

## HISTORICAL DEVELOPMENT sovereignty

In fact, the modern theory of the state was perfected only when the concept of sovereignty was introduced into it. Jean Bodin, a French writer of the sixteenth century, was the first to formulate the concept of sovereignty systematically. Although in ancient days Aristotle had talked of supreme power located in different bodies according to the form of government, he had not given the idea of sovereignty because, according to him, the power of the ruler or ruling body was limited by the law which existed above them. Conditions in the Middle Ages were not favourable to the development of the concept of sovereignty because the emperor's power was limited on the one side by the rights of the feudal lords, and on the other side by the claims of the Pope to superior authority. The idea of

sovereignty made its appearance with the dawn of the modern period. Toward the end of the medieval period a number of causes combined to create new political ideas. The feudal nobles were weakened by the Crusades and by their own quarrels. Commerce and towns destroyed their monopoly of wealth; new methods of warfare destroyed their military supremacy. Taking advantage of their weakness, the king increased his power and importance until he became supreme in the state.

Besides, the ruling monarchs of national states like England and France had achieved a degree of unification and centralization of authority never attained before, so that they freed themselves from the control of the Pope as well. Thus,

the ground had been prepared for the development of the theory of sovereignty.

Jean Bodin, who held Henry III, King of France, in highest esteem, became an

exponent of this theory.

Jean Bodin (1530-96)

Bodin defined sovereignty as 'the absolute and perpetual power of commanding

in a state', as the 'supreme power over citizens and subjects unrestrained by

law'. Thus, Bodin places the sovereign above law, because he himself is the source of law. This view marked a significant departure from the medieval outlook.

The medieval world conceived law as part of the universal and eternal order.

Kings, councils and judges who enforced law were themselves under law. They

were not empowered to create it. It could only be discovered by a study of custom and precedent. The idea of the state as a source of law was alien to medieval thought.

Bodin sought to reverse this position by making the sovereign himself the source of all law. Defining the state as an aggregation of families and their common

possessions ruled by a sovereign power and by reason, Bodin argued that in

every independent community governed by law there must be some authority,

whether residing in one person or several, whereby the laws themselves are

established and from which they proceed.

Bodin treated the sovereign above law but not above duty and moral responsibility. He imposed two important limitations on the powers of the sovereign:

(a) firstly, there are some fundamental laws (such as, the Salic law of France,

which excluded females from dynastic succession) and the sovereign could not

lawfully abrogate such laws; and (b) secondly, private property, being granted by

the law of nature, was inviolable; therefore, the sovereign could not tax his subjects

without their consent.