

W201 The Individual and the State

Early constitutional writers

Hobbes wrote in 1651

“Life is solitary, poor, nasty, brutish and short”. Hobbes justified the exercise of sovereignty by the monarch (or later the Protectorate) as each provided much needed security for the citizen in return.

Locke wrote in 1691

Locke had a different perspective. He was writing to justify the Glorious Revolution of 1688 when parliament had offered the crown to William and Mary subject to the Bill of Rights 1689. His theory was that sovereignty rested with the people and they give it to the monarch on trust (and can take it away again). This justified taking power from a despotic and catholic James II and giving it to his protestant daughter Mary and son in law William.

Montesquieu wrote in 1748

Montesquieu (who was French) made a big step forward in constitutional theory. He identified three elements of government power (legislative, executive and judicial). This enabled him to develop the doctrine of separation of powers.

Rousseau wrote in 1762

Rousseau (who was Swiss) was born in Geneva and wrote ‘The Social Contract’ against the background of democracy practised in small cantons in Switzerland. He believed sovereignty was power exercised by the individuals in the cantons (where all males met yearly to legislate). Sovereignty represented their collective will.

Paine wrote in 1791

Born in Norfolk of humble origins Paine was a republican and believed ordinary men had natural rights. Today we would call these civil rights. He was opposed to monarchy, the hereditary principle and to religion! His ideas (found in his book ‘The Rights of Man’) found expression in both the French and American revolutions. In France there was a Declaration of the Rights of Man proclaimed by the French Constitution in 1791 and in America a Bill of Rights was added to their Constitution in the first amendments in 1791. He travelled to France and America where he died.

Hobbes spoke of an “agreement” or “contract” between the citizens themselves and Locke and Rousseau of one between ruler and ruled. The important aspect of their work is not perhaps the ‘social contract’ idea (which is at best artificial) but the **development** which can be traced from Hobbes’ position (that the subject had no rights except perhaps to security) through Locke (the subject has the right to take sovereignty back from the ruler) and Montesquieu (the importance of the separation of powers) to Paine who helped identify what the natural rights of man were which a written constitution could guarantee (the right to liberty, security, freedom of religion, freedom of speech, peaceful assembly, due process) which appeared in 1791 in the first amendments to the US constitution and some of which now over 200 years later appear in statutory form in the Human Rights Act 1998 in the UK.