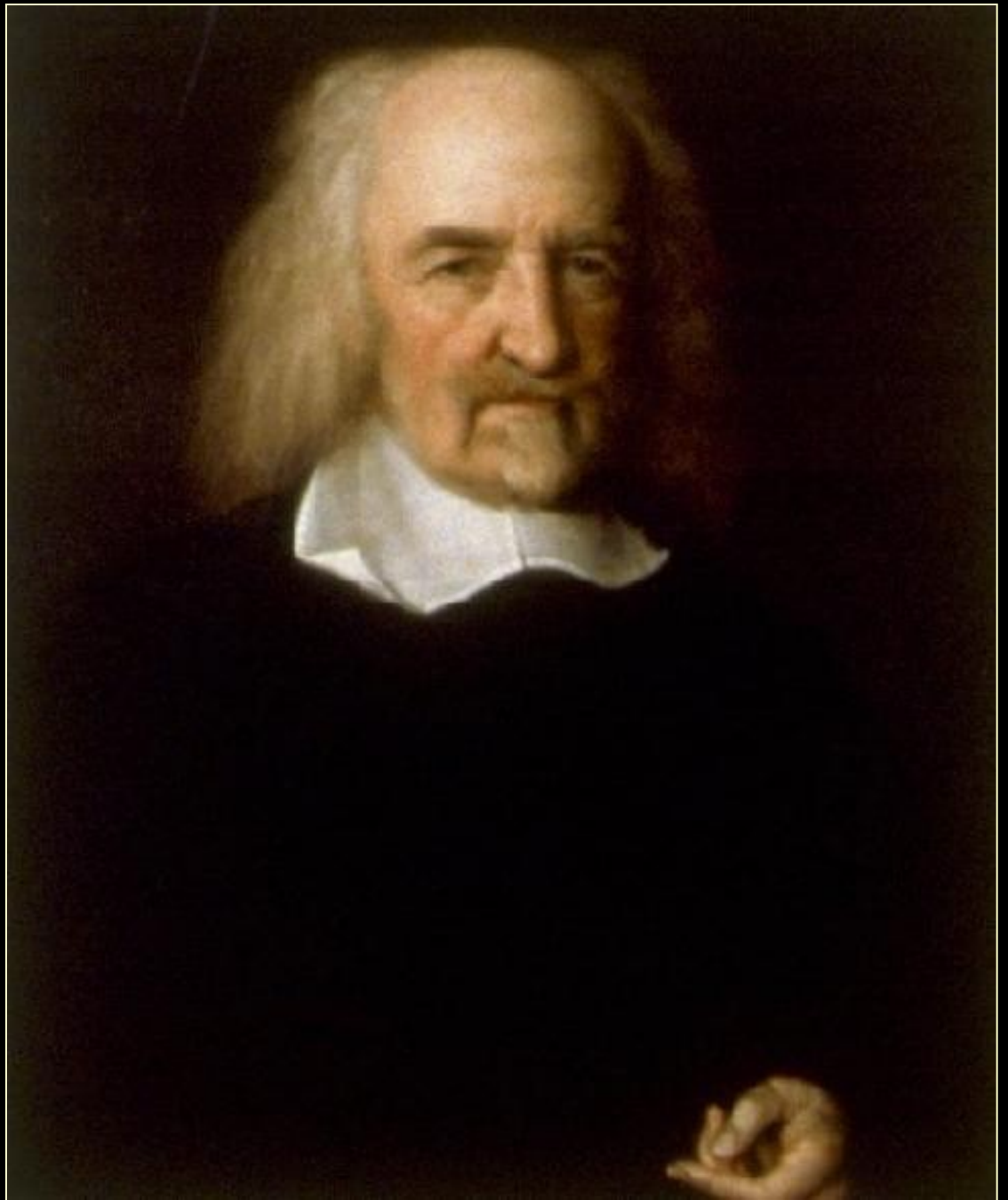
Vojáček



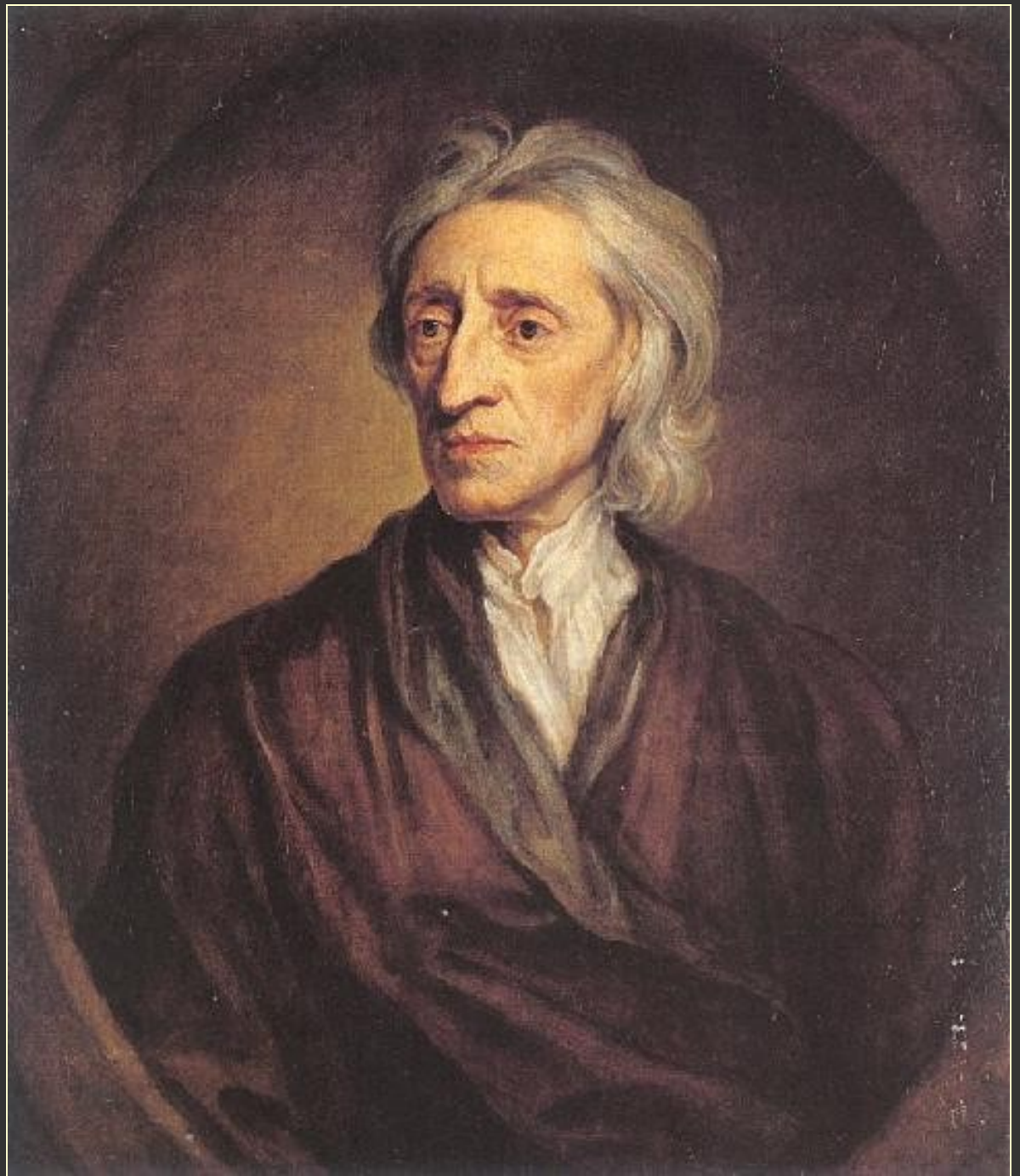
# Přirozenoprávní koncepce

- návaznost na starší koncepce
- lidský rozum jako východisko
- přirozená práva X platné právo
- společenská smlouva (T. Hobbes x J. J. Rousseau)
- dělba moci (J. Locke, Ch. L. de Montesquieu)

# Thomas Hobbes



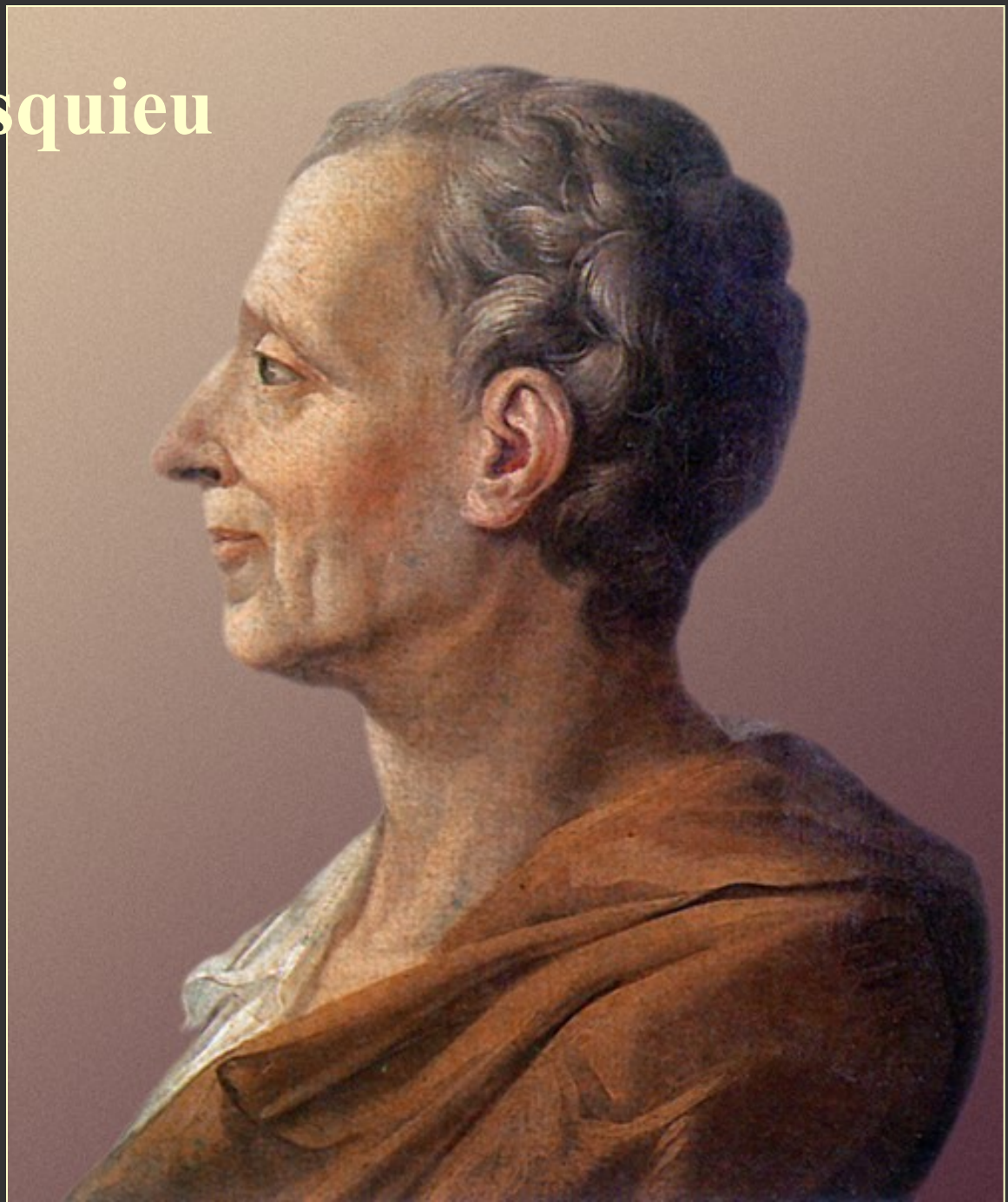
# John Locke



J.-J. Rousseau



# Ch. L. de Montesquieu



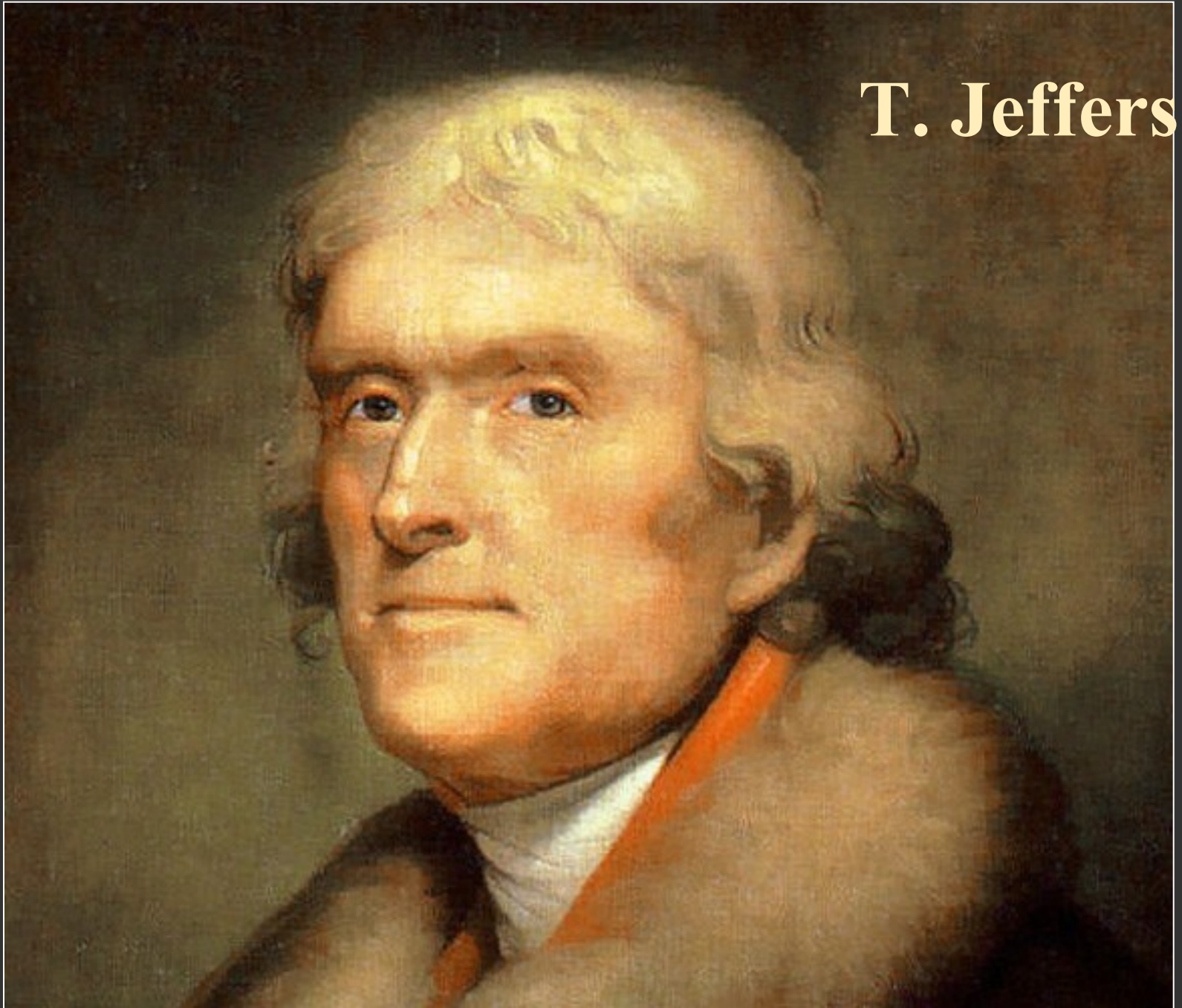


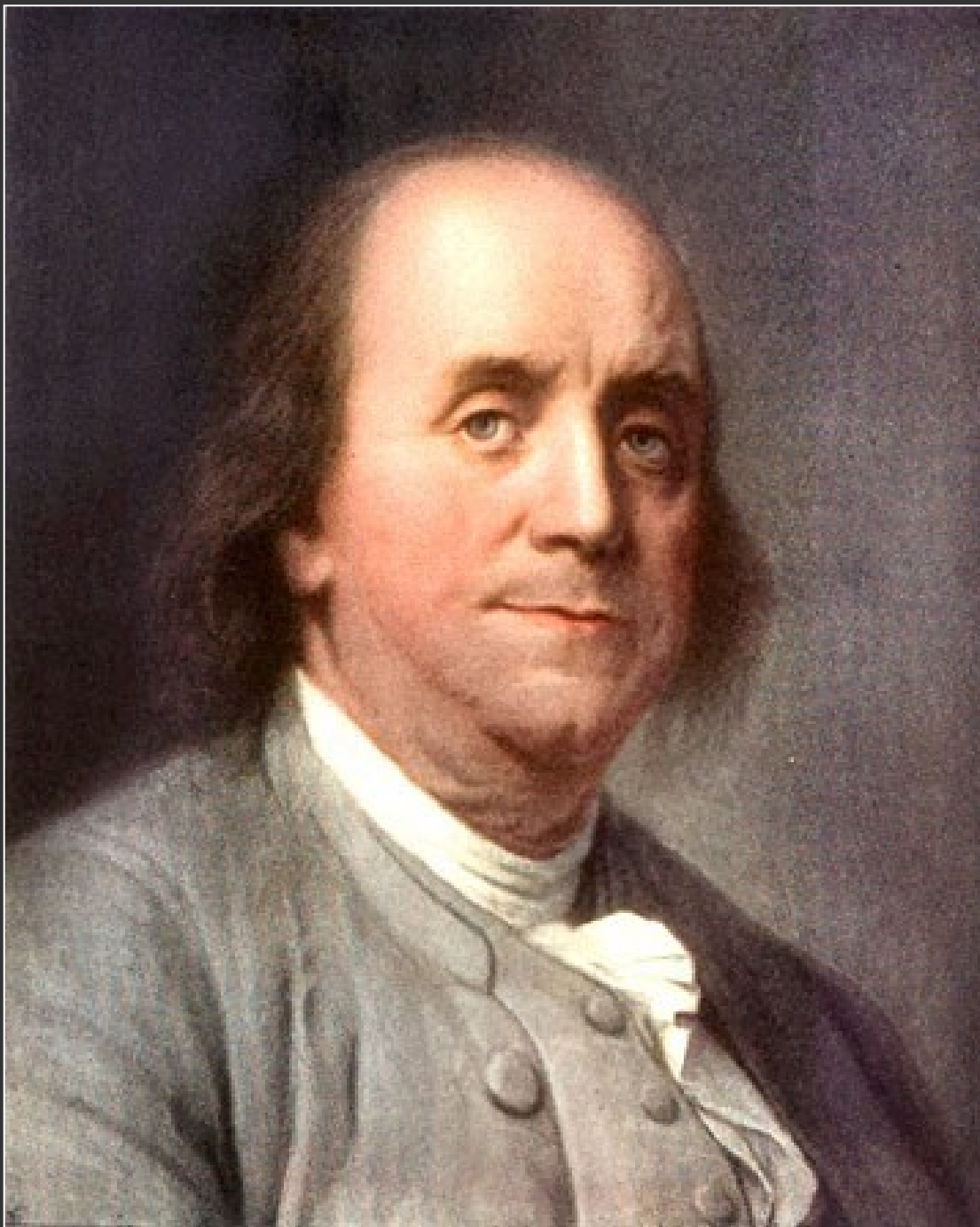
# Významné ústavy 18. a 19. století

- americká ústava 1777, 1787
- francouzské ústavy 1791, 1793, 1795, 1799, 1804, 1814, 1830, 1848, 1875
- německá ústava 1849 (nerealizovaná), ústava Severoněmeckého spolku 1867, německá ústava 1871
- rakouské ústavy 1848 (kroměřížský návrh), 1849 (nerealizovaná), 1861, 1867
- italský Piemontský statut 1848



**T. Jefferson**





**B. Franklin**

Ludvík XVI.





# Anglie před revolucí

- Magna Charta Libertatum 1215
- King in Parliament
- nástup Stuartovců
  - ➔ napětí mezi panovníkem a parlamentem
- Petition of Right 1628
- vláda bez parlamentu (1629 – 1640)



**Jan Bezzemek**

# Magna Charta Libertatum 1215

Gloucestre

85

et singula in articulo predicto continen-  
ta faciant et exequantur non obstant  
te quod articulus iste in omnibus cu  
dicto statuto Gloucestre non concordat

Explicunt articuli Gloucestre  
Incipiunt explanationes eorumdem

**P**rimo modum per dicitur de  
sem et iustitiam suos fecerunt  
sunt quedam explica-  
tiones quorundam ar-  
ticulorum superius portorum  
videlicet ad primum articulum ubi illi  
qui hunc ingressu per diffidant  
cassant dampna sua a tempore  
statuti publicati eodem modo  
de hinc de ingressu super diffidant  
De dampnis in omnibus hinc  
moris antecessoris consanguini  
etiam aut per hunc De incipio  
ne vel de factis pro quodamque  
hinc cassant dampna sua post  
impetitionem hinc contra eos qui

# Alžběta I. (1533 – 1603)





Jakub (James) I.



Karel (Charles) I.



# Petition of Right

To the King's most Excellent Maiestie

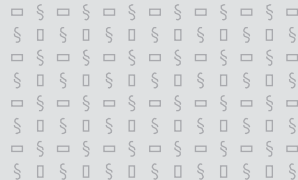
Sheweth that just cause is desired.

**Sheweth**

That unto our Sovereign Lord the King, His Lords Spiritual, and Temporal, and Common in Parliament assembled, That whereas it is declared and enacted by a Statute under the Great Seal of King Edward the first commonly called *Statutum de tallage an concilio* That no tallage, or tax should be laid, or levied by the King or his heirs in this Realme, without the good will and assent of the Arch Bishops, Bishops, Counts, Barons, Knights, Knights, and other the free men of the Community of this Realme. And by other laws of this Realme it is provided, That none should be charged by any tax, or impost called a benevolence, nor by such like charge. By which the Statute before mentioned, and also the good laws and Statute of this Realme, yo. Richard have intended that freedom, that they should not be compelled to contribute to any such tallage, Aids, or other like charge, nor sit to receive, consent, or be bound. Yet notwithstanding of late divers Commissions have issued to several Counties, to take Aids, or other like charge, and to receive, consent, or be bound to lend, receive, and pay money unto yo. Maiestie. And many of them upon their refusal to do so have had an oath administered unto them, not warrantable by the Law of this Realme, and have been constrained to become bound to make appearance and give attendance before your Honourable Council, and in other places, and others of them have been vexed, imprisoned, confined, and sundry other wrongs mistreated and distressed. And divers other charges have been laid and levied upon the people in several Counties by divers Justices, Deputie Justices, Commissioners for the Sheriff, Justice of Peace, and others by Commission or direction from your Maiestie, or yo. Honourable Council against the Lawes and free customs of the Realme. And whereas also by the Statute called the Great Charter of the liberties of England, it is declared and enacted that no free man may be taken, or imprisoned, or be disseised of his freehold, or liberties, or his free customs, or be outlawed, or exiled, or in any manner distressed, but by the lawful judgement of his Peeres, or by the Lawe of the Land. And in the eighth and twentieth years of the reign of King Edward the first, it was declared and enacted by authority of Parliament, That no man should be put out of his freehold, or tenements, nor taken, nor imprisoned, nor distressed, nor put to death without being brought to answer by due process of Lawe. Nevertheless against the tenor of the said Statute, and other the good Lawes and Statute of this Realme, it was provided, divers of your Subjects have lately been imprisoned, without any cause shewed, and when for their deliverance they were brought before yo. Justice, by yo. Maiestie writs of Habeas Corpus there to undergoe and receive of the Court shew'd order, and to be released, remained to certifye the cause of their detention, no cause was certified but that they were deteyned by yo. Maiesties speciall commands signified by the Lords of yo. Honourable Council, and yet were returned back to severall prisons without being charged with any thing to which they might make answer according to the Lawe. And whereas of late divers Commissions of the Peace and Assize have been issued into severall Counties of this Realme, and the inhabitants against their will have been compelled to receive them into their houses, and there to suffer them to remaine against the Lawes and custome of this Realme, and to the great grievance and vexation of the people. And whereas also by authority of Parliament in the first and twentieth years of the reign of King Edward the first, it is declared and enacted That no man should be forejudged of life, or limb, against the forme of the Great Charter, and the Lawe of the Land. And by the said Great Charter, and other the good Lawes and Statute of this Realme, no man ought to be adjudged to death, but by the Lawe established in this Realme, either by the testimony of his Peeres, or by the Lawe of Parliament. And whereas no offences of what kind soever it is competent for the proceedings to be made, and punishment to be inflicted by the Lawe and Statute of this your Realme. Nevertheless of late time divers Commissions under yo. Maiesties Great Seal have issued forth, by which severall persons have been assigned and appointed Commissioners with power, and authority to proceede within his Land according to the Justice of Marshall Lawe against such as were found or suspected, or other wise taken, or otherwise whatsover, and to such summary trial, and order as it was thinkable to Marshall Lawe, and as if they were taken in time of warre, to proceede to the trial, and condemnation of such offenders, and then to cause them to be executed and put to death according to the same Marshall Lawe, whereas some of yo. Maiesties Subjects have been by some of the said Commissioners put to death, when, and where if by the Lawe and Statute of the Land they had deserved death, by the same Lawe and Statute of this your Realme, and by no other ought to have been judged and executed. And also sundry other offenders by such excess, assuming an execution have enjoyed the punishment due to them by the Lawe and Statute of this your Realme, by reason that divers of yo. Maiesties Justices and Ministers of Justice have commonly used, or taken to proceede against such offenders according to the same Lawe and Statute, upon petition that the said offenders were punishable only by Marshall Lawe, and by authority of such Commissions as aforesaid. Whose Commissions and all other of like nature are contrary and directly contrary to the said Lawe and Statute of this your Realme.

**They** do therefore humbly pray yo. most excellent Maiestie That no man hereafter be compelled to make or yield any such 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 mistreated, or distressed concerning the same, or for refusal thereof. And that no freeman in any such manner as is before mentioned be imprisoned, or deteyned. And that yo. Maiestie would be pleased to remove the said Commissions, and that your people may not be burthened in time to come. And that the speciall Commissions for proceeding by Marshall Lawe may be revoked and annulled, and that hereafter no Commissions of like nature may issue forth to any person or persons whatsoever to be executed as aforesaid, least by such means yo. Maiesties Subjects be distressed, or put to death, contrary to the Lawe and franchise of the Land.

**All** which they most humbly pray yo. most excellent Maiestie, as those rights and liberties according to the Lawes and Statute of this Realme. And that yo. Maiestie would cause yo. Justice to declare, that the Aids, taxes, and proceedings to the prejudice of your people in any of the premises shall not be done hereafter into any manner, or example. And that your Maiestie would be pleased graciously, please for the further comfort and safety of yo. people to declare yo. Justice will and pleasure, that in the things aforesaid yo. Justice and Ministers shall serve you according to the Lawe and Statute of this Realme, as they touch the Honor of yo. Maiestie, and the prosperity of this Realme.



# Počátek revoluce 1640 – 1649

- krátký parlament
- dlouhý parlament
- Velká remonstrace
- poprava lorda Strafforda a arcibiskupa Lauda
- občanská válka
- Oliwer Cromwell
- presbyteriáni, independenti, lewelleři a diggeři X  
roajalisté
- svržení a poprava krále

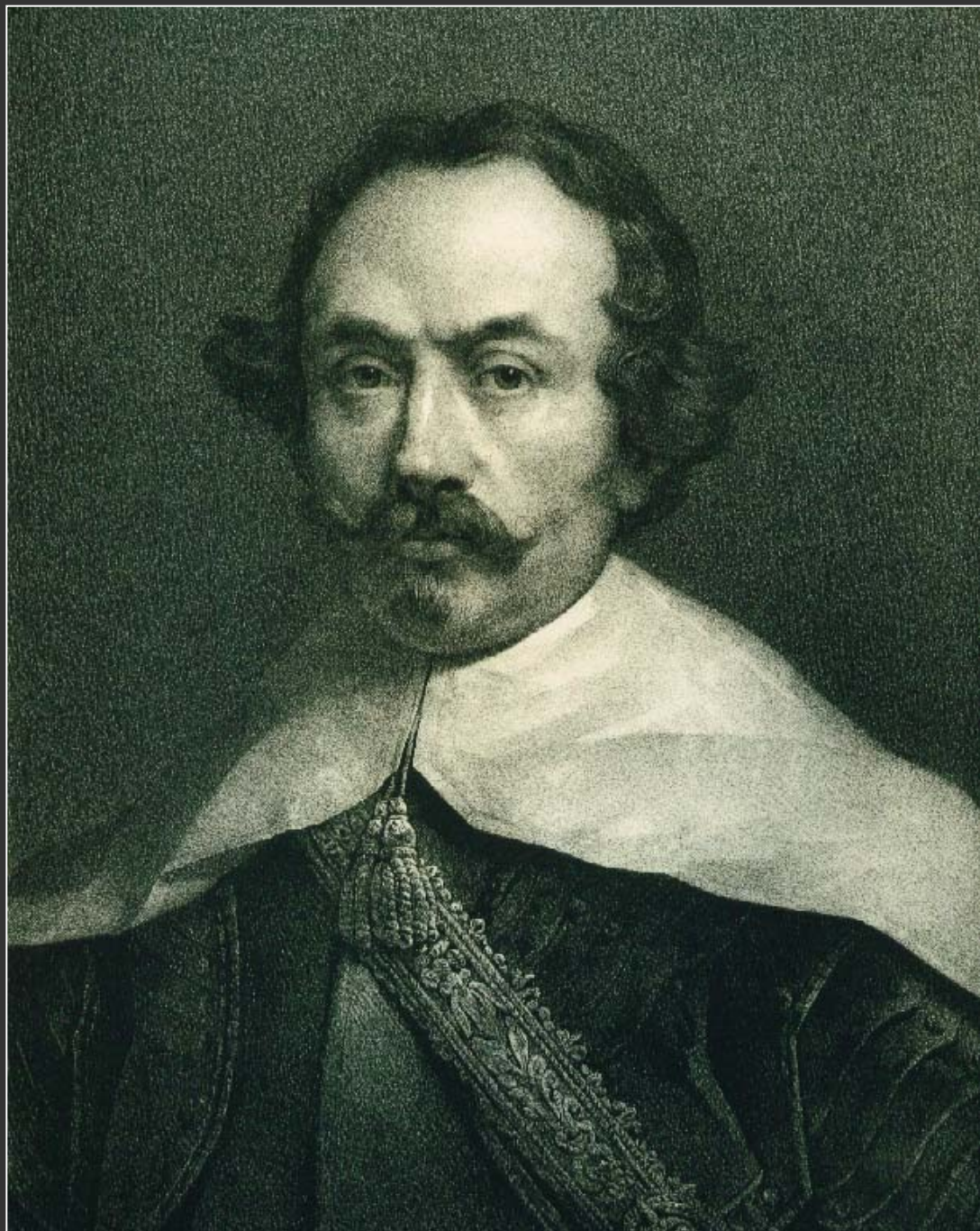
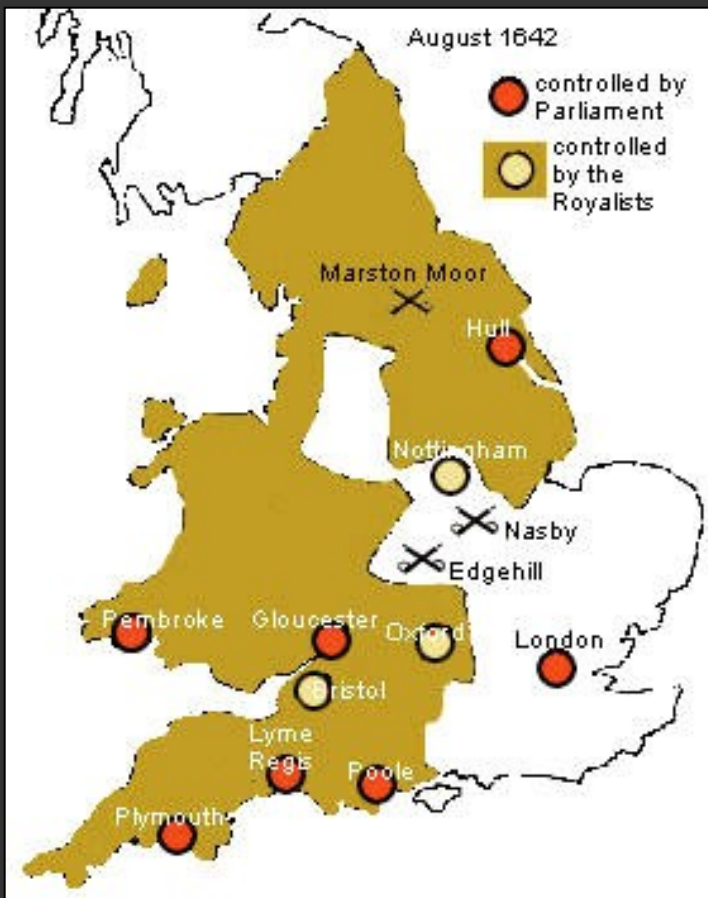




Lord Strafford



Arcibiskup W. Laud



Oliver Cromwell



# Tower





# Republika a Protektorát

- neúspěch republiky
- rozpuštění „zbytkového“ parlamentu
- Listina o vládnutí (Instrument of Government)  
➡ Protektorát
- Ponížená prosba a rada 1657 ➡ monarchistické prvky
- Richard Cromwell
- Karel II.



1649

-

1651



1649-1660



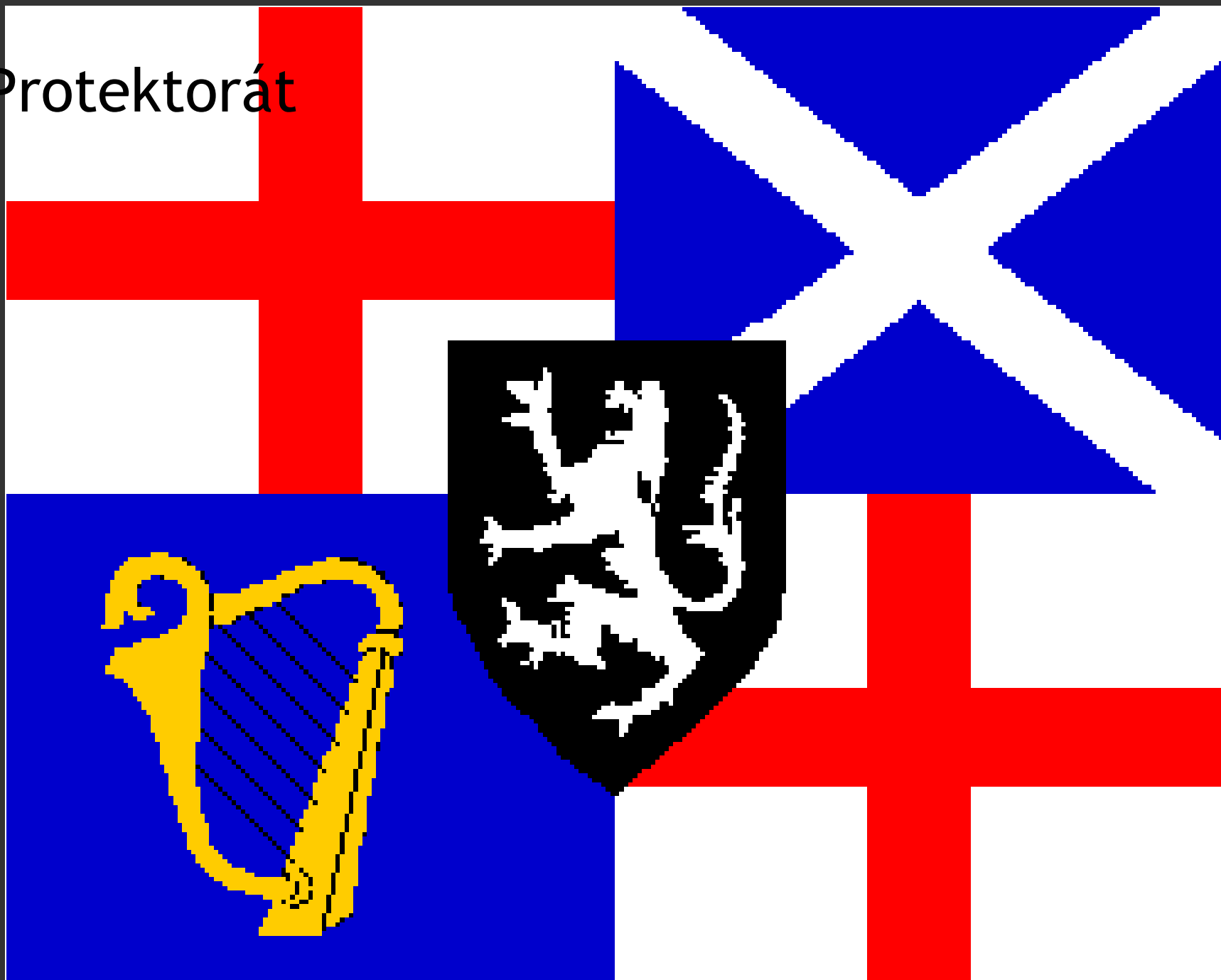
The arms of the Commonwealth



Cromwell rozpouští parlament



Protektorát



Richard  
Cromwell





**Návrat Karla II.**



# Porevoluční vývoj

- Bredská deklarace a na ji navazující zákony 1660
- Karel II. a Jakub II.
- Habeas corpus Act 1679
- **„slavná“ revoluce 1688**
  - Bill of Rights 1689
- zákon o následnictví trůnu (Act of Settlement) 1701
  - ➔ ministerská odpovědnost za akty panovníka, inkompatibilita, neodvolatelnost soudců, vzdělání členů parlamentu



Karel II.



Jakub II.



**Vilém III. Oranžský**

