



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

Právní dějiny

Vojáček



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

Konstitucionalismus (příklad: Anglie)

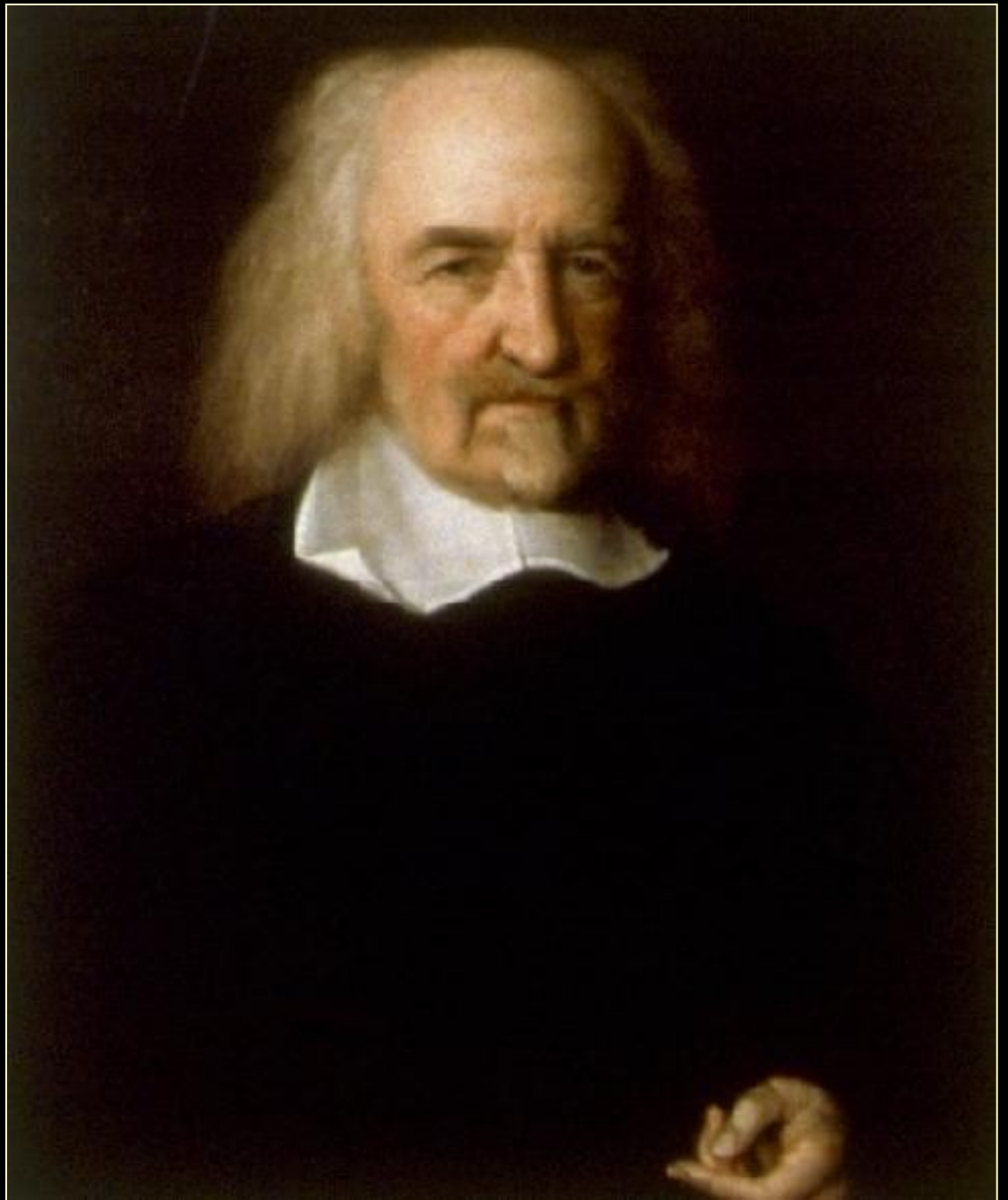
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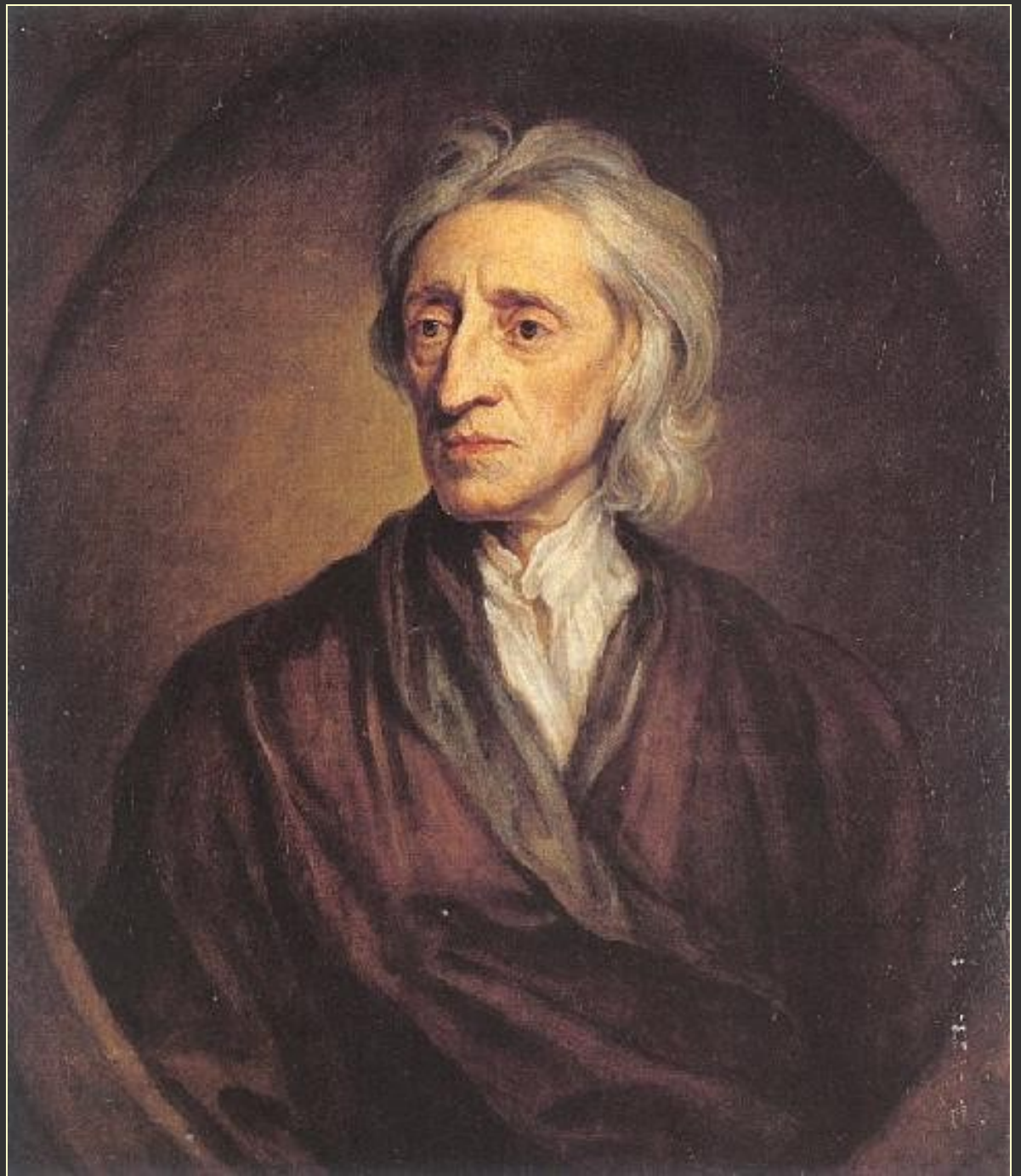
Přirozenoprávní koncepce

- návaznost na starší koncepce
- lidský rozum jako východisko
- přirozená práva X platné právo
 - Deklarace práv člověka a občana: svoboda, vlastnictví, bezpečnost a odpor proti útisku
- společenská smlouva (T. Hobbes x J. Locke x J. Rousseau)
- dělba moci (J. Locke, Ch. L. de Montesquieu)

Thomas Hobbes



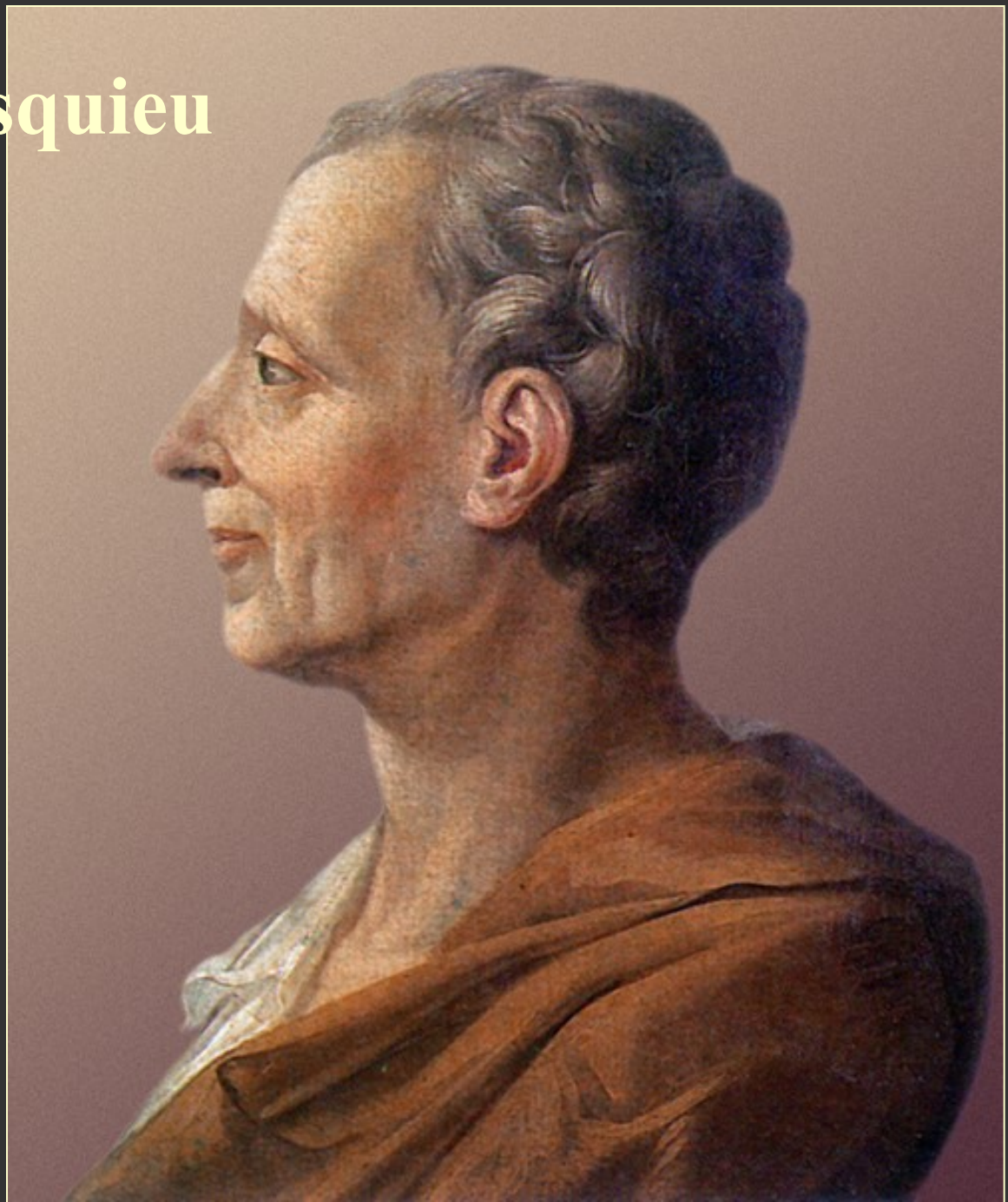
John Locke



J.-J. Rousseau



Ch. L. de Montesquieu

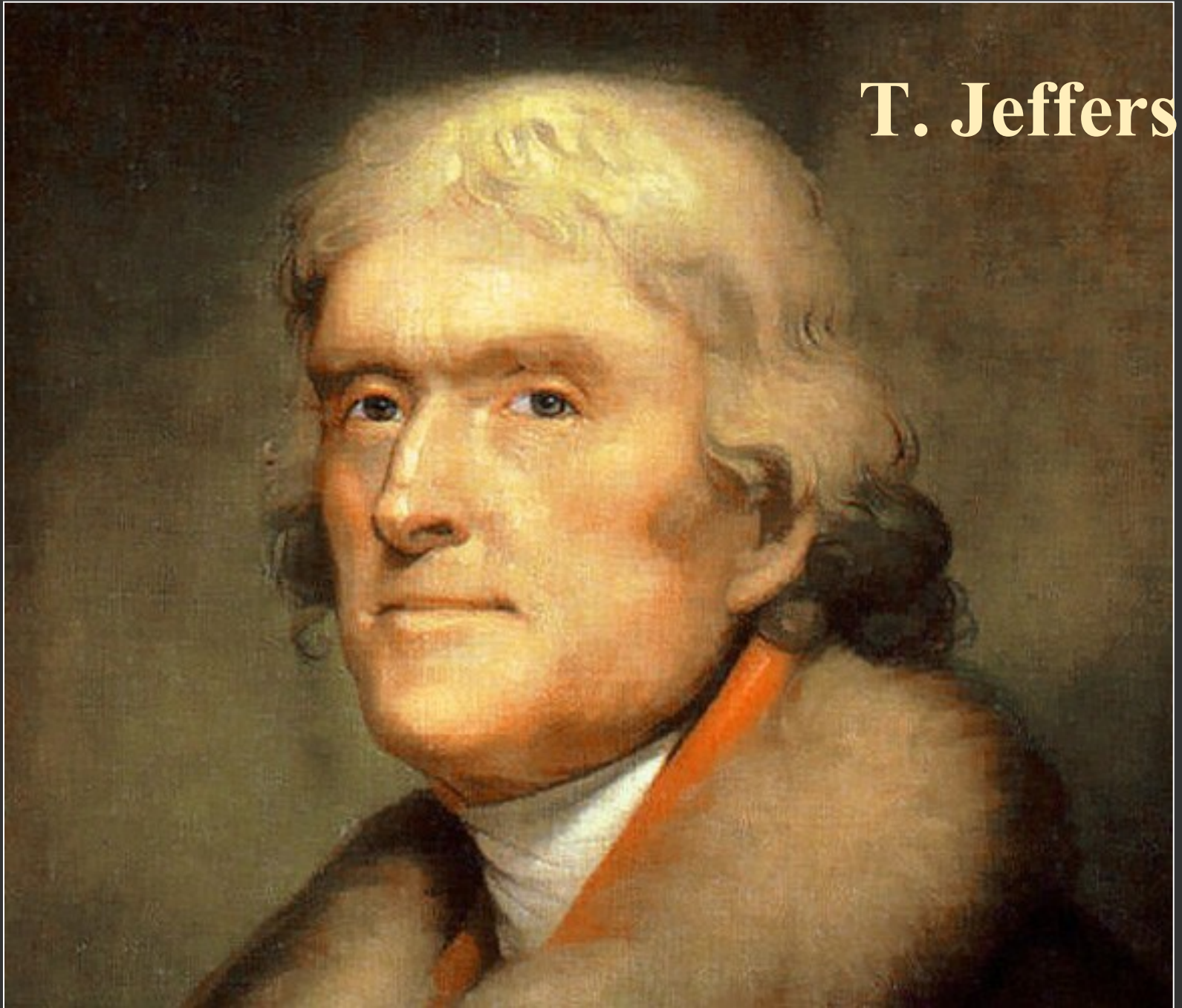


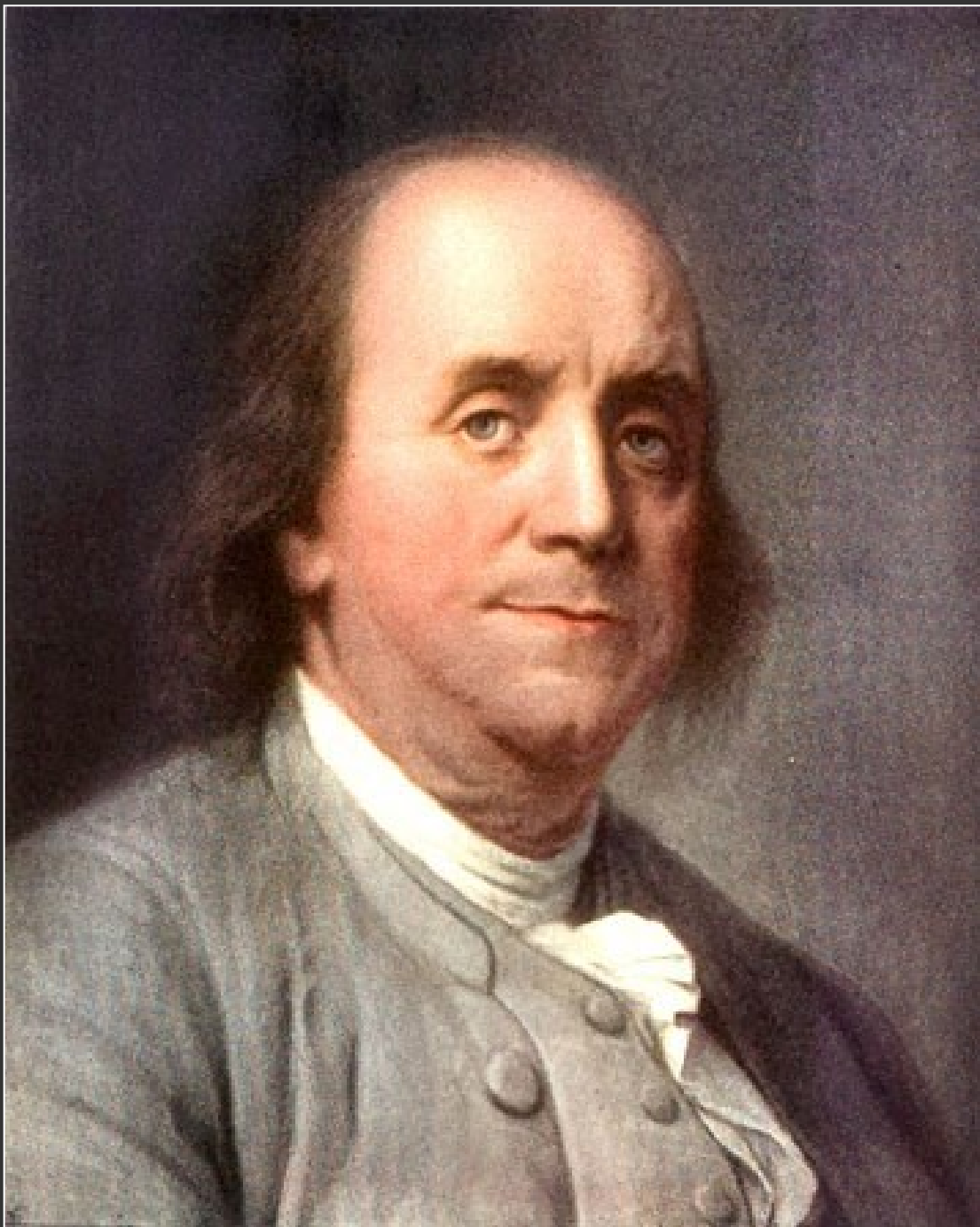


Významné ústavy 18. a 19. století

- 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, 1861, 1867
- italský Piemontský (Sardinský) statut 1848

T. Jefferson





B. Franklin



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Ludvík XVI.





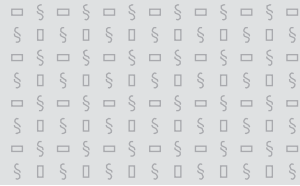
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Anglická ústava

- „nepsaná“ (terminus technicus)
 - = soubor právních aktů a ústavních zvyklostí
- výsledek historického vývoje



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-
dem statuto Gloucestre non concordat

Explicunt articuli Gloucestre
Incipiunt explanationes eorumdem

Primo modo per dictam re-
gem et iustitiam suos facta
sunt quedam expla-
nationes quorundam ar-
ticulorum superius portorum

videlicet ad primum articulum ubi illi
qui fuerint ingressi per dissensionem
auxilium dampna sua a tempore
facti publicati eodem modo

de hiis de ingressu super dissensionem

De dampnis in omnibus hiis
moris antecessoris consanguini-
tatis autem et per alios De incursio-
ne vel de factis pro quodamque
hiis auxilium dampna sua post
impetitionem huiusmodi coram eis qui



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Alžběta I. (1533 – 1603)





Jakub (James) I.



Karel (Charles) I.



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Petition of Right

To the King's most Excellent Maieſtie

Sheweth that your most humble desire.

Humbly

Sheweth 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, Justices, Knights, and other the free men of the Community of this Realme.

And by other laws and Statutes of this Realme it is provided, That none should be compelled by any charge, or imposition called a benevolence, nor by such like charge.

By which the Statute aforesaid, and other the said laws and Statutes of this Realme, your Subjects 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 pay the same.

Yet notwithstanding the diverse Commissions directed to several Countiees, shires, and Cities, by means whereof your people have been in diverse places assembled, and required to lend, receive, and pay unto your Maieſtie, and many of them upon their refusal thereto 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 High Court, and in other places, and others of them have been vexed, imprisoned, confined, and sundry other wrongs inflicted and suffered.

And diverse other charges have been laid and levied upon your people in several Countiees by divers Justices, Deputie Justices, Commissioners for the Sheriff, Justice of Peace, and others by Commission or direction from your Maieſtie, or your High Court 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 destroyed, but by the lawful judgement of his Peeres, or by the Law 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 disherited, nor put to death, without being brought to answer by due process of Law.

Nevertheless against the tenor of the said Statute, and other the said Laws and Statutes of this Realme, it was provided, directed, and given, that your Subjects should be imprisoned, without any cause shewed, and when for those delinquencies they were brought before your Justice, by your Maieſtie's writs of Habeas Corpus there to undergoe and receive of the Court shewed in order, and intercepted, continued to receive the cause of their detainer, no cause was certified but that they were detainerd by your Maieſtie's speciall commands shewed by the Lords of your High Court, and yet were returned back to several prisons without being charged with any thing to which they might make answer according to the Law.

And whereas of late years Companies of Soldiers and Mariners have been pressed into several Countiees of this Realme, and the inhabitants against their will have been compelled to receive them into their houses, and there to suffer them to sojourn against the Lawes and customs 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 limbs, against the forme of the Great Charter, and the Law of the Land.

And by the said Great Charter, and other the said Laws and Statutes of this Realme, no man ought to be adjudged to death, but by the Law established in this Realme, either by the testimony of his Peeres, or by the Law of Parliament.

And whereas no offences of what kind soever it is competent for the punishment to be inflicted by the Law and Statute of this your Realme, are punishable of late years diverse Commissions under your Maieſtie's Great Seal have issued forth, by which certain persons have been assigned and appointed Commissioners with power and authority to proceed within any shire, according to the Justice of Marshall Law, against such offenders, or Malefactors, or other defaulting persons, and to such summary trial, and order as it is uncapable to Marshall Law, and as if it were in time of warre, to proceed 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 Law, yet that whereas some of your Maieſtie's Subjects have been by some of the said Commissions put to death, when, and where if by the Law and Statute of the Land they had deserved death, by the same Lawes and Statutes of this your Realme, and by no other ought to have been judged and executed.

And also sundry other offenders by such Writs, assuming an execution have enjoyed the punishment due to them by the Law and Statute of this your Realme, by reason that diverse of your Justices and Ministers of Justice have commonly refused or forbore to proceed against such offenders according to the same Lawes and Statutes, upon petition that the said offenders were punishable only by Marshall Law, and by authority of such Commissions as aforesaid.

Whom Commissions and all other of like nature are hereby and directly contrary to the said Lawes and Statutes of this your Realme.

They do therefore humbly pray your 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 punished contrary to the same, or for refusal thereof, and that no freeman in any such manner as is aforesaid be imprisoned, or detainerd.

And that your Maieſtie would be pleased to remove the said Commissions, and that your people may not be further troubled in this behalf.

And that the aforesaid Commissions for proceeding by Marshall Law 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 either of them any of your Maieſtie's Subjects be distressed, or put to death, contrary to the Lawes and franchises of the Land.

All which they most humbly pray your most excellent Maieſtie, as those rights and liberties according to the Lawes and Statutes of this Realme.

And that your Maieſtie would cause your Justice to declare, that the aforesaid danger and grievance to the prejudice of your people in any of the premises shall not be done hereafter into any shire, or county, or town, or village, or hamlet, or other place, nor shall your Maieſtie be otherwise pleased, for the further comfort and safety of your people to cause your Justice to declare, that in the things aforesaid your Justice and Ministers shall serve you according to the Lawes and Statutes of this Realme, as they touch the Lawes of your Maieſtie, and the privileges of this Realme.



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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

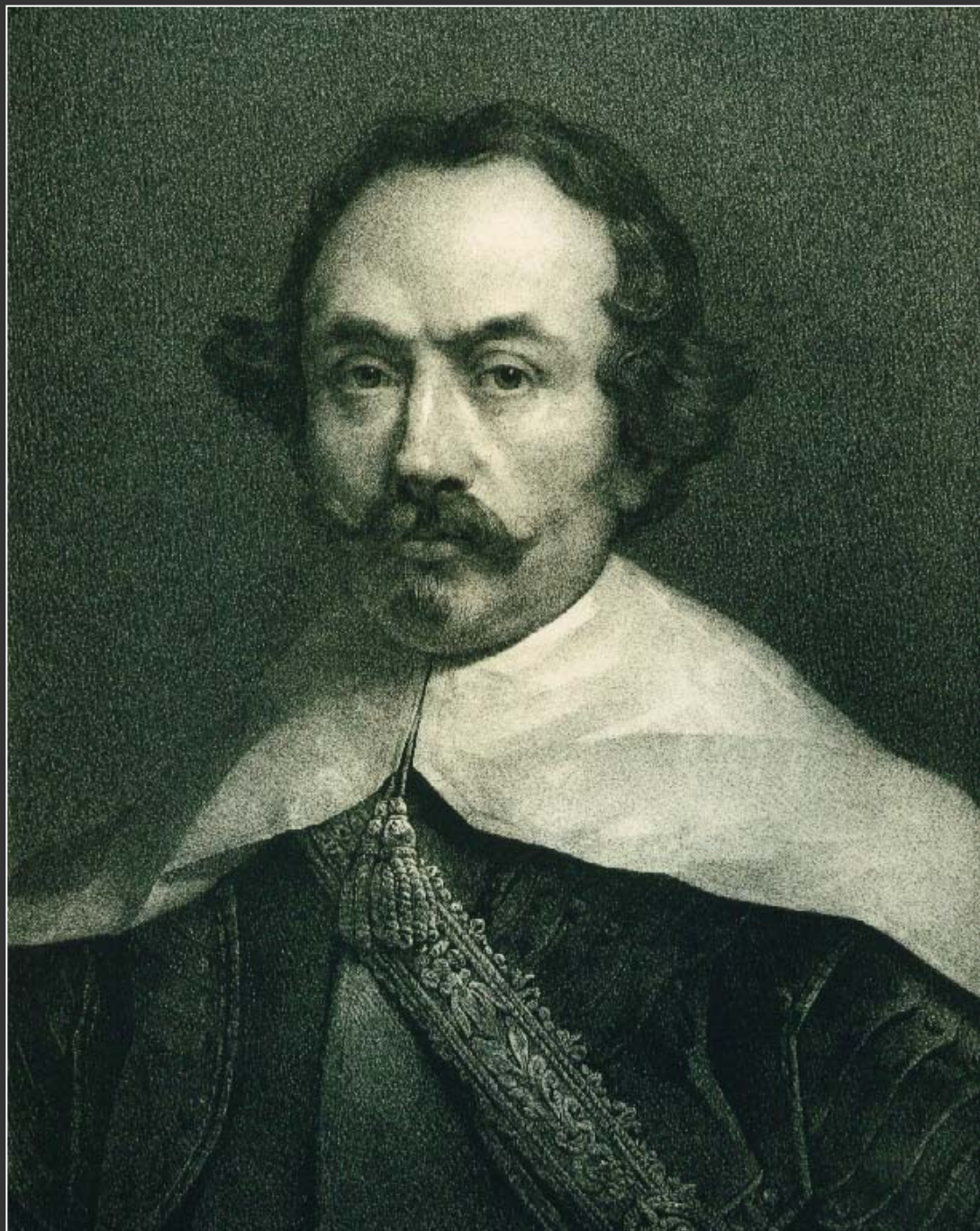
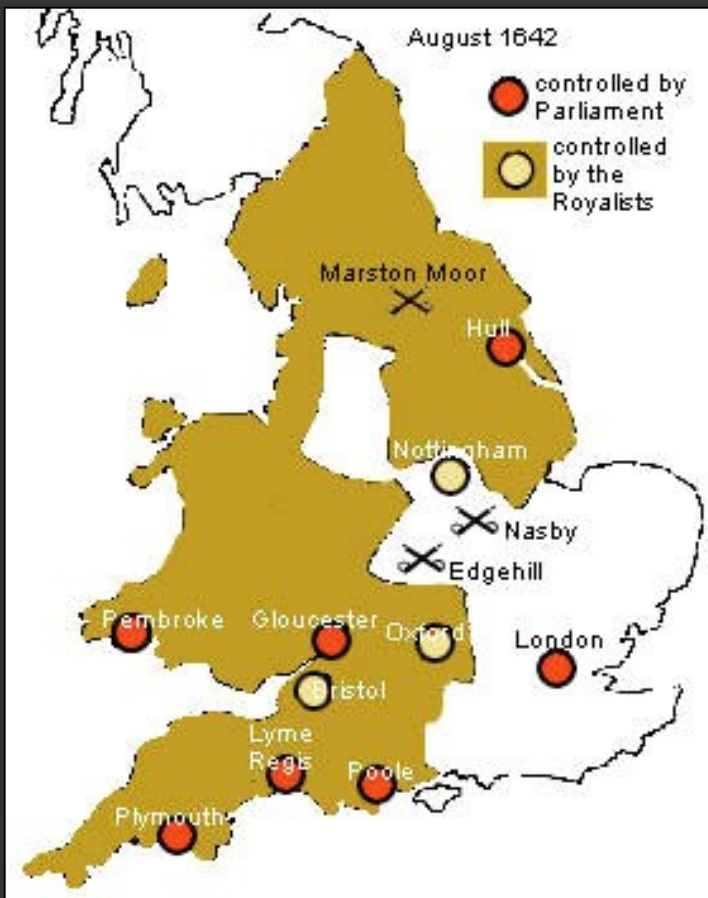


Arcibiskup W. Laud



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Oliwer Cromwell





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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





Cromwell rozpouští parlament

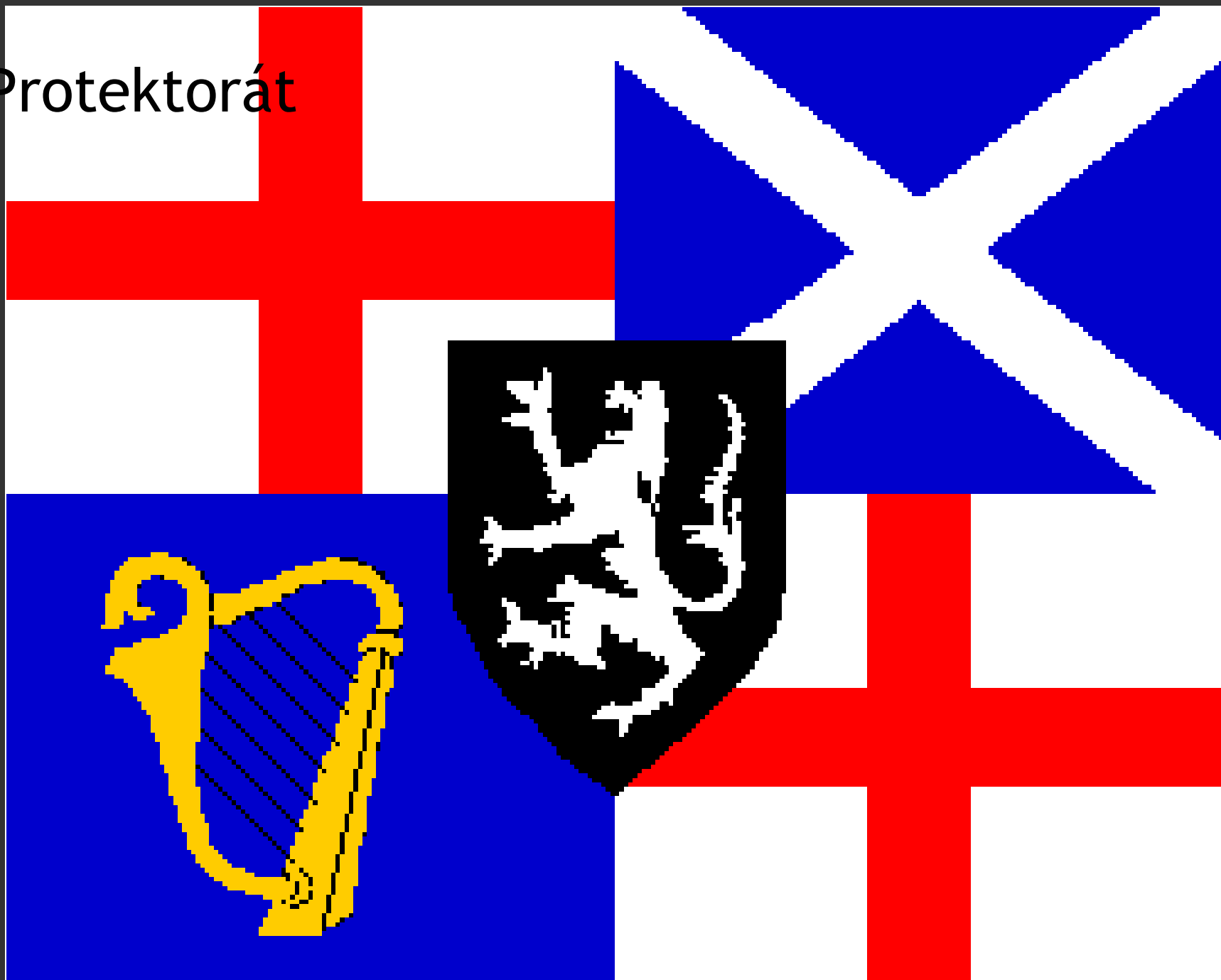


1649-1660



The arms of the Commonwealth

Protektorát





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Richard
Cromwell





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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
 - Vilém III. Oranžský
 - Bill of Rights 1689
- zákon o následnictví trůnu (Act of Settlement) 1701:
 - ➔ ministerská odpovědnost za akty panovníka, inkompatibilita, neodvolatelnost soudců, podřízenost krále parlamentu, vzdělání členů parlamentu

Karel II.



Jakub II.



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Vilém III. Oranžský



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