A STUDY IN REGICIDE

AN ANALYSIS OF THE BACKGROUNDS AND OPINIONS OF THE TWENTY-TWO SURVIVORS OF THE HIGH COURT OF JUSTICE

by

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ABSTRACT

The purpose of this thesis is twofold: to analyze the backgrounds of the twenty-two surviving members of the High Court of Justice which, in 1649, tried and executed Charles I of England, and to discover if the regicides presented a uniform line of defense for the crime of regicide at their 1660 trials for High Treason. All the primary and secondary sources available have been employed to analyze the regicides' political, socio-economic and religious backgrounds and to explicate their behavior at their trials. The study's conclusion is that no correlation between these various factors and the regicides' defenses exists except their association with the religious movement known variously as Congregationalism or Independentcy. Individual personality, more than any one factor, seems to be responsible for the justifications the regicides presented during the course of their trials.

None goes so far, as he who
knows not whither he is going.

Oliver Cromwell
(1599-1658)

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CHAPTER I. PRELUDE TO REVOLUTION

> We fasted first, then pray'd that war
> might cease,
> When Praying would not serve, we paid for
> Peace,
> And glad we had it so, and gave thanks,
> Which made the Irish play the Scotish Pranks,
> Is there no God? let's put it to a vote,
> Is there no Church? some fools say so by rote;
> Is there no King? but Pym for to assent
> What shall be done by Act of Parliament?
> No God, no Church, no King,
> Then all were well,
> If they could but Enact there were no Hell.[1]

It was with poems and song such as this that the English people, after twenty years of civil war and domestic turmoil, celebrated the Restoration of the English Monarchy in the early 1660's. In the three centuries following that momentous event there have developed different interpretations of the origins of the English Civil War. Some historians have viewed it as a struggle for the rights of Englishmen against a would-be despotic monarchy (S. R. Gardiner); others attribute the conflict to the rising gentry's political ambitions (R. H. Tawney); and still others believe that the civil war was precipitated by the desperate efforts of a declining gentry (H. R. Trevor-Roper); in the final analysis, no one indisputable theory has emerged as to

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[1]Rump, Poems and Songs Relating to the Civil War (London, 1662), p. 64.

the causes of the cataclysm.

It is essential to realize that the origins of the English Civil War lay not only in the interplay of the vast social, political, religious and economic forces which were at work in England throughout the Sixteenth and Seventeenth Centuries, but also in the personalities of the individual men who played such important roles in that upheaval.[2] Charles I of England had always had difficulty managing his parliaments, and conflicts had arisen between the Monarchy and Parliament over questions of parliamentary privilege, the extent of the powers of the king's prerogative courts, the re-introduction of the Forest-Laws, ship money, and Parliament's fear of Charles's supposed sympathy to Roman Catholicism. Revenue for war, and even to meet ordinary peacetime expenditures, had been an area of dispute between the King and his parliaments. Though finance and religion

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[2]The most comprehensive scholarly account of this period is S. R. Gardiner, The History of the Great Civil War (4 vols.; London, 1898). Useful shorter accounts include: G. Davies, The Early Stuarts (Oxford, 1945); C. V. Wedgwood, The King's Peace, 1637-1641 (New York, 1955); G. M. Trevelyan, England Under the Stuarts (London, 1946); Maurice Ashley, England in the Seventeenth Century, 1603-1714 (Baltimore, Maryland, 1962); and J. E. C. Hill, The Century of Revolution, 1603-1714 (Edinburgh, 1961). Constitutional problems are given specific treatment in J. R. Tanner, English Constitutional Conflicts of the Seventeenth Century, 1603-1689 (London, 1952); and are dealt with more generally in C. R. Lovell, English Constitutional and Legal History (New York, 1962); F. G. Marcham, A Constitutional History of Modern England, 1485 to the Present (New York, 1960); and Sir D. L. Keir, The Constitutional History of Modern Britain, 1485-1951 (5th ed.; London, 1952). Other studies bearing directly on the origins of the

appear to be the central issues from which the English Civil War resulted, they were only manifestations of the deeper issue: which was the ultimate authority in English political life--the Monarchy or Parliament? So acute did the controversies become in 1628-1629 that the King resolved to rule thereafter without the assistance of Parliament, and embarked upon an eleven year period of personal rule.

Charles I's eleven year experiment in personal rule came to an end because of events which occurred outside of England. With the failure of his religious innovations and military ventures in Scotland (1637-1640) Charles was forced to summon his first parliament in eleven years--the Short Parliament. This parliament proved to be no more receptive to the King's ideas than had any of its predecessors and was summarily, and angrily, dissolved by the disappointed King. The continued resistance of the Scotch, however, compelled Charles to summon another parliament--the Long Parliament. With the calling of the Long Parliament, in late 1640, England entered into a decade of civil war and revolution. From the very beginning the Long Parliament set for itself three fundamental aims: the drastic reduction of the King's prerogative powers and the abolition of his prerogative courts; the

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Revolution are: W. Aiken and B. D. Henning, eds., Conflict in Stuart England: Essay Presented to Wallace Notestein (New York, 1960); and J. E. C. Hill, Puritanism and Revolution (London, 1958).

compensation of those persons who, parliament believed, had unjustly suffered at Charles's hands; and the punishment of those councillors who, in parliament's opinion, had advocated arbitrary government. Moreover the Long Parliament obtained legislation which ensured the summoning of a parliament at least once every three years and hence guaranteed parliament a "regular" place in England's political system. The Long Parliament summoned by Charles was, in addition to being a platform for criticism of his government, more "refined" than had been any of the parliaments called previously in that it was no longer dependent on royal councillors for the formulation of policy and had developed a system of communication between the two houses, by means of conferences and committees, which made it a far more efficient body than it had ever been in the past.[3] In the first six months of 1641 the Long Parliament succeeded in its programs of compensation, punishment, and the abolition of the most important prerogative courts, and made sure that Parliament would in the future be a "regular" part of the English Constitution.

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[3]These processes have been analyzed by Wallace Notestein in, "The Winning of the Initiative by the House of Commons," Proceedings of the British Academy (London, 1924); and D. H. Willson, Privy Councillors in the House of Commons, 1606-1629 (Minneapolis, 1940).

The Long Parliament achieved the vast reductions of the Monarchy's prerogative powers that it desired by working within the constitutional framework of Seventeenth-Century English government. Charles I assented, however unwillingly, to all of the Long Parliament's "constructive" reforms. After these reforms had been enacted, there were many men in the Long Parliament who believed that sufficient changes had now been made in England's political system. But there remained others who thought that the reform program would be incomplete unless the Church of England were renovated along Puritan or Presbyterian lines. These extremists were known as the "Root and Branch" men and were desirous of completely reforming the Church.[4] It was this element which wished to abolish episcopacy and to institute in its place either a Presbyterian or Congregational form of Church government, though it is very important to realize that these two groups only agreed on negative proposals and were not able to agree on any plan upon which the Church could be reformed.[5]

It was in these circumstances that the more radical group in Parliament succeeded, in November, 1641, in getting the Grand Remonstrance adopted, although the margin by which it was passed was very narrow. The purpose of the Remonstrance

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[4]Tanner, English Constitutional Conflicts, p. 100.

[5]Ibid.

was twofold: it recapitulated the political accomplishments and outlined the further aims of the Long Parliament; and it delineated the religious reforms desired by the "Root and Branch" members of the Long Parliament. It is important to note that the Grand Remonstrance was a calculated appeal to the London "mob" and therefore an early example of the extremists' desire to obtain popular support.[6] Did this "appeal" carry with it an implicit recognition of the idea of "popular sovereignty"? It is very doubtful that the Parliamentarians of the Long Parliament would have viewed this appeal to the "mob" as a prerequisite to their taking action on their desires, but it is from such incidents as this that the great precedents develop. Throughout English History, from Magna Carta forward, what began strictly as a movement only to benefit a particular social class has often resulted in a change which proved beneficial to all Englishmen. Another important aspect of this appeal to the "mob" is the fearful effect it must have had on Charles and on his subsequent behavior.

At this point it should be made clear that the English Revolution was not a spontaneous reaction to a single, sudden act of royal tyranny. What, then, were some of its basic causes? Surely the disputes over tonnage and poundage

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[6] Ibid., p. 110.

or even ship-money alone would not have caused the men of Seventeenth-Century England to revolt against, and ultimately overturn, a government so venerable and tradition-sanctified as was the English Monarchy in the 1660's. A simplified answer, but a valid one, is that by 1640 Charles's government had lost the confidence and support of the English "political nation"; more specifically Charles had lost the support of England's propertied classes.[7] The House of Commons of the Long Parliament had claimed that Charles's ministers had broken the "fundamental laws" of the Kingdom. But what were these "fundamental laws"? They were the rationale by which the Long Parliament, and especially the House of Commons, sought to justify its actions under the pretext of restoring the ancient balance within the government by means of "conservative" reform. The House of Commons, before the opening of the hostilities of the Civil War, never tried to portray itself as a revolutionary body, but only as a legal parliament which was attempting to restore and protect England's "ancient" religion and government.[8]

The end result of the Long Parliament's "conservative" reforms was the elimination of all of the crown's extra-legal means of enforcing its policies. In order to appreciate how far Charles's prerogative powers were limited, if not

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[7]Hill, Century of Revolution, p. 107.

[8]Ibid., p. 105.

eliminated, it is essential to understand the most important theoretical ideas concerning sovereignty and its relationship to the royal prerogative that existed in England from the late Sixteenth Century to the middle of the Seventeenth Century.

Philosophically speaking, the function and nature of government was to command, and thereby to establish and preserve social order.[9] There existed, in the theories upholding the royal prerogative, a personal relationship of superiority and inferiority between the monarch on the one hand and his subjects on the other.[10] The Royalist faction considered the King to be the father of a great family who exercised his powers within the limits of the law only because he had consented to do so.[11]

What was Charles I's constitutional position before the Long Parliament? Charles had always thought of himself (with the single exception of the collection of tonnage and poundage without parliament's consent) as a constitutional monarch.[12] In all the collections of ship-money, enforcement

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[9]Francis D. Wormuth, The Royal Prerogative, 1603-1649 (Ithaca, New York, 1939), p. 21.

[10]Ibid.

[11]Ibid., p. 22.

[12]Harold Hulme, "Charles I and the Constitution," in W. Aiken and B. D. Henning, Conflict in Stuart England, p. 113.

of the Forest-Laws, and even in the Five Knights' Case, Charles had acted according to the legal precedents of the land, albeit interpreted narrowly by his own justices.[13] But Charles's political ideas, like those of his father, James I, always rested on his firm conviction that his subjects should accept his absolute authority without question.[14] It is also very important in analyzing the causes of the English Revolution, to realize that Charles I lacked the more subtle qualities that make a great King. (Charles was not stupid, but he was totally incapable of taking decisive steps toward constructive action when events demanded that he should.)[15]

The lawyers of the common law, however, viewed the Kingship as being a product of the law, and not, as the Royalist thought, the law being the product of the Kingship.[16]

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[13] Ibid., p. 114.

[14] C. V. Wedgwood, The King's Peace, p. 64. For a brief analysis of James I's ideas on the "Divine Right of Kings" see Marcham, A Constitutional History of Modern England, p. 89; and C. H. McIlwain, Political Works of James I, with an Introduction (Harvard University Press, 1918), p. 272.

[15] Harold Hulme, "Charles I and the Constitution," in W. Aiken and B. D. Henning, Conflict in Stuart England, p. 115; Tanner, English Constitutional Conflicts, p. 104.

[16] Wormuth, The Royal Prerogative, p. 24.

Herein lay the central question: where did ultimate political power reside? In the King alone, or in his courts, or in the laws of the land as made by King, Lords and Commons sitting together in Parliament?

The constitutional thinkers of England conceived sovereign power as possessing five elements:

1. making and annulling of laws;
2. creating and disposing of magistrates;
3. power over life and death;
4. making of war and peace;
5. highest or last appeals.[17]

The Royalist thought that all of these elements rested in the person of the King.[18] The only logical conclusion from this line of thought is absolute monarchy. Nevertheless, even absolute power could be exercised only in a qualified manner:

> The absolute power of the King is not that which is converted or exercised to private use, to the benefit of any particular person, but is only that which is applied to the general benefit of the people.[19]

When all is said and done the majority of Englishmen at the beginning of the Seventeenth Century, at the end of a century of Tudor rule, would have been willing to conceive of the King's power as coming from God and would have had little interest or faith in any notion of government by

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[17] Ibid., p. 34.

[18] Ibid., p. 35.

[19] Ibid., p. 54.

contract.[20] It is in this setting, at a time when most ordinary men believed that the King was answerable only to God, that the limitations imposed on the royal prerogative by the Long Parliament can be fully appreciated. By the end of 1640 Charles had remaining to him only the powers of the ordinary prerogative, which allowed him to rule according to the common law.[21] Stripped from Charles were all those powers which had allowed him to rule outside of the common law for "reasons of state"; the great central prerogative courts of Star Chamber and High Commission had been specifically abolished by the Long Parliament.

It would be error, however, to think that Charles had been made into a figurehead by the constructive work of the Long Parliament. Even after 1640, he retained many prerogative powers, such as the making of administrative appointments, the power to summon and dissolve parliament, within the limits of the Triennial Act (except the Long Parliament, which could be disbanded only with its own consent), the power to pardon, and, not least of all, the vital power of deciding when there should be war and peace.[22] By implication and by law the King was also the head of the Armed

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[20] Ibid., p. 40.

[21] Ibid., p. 55.

[22] Ibid., p. 60.

Forces and held in his hands the control over military and foreign affairs. In addition to these powers Charles was still, at the end of 1641, the Head of the Church of England.

Yet by limiting the King's prerogatives the Long Parliament also laid claim to a greater share in the affairs of the Kingdom, particularly those concerning religion and foreign policy. Parliament attempted to justify this intrusion upon the royal prerogative by claiming that it spoke as the elected representative body of England.[23] The Long Parliament, before the advent of the civil war, took care never to accuse Charles of being the originator of the evils of his regime, but placed the blame on his "evil" councillors. This, however, failed to solve the problem of what could be done by Parliament if the King refused to give his sanction to a piece of proposed parliamentary legislation. The solution to this problem was to argue that the prerogatives of the Kingship were attached to the office of the King, and not to the person of the King.[24] It was by employing this theory that the power of the King was more in his courts than in his person, that Perliament justified legislating, by means of a parliamentary ordinance, laws to which the King refused his assent.[25]

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[23] Ibid., p. 109.

[24] Ibid., p. 110.

[25] Ibid., p. 112.

The final result of the Long Parliament's delimitation of the King's prerogative powers was the development of the contract theory of government. When the Civil War broke out the two houses of the Long Parliament passed a joint resolution stating:

> That whensoever the King maketh war upon Parliament, it is a breach of trust reposed in him by his people; contrary to his oath; and tending to the dissolution of the government.[26]

In this declaration the concept of government by contract is firmly announced.

The struggle for supremacy was not satisfactorily resolved by the events of the English Civil War. Neither King nor Parliament was able to completely vindicate its claims to sovereign power, so that by the time of the 1660 Restoration, a compromise theory of sovereignty was widely accepted--the concept of mixed monarchy wherein both Parliament and the King shared the powers and responsibilities of government.[27]

The English Revolution hence must be viewed as a result of many years of accumulating dissatisfaction. Economic limitations on an expanding mercantile community, governmental hostility to the enclosure movement which offered profits to enterprising landlords, discontent over

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[26] Ibid., pp. 118-119.

[27] Ibid., p. 120.

Charles's foreign policies and his resistance to religious change in a Puritan direction--all combined to bring on the events of 1641 and the years that followed.

Conditions, however unsatisfactory, do not make revolutions; men do. It is therefore necessary to attempt to learn who were the men who took the first steps to revolution in 1641. What were their social, economic, and political backgrounds? It is only by analyzing these men's ambitions and beliefs that any reasonable understanding of their justification both of revolt, and subsequently of regicide can be derived.

From the very beginning some of the men who were in the Long Parliament were supporters of the Monarchy, though not on all issues. The breakdown of the various political factions present in the Long Parliament in 1640-1641 is best demonstrated by the use of a table:

Classifications of Total Membership, 1640-1641
According to Politics

Parliamentarians	310
Reformers who became Royalist	44
Royalist	182
Straddlers and men who turned from King to Parliament	6
Others, unclassified	5
Total	547[28]

[28] Mary Frear Keeler, The Long Parliament (Philadelphia, 1954), p. 12.

An analysis of the men of the Long Parliament by the various occupations represented is also enlightening as to the type of men who launched the English Revolution in 1641.

Occupations of the Long Parliament's Members

Agents or Stewards	13
Army Men	9
Church Officials	3
Courtiers	22
Gentlemen	333
Lawyers	74
Naval Commanders	1
Physicians	1
Royal Officials	27
Town "Lawyers"	5
Tradesmen	55
Unknown, indefinite	4
Total	547[29]

Besides this political and occupational breakdown of the men of the Long Parliament's House of Commons, there were also religious divisions, some of the Parliamentarians being Anglicans who desired only a moderate amount of ecclesiastical reform; others being Presbyterian or Congregationalists who wished to enact more radical religious reforms. Now it is essential to realize that though this analysis presents a parliament which was most certainly not homogeneous in its feelings, these men nevertheless legislated the Long Parliament's "constructive" reforms with very little difficulty.

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[29] Ibid., p. 23.

Even the men who would later, after the Civil War began, go over to the King's side, supported the "constructive" reforms which the Long Parliament had posited at an early stage. One further fact which is of great consequence is that all of the influential men of the Long Parliament's House of Commons possessed an economic stake in the country. This is of crucial importance because at the time of the English Revolution the country, and particularly the social classes who dominated parliament, were becoming more wealthy while the Monarchy, on the other hand, had been experiencing a steady decline, in relative terms, in its wealth.[30]

The King's supporters, who were in a minority in the Long Parliament's House of Commons, were usually either members of the nobility or the more well-to-do gentry, for these were the elements of Seventeenth-Century English society which would have had the most to lose, politically and economically, were England's political economic and social structure to be too radically altered.[31] The commercial middle class, the lesser gentry and the urban "mobs," who anticipated that they might be the beneficiaries in a reorganized society, were usually warm supporters of the Long Parliament.[32]

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[30]Hill, Century of Revolution, p. 46.

[31]Hill, Puritanism and Revolution, p. 3.

[32]Ibid.

The men who sat in the Long Parliament were, for the most part, not inexperienced in the arts of government, many having worked in the administration or having served in earlier parliaments.[33] This background furnished them with the knowledge necessary to handle the ever-increasing problems that reform created. The majority of them, in 1640-1641, were men who were active in the affairs of their local shires and who earned their wealth primarily from their landed holdings.[34] The overwhelming majority of the men who sat in the Long Parliament's House of Commons in 1640-1641 were undoubtedly men of ample financial means.[35]

It is essential for the purposes of this work to make some generalizations as to what manner of men the Long Parliament's members were. They all shared a background of financial comfort, if not ease; religiously these men usually held to their convictions with fervent devotion; and politically, at least at the beginning, most desired only moderate political and economic reform, and none save a small group of radicals desired anything vaguely approximating the great revolution that did, in fact, eventually take place.

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[33]Keeler, The Long Parliament, p. 15.

[34]Ibid., p. 19.

[35]Ibid., p. 22.

The men of the Long Parliament were not wild-eyed revolutionaries bent on upsetting the established order of Seventeenth-Century English society. As events progressed from moderate developments to more radical steps, these men became embroiled in a whirlwind which engulfed them--and Charles I--in a tragic drama of unforseen, and in a more rational time, undesired events.

In essence, the two principles which most powerfully motivated the Parliamentarians of the Long Parliament, first to reform, and then to revolutionary civil war, were liberty and property.[36] Had Charles I been willing to work with Parliament after 1640-1641 with the powers still left to him, the Civil War might well have been avoided, but Charles's lack of statesmanship put these principles in jeopardy and prevented such a happy occurrence.[37]

But in 1641, while Charles and the Long Parliament were still deeply engaged in their negotiations, an event occurred outside England which was to have far reaching consequences--the Irish Rebellion. This bloody challenge to English authority caused a split in the House of Commons itself. The King was the traditional head of the Armed Forces, but the "Root and Branch" party feared that if Charles were

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[36]Hill, Puritanism and Revolution, p. 28.

[37]Tanner, English Constitutional Conflicts, pp. 104-105.

given an army with which to suppress the Irish rebels he would first use it against the Long Parliament in an effort to regain his lost prerogative powers.[38] The party which opposed further ecclesiastical reform supported the King's claim to control the Armed Forces.[39] Pym suggested to Charles that he agree to use only the advisers acceptable to Parliament for commanding the army Parliament would raise for the quelling of the Irish Revolt; this solution the King found unacceptable.[40]

The House of Commons then proceeded to impeach thirteen bishops from the House of Lords so as to prevent these Lords Spiritual from employing their political influence in the King's favor. Rumors threatening to his Catholic Queen caused Charles to fear for his beloved wife's safety. He determined to charge the five leading members of the House of Commons with treason and invaded the House with the purpose of arresting them personally. The attempt failed and cost Charles most of the remaining confidence that he had possessed with Parliament.[41]

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[38] Ibid., pp. 108-109.

[39] Ibid., p. 109.

[40] Ibid.

[41] Ashley, England in the Seventeenth Century, p. 79.

Since Parliament was now convinced that it could never trust Charles with an army with which to crush the Irish Rebellion, it decided to place the control of England's military forces under its own banner.[42] This was accomplished by the passage of a Militia Ordinance, since the King had refused to sanction a transfer of such power when it had been originally presented to him in the form of a bill. The Militia Ordinance was the first truly revolutionary act of the Long Parliament since, not having the approval of the King, it broke the centuries-old pattern of the constitutional legislation which had developed in England.[43] Its passage, by Parliament alone, marks the beginning of the English Civil War.

The story of the various battles between the Parliamentary and Royalist forces and of the vain attempts at negotiation is too well known to require narration here. It is Charles's trial as a traitor to England and his subsequent execution that are of central concern in this work: why did the Parliamentarians try Charles, and what were their justifications for doing so?

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[42] Tanner, English Constitutional Conflicts, p. 116.

[43] Ibid.

CHAPTER II. THE TRIAL OF THE KING: REGICIDE

By the year 1648 Charles I had fought and lost two Civil Wars against his rebellious Long Parliament. By November of 1648 the Army was promoting the idea that Charles was a "Man of Blood" and should be "speedily brought to justice for the treason, blood and mischief he is . . . guilty of" and there developed, in the Cromwell dominated Independent element of the Long Parliament's members, the notion that the King should be tried by a special High Court of Justice for his role in the Civil Wars.[1] The sentiment against bringing the King to trial was, however, very strong among the Presbyterian members of the Long Parliament, and it was to nullify the power of this group that the Army leaders, on December 6, 1648, had Colonel Thomas Pride arrest forty-five Presbyterian members of the House of Commons and prevent an additional ninety-six members from taking their rightful places within the Commons.[2] Nevertheless, it is worthy of note that even on December 23, 1648, more than two weeks after "Pride's Purge," not all of the Long Parliament's remaining members were eager, or even willing, to bring the King to trial:

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[1]Tanner, English Constitutional Conflicts, p. 152.

[2]Ibid.

> . . . several members made no scruple to mention his majesty, by name, as the greatest Delinquent, and as such to be brought to Justice. Others insisted, That he was not capable of being brought to Justice by his subjects, but by God alone.[3]

The result of "Pride's Purge" was the elimination of the Presbyterian opposition to Cromwell and made what had previously been an Independent minority in the House of Commons the dominant political power in the new "Rump" Parliament. It must be assumed that the Parliamentarians who "insisted" that Charles could not be brought to trial were men of an Independent persuasion who, nevertheless, opposed Cromwell on that particular point of his policy.[4] The fact remains that no longer could Parliament even begin to make a valid case--if there had ever been such a time--that it was the duly elected representative body of the people of all England.

On January 1, 1649 this new "Rump" Parliament, which consisted of less than sixty members, declared that it was

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[3] William Cobbett, The Parliamentary History of England (London, 1808), Vol. 3, p. 1253.

[4] For a careful analysis of the Presbyterian-Independent relationship that existed in the Long Parliament, see J. H. Hexter, "The Problem of the Presbyterian Independents," American Historical Review, Vol. XLIV (October, 1938), p. 29.

treason for the King of England to levy war against Parliament.[5] The House of Commons then proceeded to introduce an Ordinance which would establish a "High Court of Justice" empowered to try the King for High Treason. The House of Lords rejected this proposal. The three Chief Justices whom Parliament had chosen to sit in judgment upon the King "agreed in pronouncing the course proposed hopelessly illegal and added that they also would have nothing to do with it."[6] The House of Commons' reply was that:

> The people are (under God) the original of all just powers. That themselves being chosen by and representing the people have the Supreme Power in the nation. That whatsoever is enacted or declared for laws by the Commons in parliament hath the force of a law and the people concluded thereby though consent of King and Peers be not had thereunto.[7]

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[5]The most scholarly account of Charles I's trial for High Treason is in T. B. Howell's, A Complete Collection of the State Trials (London, 1816), Vol. IV. In this work Howell has accurately edited the most significant State Treason Trials of England from the year 1163 to 1783. Other scholarly secondary works on this subject are: Gardiner, History of the Great Civil War; J. G. Muddiman, The Trial of Charles the First (London, n. d.); G. S. Stevenson, Charles the First in Captivity (New York, 1927); Hilaire Belloc, Charles the First, King of England (London, 1933); and James Caulfield, The High Court of Justice (London, 1820).

[6]Muddiman, The Trial of Charles the First, p. 62.

[7]Howell, The State Trial Papers, Vol. IV, p. 990.

This constitutes an absolute declaration of the concept of popular sovereignty, and it is a little more than ironic that so unrepresentative a body as the Rump Parliament should have formulated it.

On January 6, 1649, the Rump Parliament, in submission to the demands of Oliver Cromwell and the other lesser leaders of the Army passed an Act to which neither the King nor the House of Lords assented, that declared it to be:

> Notorious that Charles Stuart, the now King of England . . . had a wicked design totally to subvert the ancient and fundamental laws and liberties of this nation, and in their place, to introduce an arbitrary and tyrannical government and that besides all other evil ways and means to bring this design to pass, he hath prosecuted it with fire and sword, levied and maintained a cruel war . . . against Parliament . . . whereby the country hath been miserable wasted, the public treasury exhausted, trade decayed, thousands of people murdered, and infinite other mischiefs committed; for all which high and treasonable offences the said Charles Stuart might long since justly have been brought to . . . punishment.[8]

The Cromwell dominated men of the Long Parliament's "Rump" House of Commons then appointed a High Court of Justice which consisted of one hundred and thirty-five Commissioners, who were both to try and judge the King.[9] From the time of "Pride's Purge" forward there was no effective opposition to

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[8]Gardiner, The Great Civil War, pp. 290-291.

[9]Ibid., p. 289.

Cromwell or to the ideas which he represented.

The trial of the King began on January 20, 1649.[10] After the court had come to order, the Lord President, Bradshaw, commanded that the royal prisoner should be summoned before the High Court of Justice. As he entered the Great Hall at Westminster, Charles refused to show any sign of respect or recognition to this High Court of Justice which Parliament had created to try him. The roll call of Commissioners was then read and each answered in his turn. Bradshaw proceeded to initiate the actual trial of the King by stating in broad terms Parliament's reasons for bringing the King to trial:

> Lord President:
> Charles Stuart, king of England the Commons of England assembled in parliament being deeply sensible of the calamities that have been brought upon the nation which is fixed upon you as the principle author of it, have resolved to make inquisition for blood and accordingly to that debt and duty they owe to justice, to God, the kingdom and themselves and according to the fundamental power that rest in themselves, they have resolved to bring you to trial and judgment and for that purpose have constituted this High Court of Justice before which you are brought.[11]

Here, then, is the crux of Parliament's case: Parliament is the supreme power in the nation and hence the sole determiner of the "fundamental laws" of the Kingdom, and as such has the power and the right to try a King who, in its

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[10]Howell, The State Trial Papers, Vol. IV, p. 993.

[11]Ibid., p. 995.

opinion, has transgressed against these laws. The Solicitor of the Commonwealth, John Cook, then read the Court's charge against the King; basically it followed the line of thought expressed in the Act which had created the High Court. Charles Stuart, the King of England, was accused of having failed to discharge his entrusted, limited powers according to the laws of the land and of trying to establish a tyrannical rule over England; on such grounds as these Cook impeached Charles as a "Tyrant, traitor, murderer and a public and implacable enemy of the Commonwealth of England."[12] The "Rump" Parliament had two arguments at its disposal for justifying its act of trying the King for High Treason. One of these, and the stronger, was the argument that Charles's behavior as King had been "bad" and detrimental to the best interests of the Kingdom and that therefore he should be removed for the "good" of the nation. The depositions of Edward III and Richard II would have given Parliament the legal precedents needed for forcing Charles's removal if it had chosen this "political" argument for disposing of the King. The other of the arguments which was available to the Rump Parliament was the idea that Charles's "bad" acts as King were illegal and that therefore he had broken the "fundamental laws" of the Kingdom's constitution. This

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[12] Gardiner, The Great Civil War, p. 299.

reasoning was weak in that all the legal precedents that had developed in the course of England's history had held that "constitutionally" the "King could do no wrong." The Rump Parliament erred in departing from the preamble of the Act of January 6, 1649, in that it exchanged its strong political grounds for trying Charles for the weaker constitutional argument. That preamble had stated that for practical considerations it was impossible for England to suffer under the tyranny of a single man whose actions had been harmful to England, and that Charles had to be brought to trial in that while he lived the nation could have no domestic peace. There can be no doubt that Parliament's political reasons for trying the King would have been far more justifiable than Parliament's claim to have the legal and constitutional power to try a wayward King.[13]

After the charge had been read, Charles, as Cromwell had predicted, asked by what lawful authority he had been summoned before the bar:

> King:
> I would know by what power I am called hither:
> I would know by what authority, I mean lawful,
> there are many unlawful authorities in the world,
> thieves and robbers by the highways, but I would
> know by what authority I was brought hence . . .

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[13] Howell, The State Trial Papers, Vol. IV, p. 958; Gardiner, The Great Civil War, p. 299.

> and when I know what lawful authority I shall answer . . . . In the meantime, I shall not betray my trust . . . to answer a new unlawful authority.[14]

The simple fact is that Charles refused to recognize the jurisdiction of Parliament's High Court of Justice and would neither plead guilty or innocent to the charges it had prepared against him; in essence he considered the High Court a usurping power, the "mob" gone wild, and he rejected, with kingly contempt, its claims to lawful jurisdiction over him.

Throughout the remainder of the trial this was to be the central area of dispute between the King and the High Court--the High Court claiming to have the legal power to try Charles for High Treason and the King constantly rejecting that assertion. On every occasion that the court met this same scene was repeated, and the High Court of Justice did not hesitate to interpret England's past history for its own advantages:

> Lord President:
> If you had been pleased to have observed what was hinted to you by the court at your first coming hither, you would have known by what authority requires you in the name of the people of England of which you are elected king to answer them.

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[14] Howell, The State Trial Papers, Vol. IV, p. 995.

> King:
> No Sir, I deny that . . .. England was never an elective kingdom, but an hereditary kingdom for near these thousand years; therefore let me know by what authority I am called hither; I do stand more for the liberty of my people than any here that come to be my pretended judges and therefore let me know by what lawful authority I am seated here and I will answer it.[15]

Historically and constitutionally Charles was standing on firm ground in his assertions that the court had no legal right to try him for treason, nor for that matter, any other alleged crime. The court's answer led back to the same stalemate:

> Lord President:
> The Court expect you should give them a final answer . . . if you do not satisfy yourself, though we do tell you our authority, we are satisfied with our authority, and it is upon God's authority and the kingdom's.[16]

Here was set the pattern for the trial, nor was it to be altered.

The High Court was reconvened, on January 22, 1649, for its second sitting. Bradshaw began the day's proceedings:

> Lord President:
> Sir, you may remember at the last Court you were told the occasion of your being brought hither and you heard a charge read against you.
>
> King:
> If it were only my own particular case I would have been satisfied . . . with the protestation made the last time I was here against the Legality

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[15] Ibid., p. 996.

[16] Ibid., p. 997.

> of this court and that a king cannot be tried by any superior jurisdiction on earth; but it is not my case alone it is the freedom and the liberty of the people of England and do you pretend what you will I stand more for their liberties . . . For if power without law may make laws . . . I do not know what subject he is in England that can be sure of his life or anything that he calls his own.[17]

In taking this line Charles sought to identify his own case with that of the English "people."[18] There is some logic in what he maintained, in that if a king cannot be assured of what centuries of tradition and precedent had defined as "justice," what chance could a "common man" have to obtain it?

Realizing the soundness of Charles's argument, the High Court was resolved to silence it:

> Lord President:
> Sir I must interrupt you . . . the vote of the commons of England assembled in parliament . . . is the reason of the kingdom and they are these that have given . . . that law according to which you should have ruled and reigned . . . Sir you are not to dispute our authority . . . you stand in contempt of the court.[19]

On the 23rd of January, 1649, the High Court of Justice met once more and again, despite the protestations of Bradshaw,

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[17] Ibid., pp. 998-999.

[18] Charles Firth, Oliver Cromwell and the Rule of the Puritans in England (London, 1906), p. 221.

[19] Howell, The State Trial Papers, Vol. IV, p. 999.

Charles refused to recognize the legality or jurisdiction of the court and declined to plead anything before it.[20]

The proceedings of the High Court on January 27, 1649 began in the same manner, and had the same results as had been produced by the court's previous meetings--with one very important exception. Bradshaw reiterated before the court and the spectators the court's position and the King's refusal to recognize the validity of that stand.[21] The King again denied the jurisdiction of the High Court, but requested a hearing before all the Lords and Commons of England:

> King:
> Since I see that you will not hear anything of debate concerning that (which) . . . I thought most material for the peace of the kingdom and for the liberty of the subject . . . I must tell you . . . I conceive that a hasty sentence once passed may sooner be repented of than recalled. And truly the self same desire that I have for the peace of the kingdom and the liberty of the subject . . . makes me now at last desire that I having something to say that concerns both, I desire before sentence be given that I may be heard in the Painted Chamber before the Lords and Commons. This delay cannot be long, this delay cannot be prejudicial to you, whatsoever I say . . . Therefore I do conjure as you love that you pretend . . . the liberty of the subject, the peace of the kingdom, that you will grant me this hearing before any sentence be passed . . . But if I cannot get this liberty I do protest that these fair shows of and peace are rather specious shows than otherwise.[22]

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[20] Ibid., pp. 1002-1004.

[21] Muddiman, The Trial of King Charles the First, p. 107.

[22] Ibid., p. 108.

The Lord President replied:

> And this that you have said is a farther declining the jurisdiction of this court, which was the thing wherein you were limited before.[23]

It was at this point that a dramatic interruption startled the High Court.[24] John Downes, one of the Commissioners who had been appointed to try the King was greatly moved by Charles's request and by the Lord President's rejection of it. Downes turned to his fellow Commissioners and stated: "Have we hearts of stone? Are we men?"[25] The other Commissioners tried to silence him, but he replied: "If I die for it, I must do." The court then adjourned to hear Downes's reasons why the King should be granted his desire. All was in vain. The court rejected Downes's pleas and refused to allow the King to address any assembly of the Lords and Commons. Bradshaw now summed up the High Court's conclusions:

> You disavow us as a court and therefore for you to address yourself to us not acknowledging us as a court to judge of what you say it is not to be permitted . . . But sir I shall trouble you no longer; your sins are of so large a dimension that

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[23] Ibid.

[24] Ibid.

[25] Ibid.

> if you do but seriously think of them they will drive you to a sad conclusion . . . We cannot be unmindful of what Scripture tells us: For to acquit the Guilty is of equal abomination as to condemn the Innocent . . . What sentence the law affirms to a traitor, tyrant, a murderer and a public enemy to the country that sentence you are now to hear read unto you and that is the sentence of the court.[26]

The sentence was now read stating that:

> For all which treasons and crimes this court doth adjudge that the said Charles Stuart, as a tyrant, traitor, murderer and public enemy shall be put to death by the severing of his head from his body.[27]

After which followed the last tragic act of the King's trial:

> King:
> Will you hear a word, sir?
>
> Lord President:
> Sir, you are not to be heard after sentence.
>
> King:
> No sir!
>
> Lord President:
> No sir by your favour sir. Guard withdraw your prisoner.
>
> King:
> I may speak after the sentence--By your favour sir, I may speak after the sentence ever . . . I am not suffered to speak; expect what justice other people will have.[28]

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[26]Howell, The State Trial Papers, Vol. IV, pp. 1016-1017.

[27]Ibid., p. 1017.

[28]Ibid., pp. 1017-1018.

So ended Charles Stuart's trial for High Treason. That it was an unfair trial would be difficult to deny. That the trial was unconstitutional in that it went contrary to a thousand years of English legal tradition, there can be no question. Previous to Charles's time all the statutes concerning "treason" had defined it as a crime directed against the King, and hence Charles could never have been guilty of such a charge.[29] Charles I never stood more majestically for the symbol of the Monarchy than at his trial and on the day of his execution. Like Samson before him, he destroyed more of his enemies by his death than he had during his life. Charles left behind him the image of a martyred King.[30] His mistakes were soon forgotten by the people, but his courage remained and helped pave the way for the Restoration of the Monarchy in 1660 and the retribution that would come with that Restoration.

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[29] Carl Stephenson and Frederick G. Marcham, Sources of English Constitutional History (New York, 1937), p. 227. (The Statute 25, Edward 3.)

[30] The book, Eikon Basilike (or the King's Book) is attributed to Charles I himself and is considered by some to have been written by the doomed King during his final imprisonment. The book proved to be very popular and went through many editions at the time of the 1660 Restoration of the English Monarchy.

CHAPTER III. THE REGICIDES AND THEIR JUSTIFICATIONS

Of the fifty-nine men who condemned Charles I to death in 1649, twenty-two of the signers of the King's death warrant survived to be tried for regicide at the time of the 1660 Restoration.[1] From the Dutch port-town of Breda, before his return to England, the new King, Charles II, issued a declaration expressing his desire to bind up the wounds which the nation had suffered during the course of the civil wars and the period of the Cromwellian Interregnum. The last paragraph of this declaration stated:

> And to the end that fear of punishment may not engage any conscious to themselves of what is past to a perserverance in guilt for the future by opposing the quiet and happiness of their country in the Restoration both of king, and peers, and people to their just, ancient and fundamental rights; we do by these presents declare that we do grant a free and general pardon which we are ready, upon demand to pass under our great seal of England, to all who within forty days after the publishing hereof, shall lay hold upon this our grace and favour and shall by any public act declare their doing so and that they return to the loyalty and obedience of good subjects; excepting only such persons as shall hereafter be excepted by parliament.[2]

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[1]The most useful works on the trials of the regicides are: Howell, The State Trial Papers, Vol. V; Mark Noble, The Lives of the English Regicides (London, 1798), Vols. I and II; Caulfield, The High Court of Justice; Leslie Stephen and Sidney Lee, eds., The Dictionary of National Biography (London, 1921).

[2]Howell, The State Trial Papers, Vol. V, 951-952.

These are not words of bitter hatred or vengeance, but words of reconciliation and of a willingness to come to terms, in a realistic fashion, with the political, social and economic changes that eleven years had wrought upon English society. Charles II was wise enough to realize that a blood bath would not be in the best interest of his newly restored crown and that he would obtain far more popular support for his regime by a demonstration of mercy than by brutal, wholesale revenge upon those who had supported Cromwell.

Representative of the ideas of the men who sat, in 1649, on the High Court of Justice which tried and executed Charles I are the twenty-two men who both signed his death warrant and who were "absolutely excepted as to life and estate" by the Convention Parliament of 1660 which invited Charles II to return to his "rightful" throne.[3] The basis for the charge which was levied against these men was the statute 25 Edward III, which made it an act of High Treason to "compass and imagine the death of the king."[4] In 1649 the regicides presented as their justification for executing Charles I the argument that Charles had been an evil and unconstitutional King. The question remains, however, as to what justifications these twenty-two surviving regicides

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[3] Ibid., pp. 958-994.

[4] Ibid., p. 998; Carl Stephenson and Frederick G. Marcham, Sources of English Constitutional History (New York, 1937), p. 227.

offered in their defenses at the time of their trial for High Treason in 1660? Did these twenty-two men, the last remnants of the 1649 High Court of Justice, reaffirm or repudiate the justifications they had offered to the world at the time of Charles I's execution?

Since it is the central purpose of this study to ascertain whether or not there is a "type" of man who commits the crime of regicide, it is imperative to obtain some knowledge of these twenty-two men who, as a sampling of the members of the High Court of Justice, comprise the collective subject matter of this work. The method of investigation employed seeks to discover first if any uniformity of defensive argument was presented by the regicides as a group, and second, to determine whether there is any correlation between their defenses and what can be learned of their backgrounds. The procedure used requires a careful inquiry into the regicides' political, socio-economic and religious backgrounds.

The twenty-third regicide considered in this study is Oliver Cromwell, whose character and ideas played such an important role in the King's trial and execution, and who later was to serve as the focal point of many of the other regicides' defenses for the parts they played in King Charles's death. Since Charles's fate was determined, in great part, by Cromwell's ideas and will, it is fitting

that he should be included in this investigation of the regicides' justifications. It is with this end in view that the following biographical sketches are now presented.

Of the twenty-three regicides examined for the purposes of this work, three--Cromwell, Harrison and Barkstead--justified their act of regicide by claiming that it had been "God's Will," manifesting itself to them after intense thought and prayer, that Charles I should be executed as a traitor.

Oliver Cromwell

Oliver Cromwell, Esq., was descended from a very ancient and powerful family. When he entered the Long Parliament he was very dissatisfied with both Charles I's political and religious policies. Possessed of great military ability, he was also a humane man who was in favour of both religious and political liberty when judged against the standards of the times in which he lived.[5] Speaking of Charles I's trial and execution, Cromwell once remarked that it had been required by "Providence and necessity," and that "The civil authority did, in answer to their conscience turn out a tyrant, in a way which the Christians in after times will

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[5] Noble, Lives of the Regicides, Vol. I, 159, 161; Caulfield, The High Court of Justice, p. 10.

mention with honour and all tyrants in the world look at and fear."[6] Cromwell, who had a profound religious faith that he was an "Instrument" of God, was posthumously condemned, exhumed and hanged.

Thomas Harrison

Thomas Harrison was the son of a grazier (or a butcher--the evidence is inconclusive). He served with distinction in the Army raised by Parliament to oppose the King and rose in its ranks to become a Major-General. Of all the regicides tried, Harrison was the most fanatical in his defense and the most hated, with the possible exception of Hugh Peters, by the Royalists. To the very end of his life he justified his part in Charles's trial and execution and defiantly sought no mercy from his judges, stating as he ascended the gallows that he "was going to sit at the right hand of Jesus."[7]

John Barkstead

At the beginning of the English Civil War Barkstead was a London goldsmith, but he immediately took up Parliament's cause and was noted for his severe treatment of the

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[6] The Dictionary of National Biography, Vol., V, 167.

[7] Noble, Lives of the Regicides, Vol. I, 306; Caulfield, The High Court of Justice, pp. 67-68; Muddiman, The Trial of King Charles, p. 186.

Royalists. Despite his actions he was acknowledged by his enemies as a man of great courage and ability.[8]

Six of the twenty-two regicides tried in 1660 justified their part in Charles I's trial and execution by claiming that they had acted by Parliament's authority and that they were therefore excused from any criminal responsibility.

Thomas Scot

In his early years Thomas Scot was a brewer, but he later became an attorney, receiving his degree from Cambridge University, which was at that time, the mid-Seventeenth Century, a center of Puritan teaching. He was one of the most obstinate and unrepentant of the King's opponents and expressed the desire that on his tomb there should be placed the inscription: "Here lieth one who had a hand and a heart in the execution of Charles Stuart, late King of England."[9]

Regardless of these sentiments, Scot attempted to flee England at the time of the Restoration, only to be plundered by the piratical crew of the ship upon which he

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[8]Noble, Lives of the Regicides, Vol. I, 87; Caulfield, The High Court of Justice, p. 18.

[9]Caulfield, The High Court of Justice, p. 20.

had sought to escape and returned to the English mainland, where he was discovered and brought to trial.[10]

John Carew

John Carew was descended from an old family which had originated in Cornwall. He served both in the Long Parliament and in the Rump Parliament and was well-known for his belief in Parliament's cause. Carew became a Fifth Monarchy Man and considered not only King Charles, but Cromwell as well, usurpers against Christ. To the very end of his life he maintained his belief in the republican principles he had supported throughout his career.[11]

Adrian Scroop

Adrian Scroop, Esq. was of a very ancient family from Buckinghamshire and was possessed of a very prosperous estate. Like Carew, he was a well-known republican. Scroop surrendered himself in accordance with the King's declaration of indemnity and pleaded not guilty to the charges brought against him, but insisted on justifying his actions as a Commissioner

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[10] Ibid.; Noble, Lives of the Regicides, Vol. II, 169.

[11] Noble, Lives of the Regicides, Vol. I, 124-125; Caulfield, The High Court of Justice, p. 36.

on the High Court of Justice and was condemned to death.[12]

Miles Corbet

Miles Corbet was a gentleman from Norfolk. He was elected to the Long Parliament and was hostile to both Charles I's political and religious policies. At the time of the Restoration he escaped to Germany, but later went to Holland where he and some of his fellow regicides (Barkstead and Okey) were arrested and extradited for trial to England. To the very day of his death Corbet defended the role he had played in Charles's trial and execution and stated that if he had it all over to do again, he would do nothing differently.[13]

John Okey

John Okey came from a very poor economic background, having worked as a drayman and a chandler. Being unsuccessful and discontented, when the Civil War broke out, he enlisted in the New Model Army in an attempt to better his

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[12] Noble, Lives of the Regicides, Vol. II, 200-201; Caulfield, The High Court of Justice, p. 45.

[13] Noble, Lives of the Regicides, Vol. I, 151, 154; Caulfield, The High Court of Justice, p. 54.

fortunes and later played an important role in the King's trial. At the time of the Restoration he fled to the continent, but dared to venture into Holland, from whence he was extradited to England, where he was tried and executed.[14]

Henry Martin

Henry Martin served in the Long Parliament's Army against Charles I and rose in its ranks to become a colonel. Martin was one of the first to suggest that the King should be executed. Though sentenced to death for the role he had played in the King's death, Martin was granted a reprieve and died a prisoner.[15]

Fourteen of the twenty-two regicides completely repudiated the parts they had played in Charles I's trial and execution. They abjectly confessed their guilt and pleaded mercy and pardon from the King.

Simon Mayne

Simon Mayne descended from an ancient family which came from Buckingham. His contemporaries considered him

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[14] Noble, Lives of the Regicides, Vol. II, 104, 107; Muddiman, The Trial of King Charles, p. 188.

[15] Noble, Lives of the Regicides, Vol. II, 43, 58; Muddiman, The Trial of King Charles, p. 186.

a man of violent passions, but of little judgment; he thought it an honor to serve as one of Charles I's judges. At the time of the Restoration he surrendered in compliance with Charles II's promise of mercy. At first he pleaded not guilty to the charges that were brought against him, but later changed his mind and told the court:

> When I laft here my lord, that I did speak not guilty was not as to matter of fact but my conscience telling me that I had no malice or ill intention to his majesty, that was the reason. For matter of fact I shall acknowledge what I have done and lye at his majesty's feet for mercy.[16]

As for his justification for the part he played in Charles's death he pleaded:

> I was very unwilling to it . . . . I was thereupon drawn in to set my hand to it. My lord, I never plotted nor contrived the business.[17]

In essence, Mayne's basic excuse was that he had been coerced, no doubt by Cromwell, into signing Charles's death warrant.[18] Despite his protestations of innocence and his repudiation of Cromwell, Mayne was found guilty of High Treason. Nevertheless, his life was spared and he died a prisoner in the Tower of London the next year.[19]

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[16] Noble, Lives of the Regicides, Vol. II, 64-66.

[17] Ibid., pp. 65-66.

[18] The Dictionary of National Biography, Vol. XIII, 166.

[19] Noble, Lives of the Regicides, Vol. II, 66.

James Temple

James Temple was a gentleman from Sussex and descended from a noble family which had its origins in that shire. He joined the Long Parliament and rose to the rank of colonel in the New Model Army. At the time of the Restoration he was tried for regicide, but pleaded the King's pardon and was confined to the Tower of London, where he later died.[20]

Robert Lilburne

Robert Lilburne was of an old and distinguished Yorkshire family. At Cromwell's immediate direction he sat as one of Charles's judges and signed the King's death warrant, but at his trial he pleaded that he was:

> . . . not at all any disturber of the government I never interrupted the parliament at all, I had no hand in those things neither in 1648 nor at any other time. I shall humbly beg the favour of the king that he would please to grant me his pardon according to his declaration . . .[21]

Lilburne was convicted of High Treason, but was not executed.

John Jones

John Jones was a soldier of fortune who had married

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[20] Ibid., pp. 263-264.

[21] Noble, The Lives of the Regicides, Vol. I, 378-379; Caulfield, The High Court of Justice, p. 74.

one of Oliver Cromwell's sisters. Despite his profession Jones had descended from a family of some means and was possessed of a small land holding. At the time of the Restoration Jones attempted to hide himself in Finsbury Fields, but he was discovered and brought to trial. At his trial he made no effort to justify his act of regicide and was hanged, drawn and quartered.[22]

Hardress Waller

Sir Hardress Waller was a knight who fled from England to France at the time of the Restoration, but, fearing the loss of his estates, returned. He pleaded guilty and claimed Charles II's mercy. His life was spared, but he died a prisoner in the Tower of London. Waller was viewed by one of his contemporaries as a "man that would say anything to save his life and was prepared to that purpose."[23]

Thomas Wayte

Thomas Wayte was said to have been the son of an alehouse-keeper and a resident of Rutlandshire. He joined the Long Parliament's Army and rose to the rank of colonel.

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[22]Noble, Lives of the Regicides, Vol. I, 372; Caulfield, The High Court of Justice, p. 49.

[23]Noble, Lives of the Regicides, Vol. II, 291, 297.

As one of the Army's leaders, he used his influence to support those who desired to try the King and sat on the High Court of Justice which condemned Charles I. At the time of his 1660 trial he offered the following in his defense:

> I came to London the day before the Sentence was given, I went to the house, . . . and my name was in the act unknown to me but one sent a note in my lord Grey's name that he would speak to me, I went to him and I said, my lord, what would you do with me? Saith he, I did not send for you, thereupon, Cromwell and Ireton laid hold of me, Said they, we sent for you, you are one of the high court, no said I, my judgment is against it, they carried me to the court.[24]

Regardless of this self-serving testimony, Wayte was found guilty, though his life was not forfeited, and he died a prisoner in the Tower.[25]

Augustine Garland

Augustine Garland was a lawyer from the county of Essex; he left his legal career and joined the Parliamentary Army at the beginning of the Civil War. He was named one of the Commissioners to try the King and sat on the High Court of Justice in that capacity. His contemporaries viewed him as a weak and timid man who was nothing more than one of

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[24]Noble, Lives of the Regicides, Vol. II, 313-316.

[25]Ibid.,pp. 310-311; Muddiman, The Trial of King Charles, p. 186.

Cromwell's tools. He was sentenced to death, but was pardoned by Charles II.[26]

Robert Tichborne

Robert Tichborne was descended from a family which had originated in Hampshire and was supposed to have been possessed of a baronetcy. At the time of the Civil War he was, however, a linen draper in the city of London. He gave up his career and entered the Long Parliament; he rose in the ranks of the Parliamentary Army until he was given the command of the city of London itself. At the time of his trial he plead:

> My lord, it was not then in my heart either to deny or justify any title of the matter of fact. My lord, it was my unhappiness to be called to so sad a work when I had so few years over my head, a person neither bred up in the laws, nor in parliaments where laws are made . . .. My lord, I came in upon the proclamation and now I am here . . . I hope there will be room found for that mercy and grace that I think was intended by the proclamation . . .[27]

Though found guilty of High Treason, Tichborne's repentance saved his life.

John Downes

John Downes was a Londoner who belonged to the

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[26]Noble, Lives of the Regicides, Vol. I, 249, 253.

[27]Noble, Lives of the Regicides, Vol. II, 272, 274-275; Caulfield, The High Court of Justice, p. 57.

lower classes of English society. Though one of the signers of Charles I's death warrant, Downes had attempted to save the King's life during the trial, and he lost no opportunity in reminding the court, which was trying him for his role in Charles's death, of that fact. Downes was nonetheless, sentenced to death, but the sentence was commuted to life imprisonment.[28]

Peter Temple

Peter Temple was probably a relative of Sir Peter Temple, Bart., and therefore a member of England's minor aristocracy. The character of this regicide appears to be that of a man who was mainly ignorant and passive with respect to the events which were going on around him; he was evidently nothing more than a pawn in Cromwell's hands. He justified himself at his trial by saying:

> To save your lordships time I will confess what I am guilty of, I was in the court, sat there, if I see my hand, I shall confess it . . . I acknowledge they are my hand . . . I came in upon the proclamation and I humbly beg the benefit of it.[29]

Temple was sentenced to death, but his life was spared and he died a prisoner.

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[28] Noble, Lives of the Regicides, Vol. I, 184, 187, 191.

[29] Noble, Lives of the Regicides, Vol. II, 268-269; Caulfield, The High Court of Justice, p. 35.

Vincent Potter

Vincent Potter was a man whose significance, and claim to fame, was his being one of the Commissioners who tried Charles I. He appeared, at his own trial, to be a simple and misguided soul, and though found guilty, he was not executed and spent his final days a prisoner.[30]

George Fleetwood

George Fleetwood was devoted to the cause of the Long Parliament and served in Parliament's Army. He was completely dominated by the Army's chiefs, particularly by Cromwell. Fleetwood was sentenced to death, but his life was saved through the efforts of his father who interceded on his behalf with King Charles II.[31]

Gregory Clement

Gregory Clement was a merchant of London and was very sympathetic to republican ideas. He entered the Long Parliament in 1646 and was noted for his skill and devotion to that body's cause. Contemporary accounts pictured Clement as a greedy man who acquired a large fortune during the

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[30] Ibid., pp. 129, 131.

[31] Noble, Lives of the Regicides, Vol. I, 243-245.

course of the civil wars by purchasing the estates of the Royalist bishops. At the time of his arrest he first pleaded guilty to the charges against him in an effort to save his life, but after his condemnation he changed his plea and gloried in the role he had played in Charles's trial and execution. Clement was executed on October 17, 1660.[32]

Gilbert Millington

Gilbert Millington was a lawyer who joined the Long Parliament's side at the beginning of the war and who was greatly in favour of trying the King. Contemporary accounts portray him as a very greedy man. At his trial for regicide Millington pleaded that he was: "awed by the present power than in being . . . I . . . . lay myself at your feet . . ."[33] Millington claimed the King's declaration of pardon and thereby saved his life, the remainder of which was spent in prison.

What then may be concluded from the regicides' behavior at their trials for Charles I's execution? It appears that as a group the regicides offered no uniform defense for Charles's trial and execution. A study of these

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[32] Ibid., pp. 142-143; Caulfield, The High Court of Justice, pp. 24-25.

[33] Noble, Lives of the Regicides, Vol. II, 81-84.

men's political, socio-economic, and religious backgrounds produces only the negative conclusion that no correlation exists between these factors and the defenses presented by the different regicides. It may, however, be conjectured that their participation in the act of regicide was influenced by their connection with the Congregational Churches, but neither religion, military experience, nor socio-economic status appear to have had any direct bearing on the defenses the regicides presented. It seems that the essential factor of individual personality is the key to any understanding of how the different regicides attempted to defend the roles they had taken in Charles's execution.

A careful investigation of these men on the basis of profession, socio-economic standing, and religion reveals that men who were so different as Oliver Cromwell, who was a gentleman-farmer of the well-to-do gentry class, Thomas Harrison, who was a poor soldier, and John Barkstead, who was a middle class professional man, should all choose the same justification for the roles they played in Charles's trial and execution--the justification that it was "God's Will" that Charles should die. It is of no less interest that Adrian Scroop and Miles Corbet, both members of Cromwell's socio-economic, religious and professional class, should share the same justification (that they acted by Parliament's authority) with a man like John Okey who came from the lowest dregs of Seventeenty-Century English society.

To demonstrate the fact that there is no apparent correlation between the regicides' professions, religion or socio-economic backgrounds and the justifications they presented at their 1660 trials it is necessary to quote some brief portions of the testimonies offered by the accused regicides. It is only by analyzing their own words that the regicides' justifications can be fully elucidated.

The proceedings against the twenty-two regicides began on October 9, 1660 at Hick's Hall in Middlesex County. In his opening speech to the inquest jury the Lord Chief Baron said:

> Gentlemen: You are the grand inquest for the body of this county of Middlesex. You may perceive by this commission that hath been read that we are authorized by the king's majesty to hear and determine all treasons felonies and other offences within this county; but because this commission is upon a special occasion the execrable murder of the blessed king that is now a saint in heaven king Charles the Ist, we shall not trouble you with the heads of a long charge. The ground of this commission was and is from the act of oblivion and indemnity. You shall find in that act there is an Exception of several persons who (for their excerable treasons, in sentencing to death and signing the warrant for the taking away the life of our said sovereign) according to the laws of England, and are out of that act wholly excepted and fore-prized.[34]

The Lord Chief Baron then proceeded to explain the law of the statute 25 Edward III which made the compassing of the

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[34] Howell, The State Trial Papers, Vol. V, p. 988.

king's death a crime of High Treason and described how it applied to the accused regicides. The indictment was then read, stating how the regicides:

> . . . not having the fear of God . . . and being instigated by the devil did maliciously, traitorously and feloniously contrary to . . . due allegiance and bounden duty, sit upon and condemn our late sovereign lord, king Charles the first, of ever blessed memory and also sit upon the 30th of January 1649 sign and seal a warrant for the execution of his late sacred and serene majesty of blessed memory.[35]

There then followed the preliminary pleadings of the regicides:

> Clerk of the Crown: How sayest thou sir Hardress Waller? Art thou guilty of that treason whereof thou standest indicted and for which thou hast now been arraigned, or Not Guilty?
> Sir H. Waller: Insomuch as I said I dare not say not guilty, I must say guilty.
>
> Clerk: Thomas Harrison, how sayest thou? Art thou guilty of the treason . . .
> Harrison: I do offer myself (pleading not guilty) to be tried in your own by God and my country.
> Clerk: God send you a good deliverance.
>
> Clerk: Henry Martin how sayest thou? Art thou guilty of the treason . . .
> Martin: I desire the benefit of the act of oblivion (the King's promise of pardon).
>
> Clerk: Robert Lilburne . . . How sayest thou? Art thou guilty of the treason . . .
> Lilburne . . . I am not guilty.
>
> Clerk: Adrian Scroop . . . How sayest thou? Art thou guilty of the treason . . .
> Scroop: My lord, not guilty.[36]

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[36] Ibid., pp. 997-1004.

Though four of these five regicides pleaded not guilty in their preliminary hearings, and in doing so are representative of all the regicides who were tried, many of them later changed their pleas in order to obtain the King's mercy. The genuine character of the regicides makes itself strikingly clear as each one's justification is analyzed and judged.

The testimony of three regicides may be presented as a summation of all the different justifications offered by the twenty-two regicides as a group at their 1660 treason trials.

Thomas Harrison represents two of the basic justifications offered by the regicides in their defences. Harrison was tried on October 11, 1660, like the others, at the Sessions House in the Old Bailey.[37] When the time came for Harrison to justify himself, he stated:

> I have two things to offer to you for my defense in matter of law. One is that this that hath been done was done by a parliament of England by the Commons of England assembled in parliament and that being so whatever was done by their commands or their authority is not questionable by your lordships as being (as I humbly conceive) a power inferior to that high court of parliament; that is one. A second is this, That what, therefore, any did in obedience to that power and authority, they are not to be questioned for it . . . and whereas it hath been said we did assume and usurp an authority, I say this was done rather in the fear of the Lord.[38]

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[37] Ibid., pp. 1025-56.

[38] Ibid.

Of the twenty-three regicides examined in this work, only three justified themselves, at least in part, by claiming that it was "God's Will" that Charles I should be executed; these are: Cromwell, Barkstead, and, of course, Harrison.

Adrian Scroop was brought to trial on October 12, 1660, and in reply to the court's question as to whether he pleaded guilty or innocent, Scroop answered:

> My lords . . . I was not in the parliament take notice of that and that which was done in the high court of justice it was done by a commission from the parliament. My lord it was that authority which was then . . . the supreme authority in the nation . . . My lord I having received a command from that authority what I did was in obedience to that authority.[39]

This argument is a very difficult one to refute (it was adopted by six of the regicides) and is not a little similar to those which have been offered in our own time to justify far more massive crimes (e.g., genocide) than was committed against Charles I of England. The solution, based on over three hundred years of experience, seems to be that men must, in the final analysis, be held totally responsible for whatever actions they ultimately elect to do.

Augustine Garland is representative of fourteen of the twenty-two regicides. He totally repudiated the role he

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[39] Noble, Lives of the Regicides, Vol. II, 217.

had played in the late King's death and attempted to shift, unsuccessfully, the entire blame for the bloody affair on to Cromwell's head. When he was brought to trial, Garland pleaded the following in an effort to save his life:

> I lived in Essex in the beginning of these troubles and was forced to forsake my habitation; I came from thence to London. Afterwards in 1648 I was chosen a member into the parliament, in June 1648 I came in a member of the parliament . . . the first business that came was the . . . trial upon the king and it was put on me to be chairman for bringing in this act for trial, I did not know how to contradict that power or authority . . . my lord when I came there I was forced to runthroughout what they imposed upon me.[40]

There were fifty-nine signatories of Charles I's death warrant and fifteen of these died before the 1660 Restoration.[41] Twenty-two of the original fifty-nine were tried for regicide in 1660, and an additional twenty-two are unaccounted for.[42] Thirteen of the regicides (Martin, P. Temple, Potter, J. Temple, Mayne, Millington, Garland, Fleetwood, Downes, Lilburne, Tichborne, Wayte, and Waller) were sentenced to life imprisonment or exile.[43] Nine of the regicides (Harrison, Barkstead, Carew, Scot, Clement, Scroop, Okey, Corbet and Jones) were sentenced to death and were

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[40]Howell, The State Trial Papers, Vol. V, 1218.

[41]Muddiman, The Trial of King Charles, p. 183.

[42]Howell, The State Trial Papers, Vol. V., 947-1363.

[43]Ibid.; Muddiman, The Trial of King Charles, pp. 183-188.

executed.[44] None of the twenty-two signers of King Charles I's death warrant were pardoned.[45]

In analyzing the regicides' behavior during their trials for High Treason it appears that the human element was the ultimate determinant in the selection of whatever justification was eventually advanced. There were fundamentally two kinds of regicides: those who sustained the principles they had advocated at the time of the 1649 regicide, and those who repudiated their former principles when placed under the pressure of a possible death sentence because of their past deeds. The fear of retribution doubtless motivated some of the regicides to confess their guilt and beg forgiveness in order to save their lives. Eight of the fourteen regicides, however, had such a firm belief that what they had done was both religiously and constitutionally justified that they refused to disavow the principles which they had presented to the world in 1649 as to why Charles deserved to die. They took this stand despite the fact that they knew that death would be their punishment, were they convicted of the treason charges which had been brought against them.

What then, in conclusion, can be said of Charles I's

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[44] Muddiman, The Trial of King Charles, pp. 186-188.

[45] Ibid.

regicides? All the available evidence seems to suggest that their political beliefs, socio-economic status, and religious convictions had no effect whatsoever on the defenses they offered for the parts they had played in the King's trial and execution. Even investigation into the regicides' ages or military experience offers no indication why some of the regicides chose one defense and others elected different justifications.[46]

It has not been the avowed purpose of this study to reach any ultimate answer as to what motivated the regicides to try and to execute King Charles I. Though no single, or even multiple number of factors, seems to explain why the regicides committed the deeds they did, the very fact that no uniform defense was presented in justification of those acts is of significance.

Each of the regicides met the pressing and crucial issues of his time in an individual manner, and each attempted to justify the course he had elected according to the dictates of his own conscience and reason. A man's conviction in the principles by which he has led his life is often the measure of both the man and the ideas he supported. This analysis of the regicides' opinions and backgrounds demonstrates that

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[46]The average age of a member of the Long Parliament in 1640-41 was forty-five years old. Keeler, The Long Parliament, p. 19.

no single rationale for their behavior exists. Its sole contribution is its attempt to shed some light on the regicides' ideas and in doing so present a valuable insight into why men act the way they do.

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