

0. A BACKGROUND OF WAR - Story Preface

1. A BACKGROUND OF WAR

2. A NEW CONSTITUTION

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4. RATIFICATION of the U.S. CONSTITUTION

5. FEDERALISTS LOSE POWER

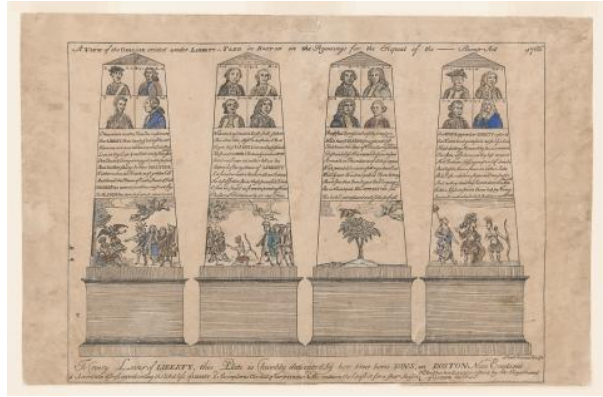
6. MIDNIGHT JUDGES

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This schematic shows the American Colonies in various stages of struggle against Parliament's imposition of the Stamp Act. The Library of Congress tells us [more about the four drawings](#): "1. America in distress apprehending the total loss of Liberty. 2d. She implores the aid of her Patrons. 3d. She endures the Conflict for a short Season. 4. And has her Liberty restord by the Royal hand of George the Third." Original engraver, Paul Revere, in 1766. This image, maintained by the Library of Congress, is a restrike of the original and was printed in 1839 or sometime thereafter. Click on the image for an expanded view.

It is 1767, and the American colonists are extremely upset. Without any American representation in the [English Parliament](#), that body (the equivalent of the United States Congress) has passed laws [taxing the colonists](#) on all kinds of things.

Americans, who came to the "new world" to get away from the arbitrary power of the "old world," believe the laws are unconstitutional. Since unconstitutional laws are not laws at all, why obey them? Why not disregard the laws and send England's local representatives back across the Atlantic?

Rebellion is imminent. The [struggle for freedom](#) from arbitrary government is not new to Englishmen. They have fought such wars before. Charles I, once a [king](#), [lost](#) his [head](#) because the people [perceived](#) he acted capriciously toward them. The colonists, like their ancestors before them, believe that even kings are [circumscribed by laws](#).

The struggle for freedom, from a leader who has no responsibility to the governed, seems unavoidable. A revolution, to [free the colonists](#) from the burden of unconstitutional laws, draws near. A war, it seems, is worth whatever personal sacrifices the people have to make.

America's leaders are men who firmly believe in consent of the governed. They hold to the principal that men (remember, this is the 18th century) have rights that are theirs because they are human beings, not because rights are gifts from a government.

Human rights, they assert, exist even before governments are formed. And those rights are constitutionally protected, whether there is a written document (like America's founders eventually created) or not (as in the case of England where [the common law](#) - that "bulwark of individual liberties against what might well be called the irrepressible monarchic aspirations of kings" - is itself the protector of the people). [See [page 4](#) of *The Birth of the English Common Law*, by R. C. Caenegem.]

[Colonial Americans](#) also claim the English common law and the [English Bill of Rights](#) (of 1689) as their protection. Six years earlier, in the 1761 [Writs of Assistance](#) case, James Otis, a brilliant lawyer and fiery revolutionary ("taxation without representation is tyranny") alleged Parliament had [overstepped](#) its bounds. Another apparent scheme to collect more taxes from the American colonies, the Writs - Otis argued - were illegal.

In his losing [argument](#) to the Boston colonial court, Otis quoted Lord Chief Justice [Edward Coke](#), a leading English jurist of the early 17th century:

It appeareth in our books, that in many cases the common law will control Acts of Parliament and adjudge them to be utterly void; for where an Act of Parliament is against common right and reason or repugnant or impossible to be performed, the common law will control it and adjudge it to be void.

If no person is obligated to obey an unconstitutional law, then one can reasonably argue - as the American founders did - that revolution is, in fact, a *defense* of the law. Rebellion against an unlawful act is not rebellion at all. Incorporating that concept into his [proposed design](#) of the new country's Great Seal, [Thomas Jefferson](#)

notes (in language he and Ben Franklin selected):

Rebellion to tyrants is obedience to God.

After a hard-fought war, the United Colonies became the United States. What kind of government would this new country adopt? Would there be a written constitution? If so, what form would it take?

See [Alignments to State and Common Core standards for this story online at:](#)

<http://www.awesomestories.com/asset/AcademicAlignment/A-BACKGROUND-OF-WAR-Marbury-vs-Madison>

See [Learning Tasks for this story online at:](#)

<http://www.awesomestories.com/asset/AcademicActivities/A-BACKGROUND-OF-WAR-Marbury-vs-Madison>

Media Stream

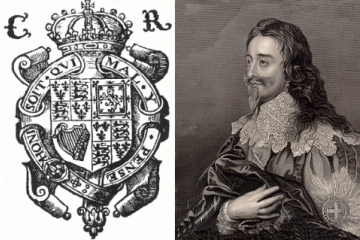


The Sovereignty of Parliament

Image of book cover online, courtesy Amazon.

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King Charles I

Image online, courtesy Royal Monarchy.gov. PD

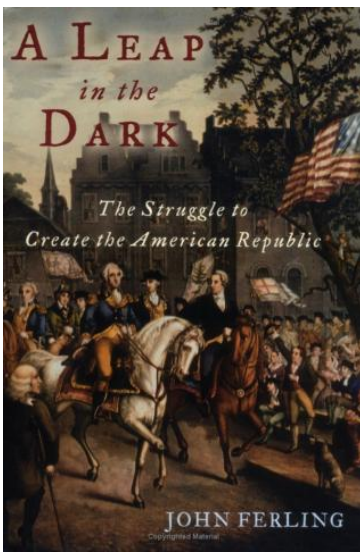
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Beheading of Charles I

Image online, courtesy University of North Carolina at Chapel Hill. PD

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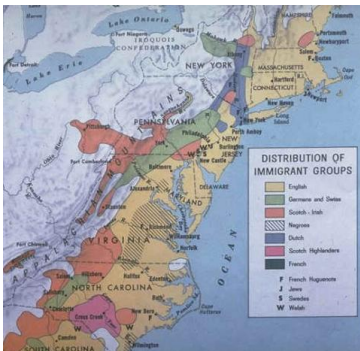


A Leap in the Dark - by John Ferling

Image of book cover online, courtesy Google Books. PD

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Map of Colonial America

Image, described above, [online courtesy Brooklyn College](#). PD

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James Otis

Image online courtesy [Bostonhistory.org](#). PD

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Sir Edward Coke

This rare image of Coke is online, courtesy Jamail Center for Legal Research, Tarlton Law Library at the University of Texas School of Law. PD

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Currency of the United Colonies

Image online, courtesy Wikimedia Commons. PD

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<http://www.awesomestories.com/asset/view/Currency-of-the-United-Colonies>

a heraldic phrase. The first gold, and an en-
circled rose, red and white, for England; the
second white, with a thistle, in its proper colors,
or Scotland; the third green, with a harp of

the whole, SEAL OF THE UNITED STATES OF
AMERICA. MDCCCLXXVI. For the reverse, he
proposed the following device: Pharoah, sitting
in an open chariot, a crown on his head and a



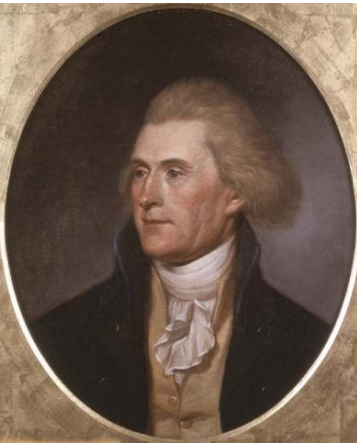
JEFFERSON'S DESIGN.
swore in his hand, passing through the divided
waters of the Red Sea in pursuit of the Israelites.
I do not think it of sufficient importance to put
it on record; and nothing more was done, I be-
lieve from a pillar of fire in a cloud, expressive
of the Divine presence and command, beaming
know, soon went to Virginia; Franklin was

Great Seal - Jefferson's Proposed Design

Image online, courtesy Library of Congress. PD

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Portrait of Thomas Jefferson

Image online, courtesy Library of Congress. PD

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Thomas Jefferson with Ben Franklin

Image online, courtesy Library of Congress. PD

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English Civil War - Background

This video clip, from Dr. David Starkey's documentary on the British monarchy (*Monarchy with David Starkey*) helps us to understand what happened during England's Civil War.

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English Civil War - Cromwell is Victorious

This video clip, from Dr. David Starkey's documentary on the British monarchy (*Monarchy with David Starkey*) helps us to understand what happened. Online, courtesy BBC Worldwide Channel at YouTube.

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English Civil War - Life After the King is Beheaded

This video clip, from Dr. David Starkey's documentary on the British monarchy (*Monarchy with David Starkey*) helps us to understand what happened. Online, courtesy BBC Worldwide Channel at YouTube.

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English Civil War - Lord Protector Cromwell

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