

The Origin of the principles of authority and constitutionalism

By Vincent Pouliot

The British Constitution recognises and builds on the principle that all Human Beings are born equal and free to act as they each see fit. It follows that neither King, government nor any other person is naturally vested with the lawful power to force them to act in any other way.

This same fundamental principle of natural justice directed the development of British Common Law.

In the British tradition, the king vested officers of the peace with the power to resolve disputes that naturally arose among the people from time to time in their private affaires.

So, it was that these officers of the peace, through reason, based on their own sense of natural justice, developed the theory of contract wherein the capacity of individuals to create the law governing their private affairs and the jurisdiction of the courts to enforce the obligations they lawfully undertake to fulfil was recognised and upheld.

Cases naturally arose wherein persons contracted obligations on behalf of others. The courts were therefore required to distinguish the actor from the author of the contract. From these cases, the principle of authority was conceived wherein persons were recognised to be vested with the authority to govern themselves and their possessions so that they could constitute a representative with the authority to create legally enforceable rights and obligations on their behalf.

The British constitution builds on this rule of law to ensure the consent of the governed by enabling the people, through election, to constitute representatives in parliament with the authority to act on their behalf in the government of their public affaires.