



## COMMITTEE COMMENTARY

Author Geoffrey Robertson is a prominent London-based Australian human rights lawyer and U.N. war crimes judge who has been involved in the case against Pinochet and the training of judges for the trial of Saddam Hussein. He brings his considerable expertise to bear in telling this gripping historical narrative about the subject of *The Tyrannicide Brief*, John Cooke. *The Tyrannicide Brief* illuminates this unjustly neglected seventeenth century English lawyer's role in a central historical moment in the constraint of executive power: the 1649 trial and execution of Charles I. By courageously accepting the "brief" (the English legal term for a case) against Charles, Cooke developed the legal theory that bound the English monarch to the rule of law. Robertson asserts that Cooke's case against Charles was the first modern legal argument against tyranny. While other lawyers ducked the case out of fear for their lives, Cooke recognized that he was exposing himself to the risk of trial and execution for treason, an event that indeed did occur 11 years later upon the restoration of Charles II. While telling a ripping good yarn about the English Civil War and the restoration of the Stuarts, Robertson brings Cooke alive as an inspiration for modern human-rights lawyers opposing tyrants abroad and those concerned with the abuse of executive power in the United States. Cooke was also, Robertson persuasively asserts, an advocate ahead of his time in other ways as well, advocating for health care and legal assistance for the poor, as well as arguing to abolish debtors' prisons and the death penalty. In painting this dramatic portrait of a fearless and principled lawyer, Robertson helps us connect our own legal system to the legal and constitutional story of the nation that gave it birth.

# *The Tyrannicide Brief*

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## EXCERPT

### Prologue: There But for Fortune...

"Charles Stuart, King of England ..." Judge Bradshaw's words were respectful, his tone measured and polite: "the Commons of England have constituted this High Court of Justice before which you are now brought, and you are to hear your charge, after which the Court will proceed."

This was John Cooke's cue. He brandished the parchment upon which the charge had been written—the charge that he has signed as Solicitor-General of the Commonwealth. "My Lord President," he began. ... "I do, in the name and on behalf of the people of England, exhibit and bring into this court a charge of high treason and other high crimes whereof I do accuse Charles Stuart, King of England, here present."

Under [John] Cooke's wounding words, the King seemed to shrink, into a small cranky prisoner with dirty hair. In that character, slowly and painfully, under the astonished gaze of his people, the King stooped to pick up the silver tip from the floor at Cooke's feet. There were gasps: Cooke paused for the significance of the moment to sink in before handing the indictment to the court clerk, Andrew Broughton, for its formal reading.

The symbolism of this incident was plain to all. The King, the divine majesty, had bowed, powerless before the majesty of human law. In an age when everyone was on the look-out for signs and portents, this was taken as the direst of signals. The King told his friends that he believed it a bad omen, and the news-sheets reported how Charles had been forced to stoop to retrieve the silver tip: "This it is conceived will be very ominous." Few had really thought this unprecedented public spectacle would be taken seriously, but Cooke's resolve at its outset transformed expectations. It now had the appearance of a

real trial in which the monarch would have no special favours. "*Be ye ever so high, the law is above you*" had been an empty aphorism for those who had tried to bring the Stuart kings to the bar or the battlefield: this defining historical moment gave it meaning. It was the moment for which John Cooke would never be forgiven.



*The Tyrannicide Brief* retails for \$30.00 hardcover and is available from Pantheon Books at [www.randomhouse.com/pantheon](http://www.randomhouse.com/pantheon) and booksellers nationwide.