



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

Právní dějiny

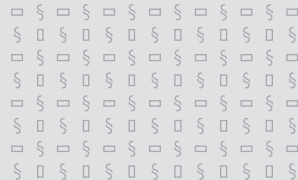
Vojáček



MASARYKOVA UNIVERZITA
PRÁVNICKÁ FAKULTA

Konstitucionalismus (příklad: Anglie)

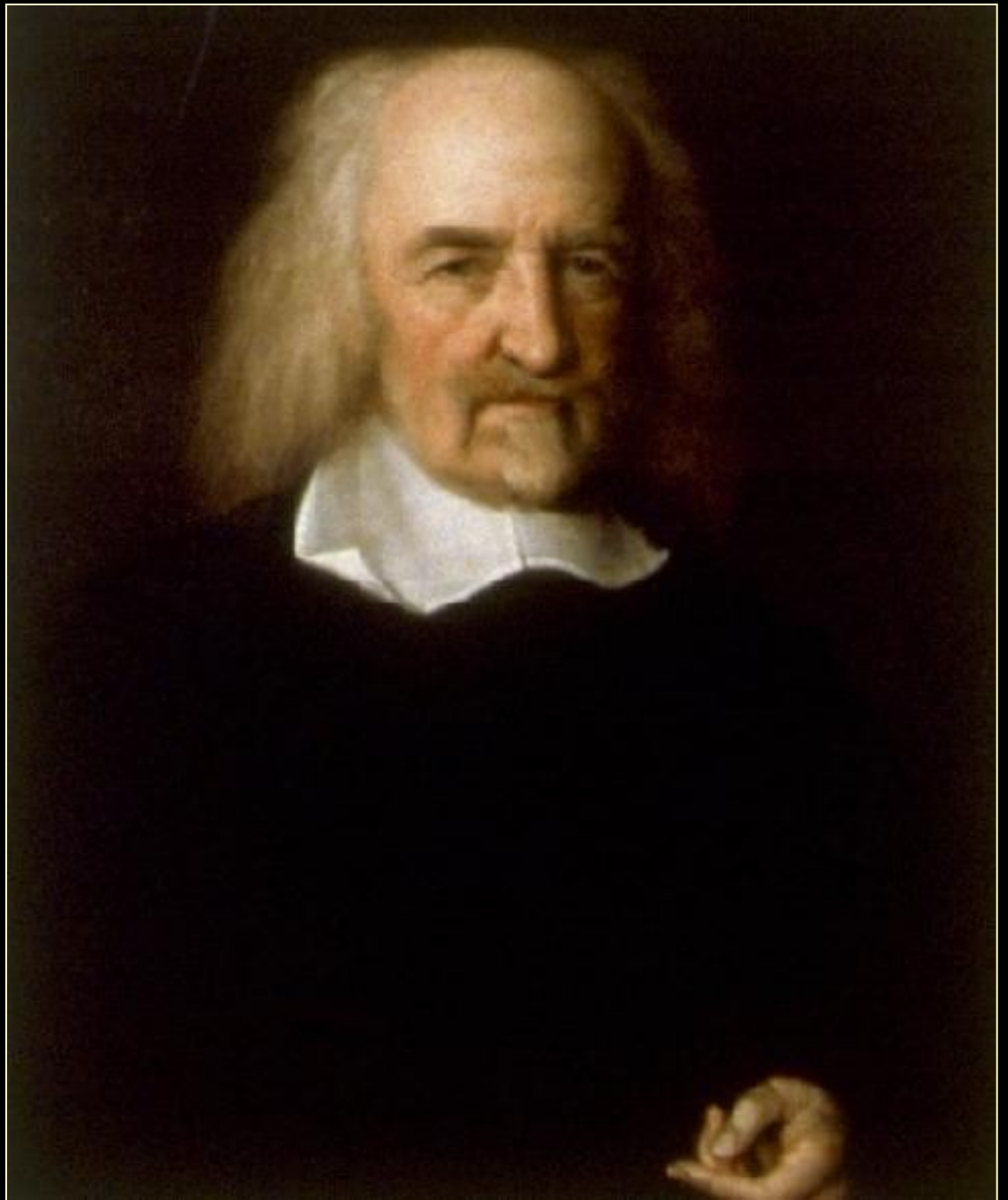
Vojáček



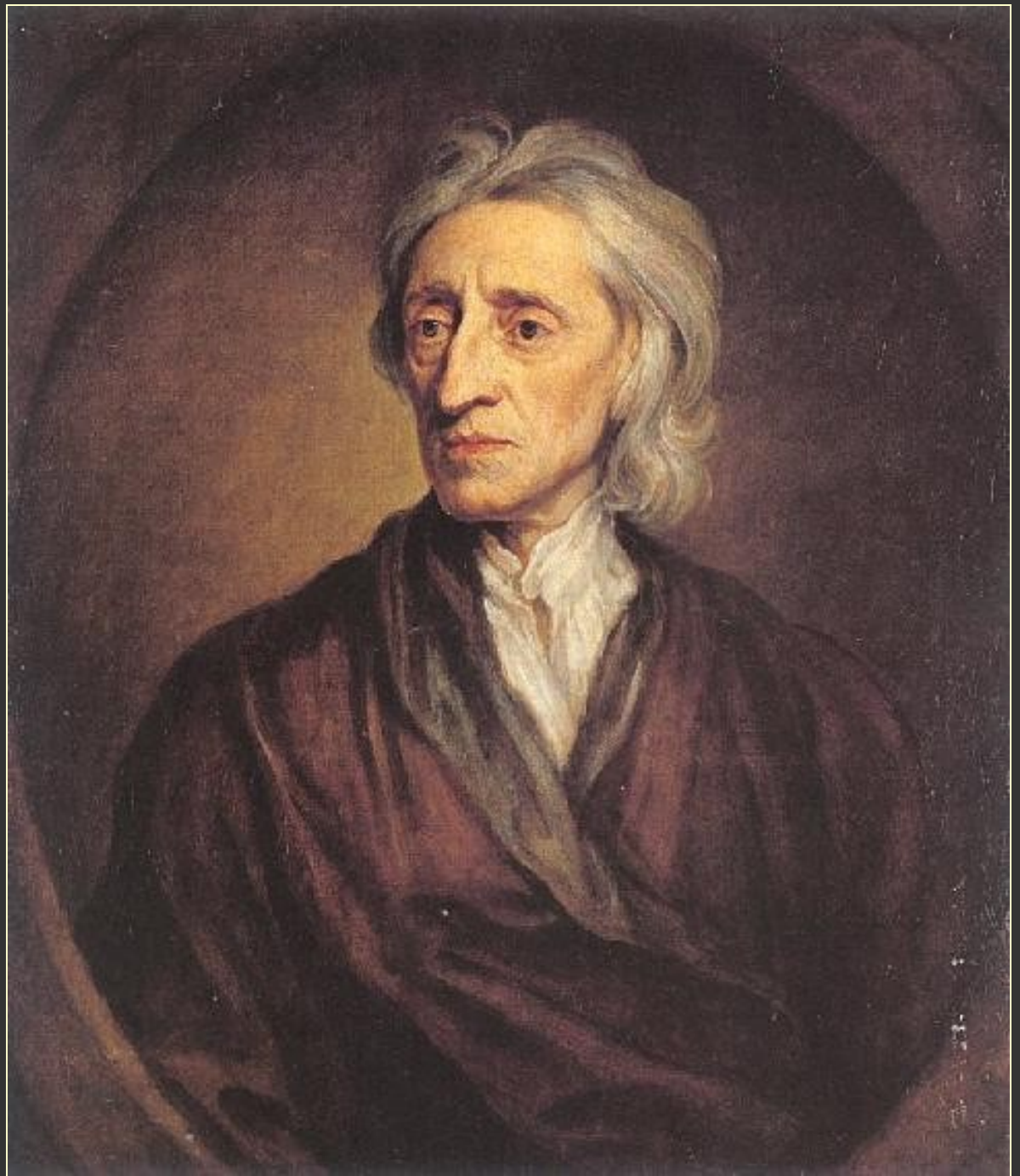
Přirozenoprávní koncepce

- návaznost na starší koncepce
- lidský rozum jako východisko
- přirozená práva X platné právo
 - Deklarace práv člověka a občana: svoboda, vlastnictví, bezpečnost a odpor proti útisku
- společenská smlouva (T. Hobbes x J. Locke x J. Rousseau)
- dělba moci (J. Locke, Ch. L. de Montesquieu)

Thomas Hobbes



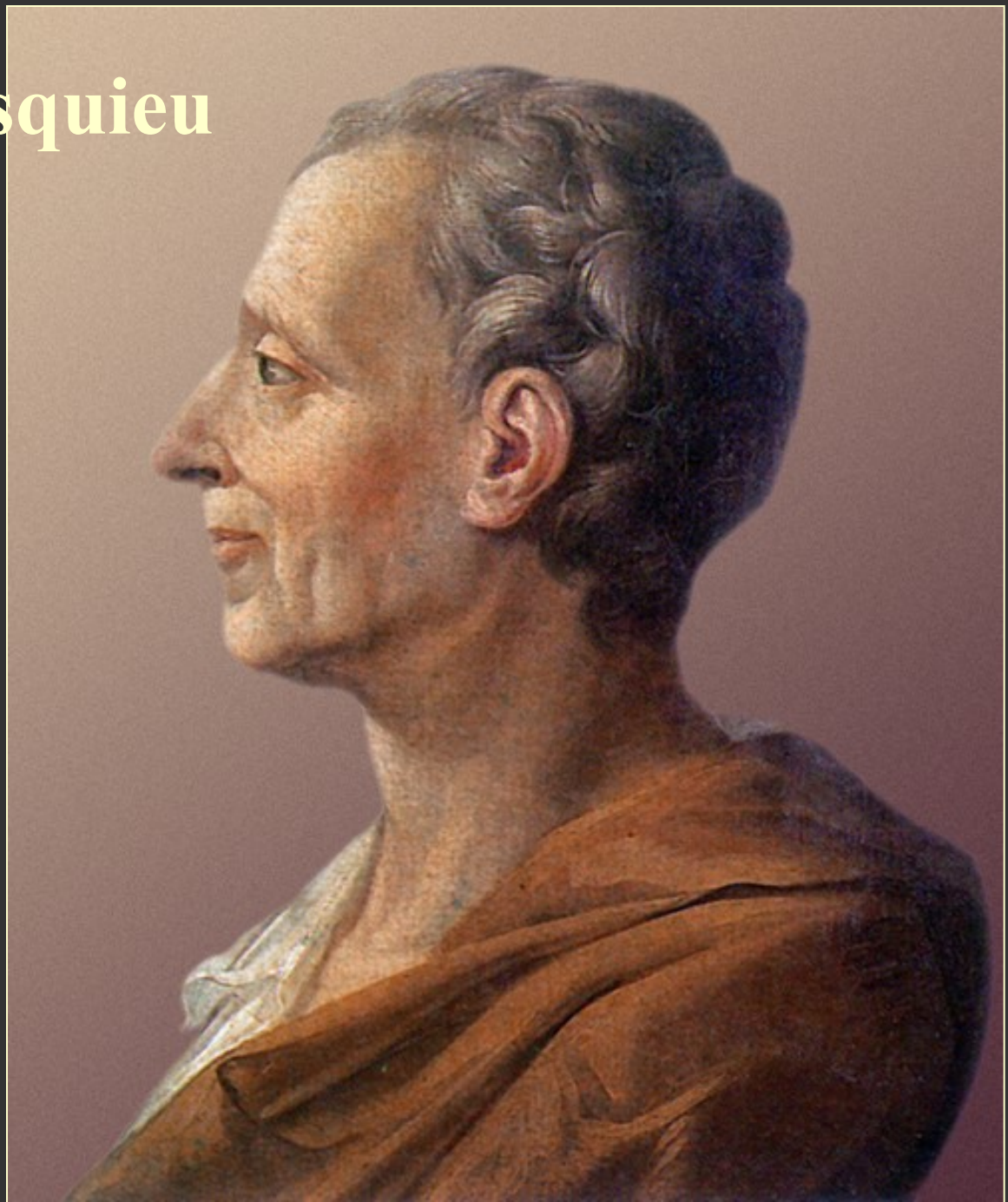
John Locke



J.-J. Rousseau



Ch. L. de Montesquieu

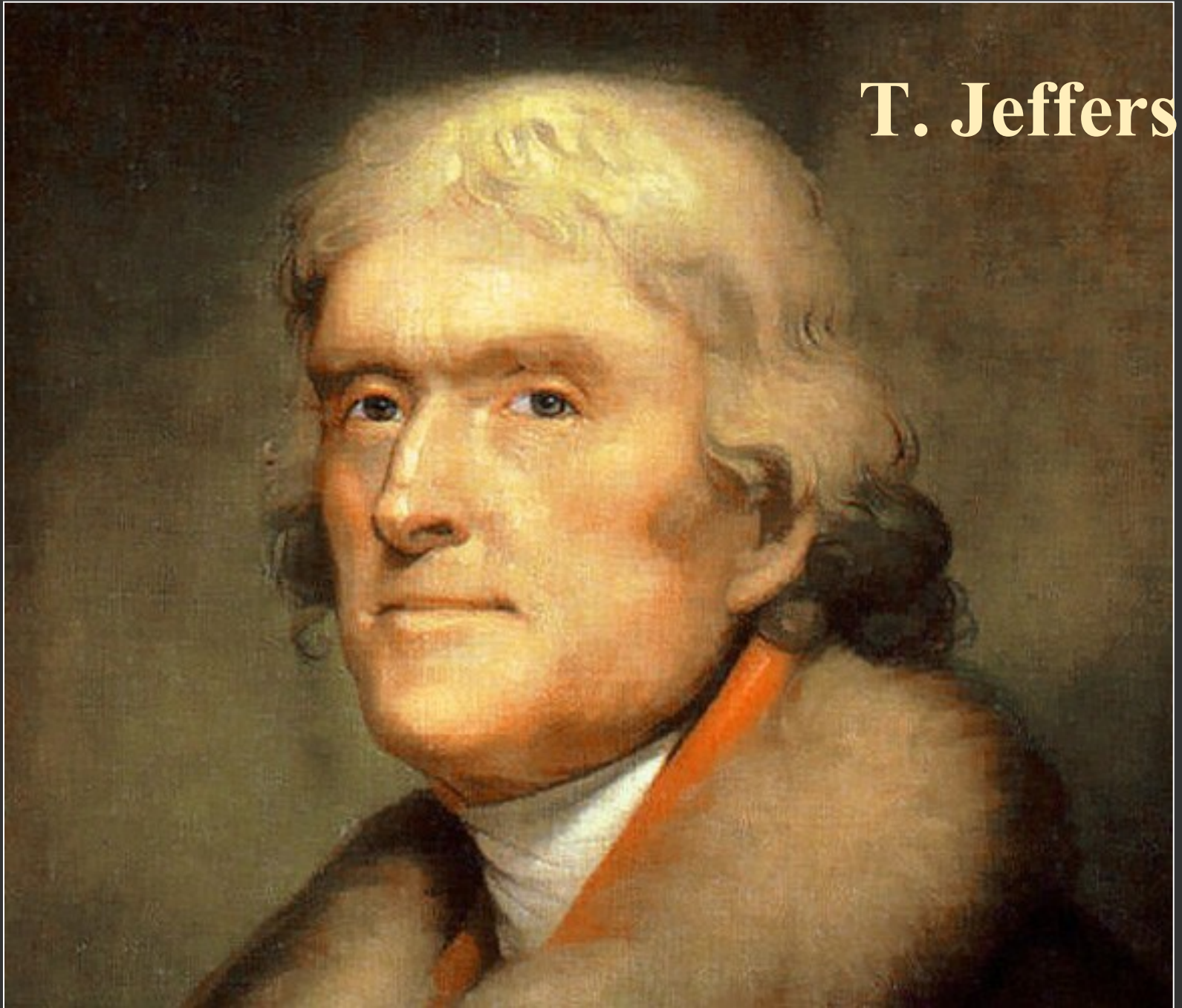


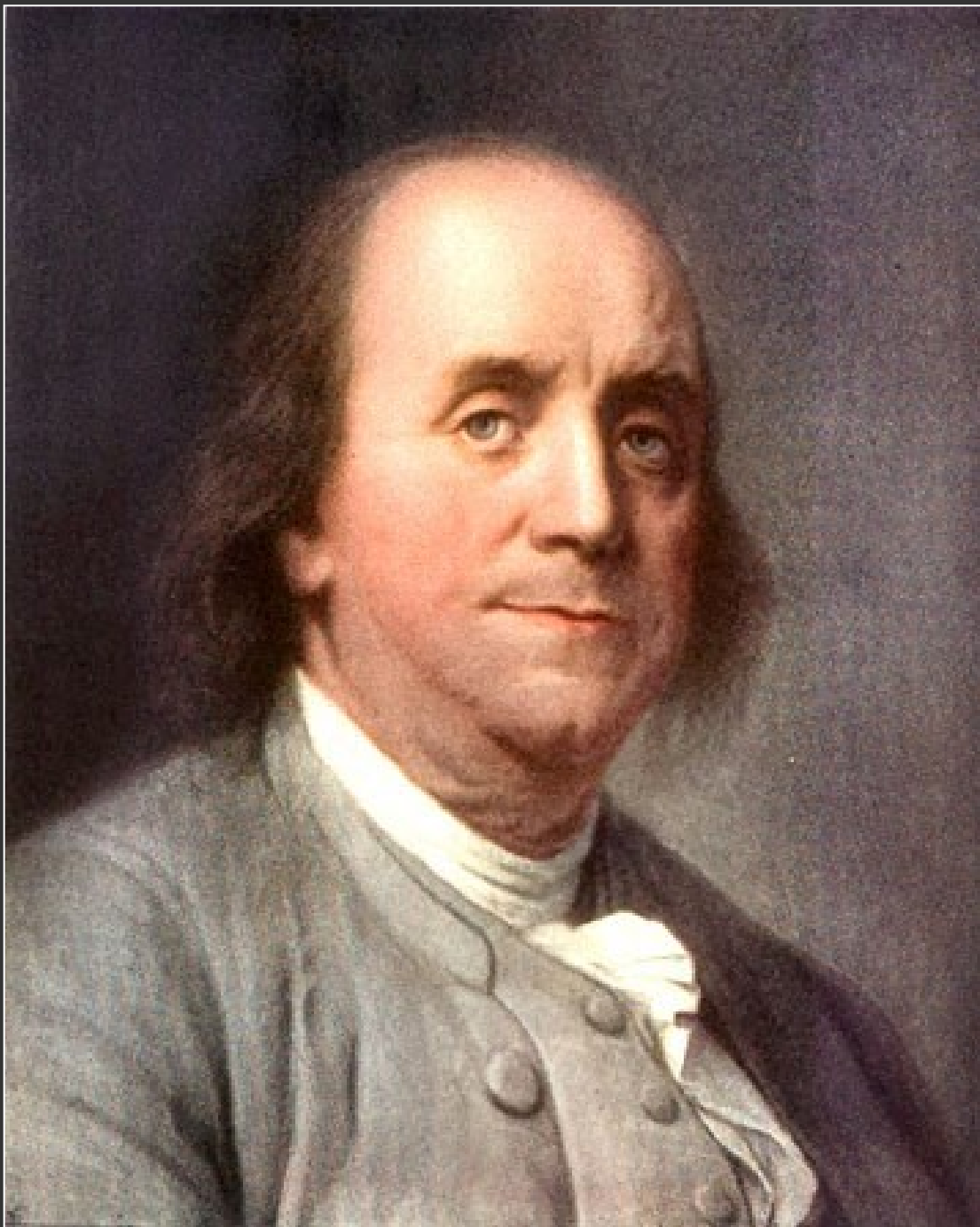


Významné ústavy 18. a 19. století

- americká ústava 1777, 1787
- francouzské ústavy 1791, 1793, 1795, 1799, 1804, 1814, 1830, 1848, 1875
- německá ústava 1849 (nerealizovaná), ústava Severoněmeckého spolku 1867, německá ústava 1871
- rakouské ústavy 1848, (kroměřížský návrh), 1849, 1861, 1867
- italský Piemontský (Sardinský) statut 1848

T. Jefferson





B. Franklin



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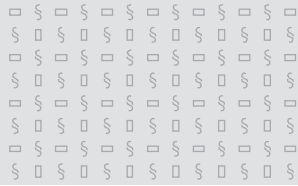
Ludvík XVI.





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Anglická ústava

- „nepsaná“ (terminus technicus)
 - = soubor právních aktů a ústavních zvyklostí
- výsledek historického vývoje



Anglie před revolucí

- Magna Charta Libertatum 1215
- King in Parliament
- nástup Stuartovců
 - ➔ napětí mezi panovníkem a parlamentem
- Petition of Right 1628
- vláda bez parlamentu (1629 – 1640)



Jan Bezzemek

Magna Charta Libertatum 1215

Gloucestre

85

et singula in articulo predicto continen-
ta faciant et exequantur non obstant
te quod articulus iste in omnibus cu
dicto statuto Gloucestre non concordat

Explicunt articuli Gloucestre
Incipiunt explanationes eorumdem

Primo modum per dicitur de
sem et iustitiam suos fecerunt
sunt quedam explica-
tiones quorundam ar-
ticulorum superius portorum

videtur ad primum articulum ubi illi
non habent ingressum per dissensionem
asserunt dampna sua a tempore
statuti publicati eodem modo

de hiis de ingressu super dissensionem

De dampnis in omnibus hiis et

inortis antecessoris consanguini

etiam sui et patris De iuramento

ne vel de factis pro quodamque

hiis asserunt dampna sua post
impeccationem hanc contra eos qui



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Alžběta I. (1533 – 1603)





Jakub (James) I.



Karel (Charles) I.



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Petition of Right

To the King's most Excellent Maiestie

Sheweth that just cause is desired.

Humbly

Sheweth unto our Sovereign Lord the King, His Lords Spiritual, and Temporal, and Common in Parliament assembled, That whereas it is declared and enacted by a Statute in this behalf made, bearing the name of King Edward the first, commonly called *Statutum de tallage an concilio*, that no tallage, or tax should be laid, or levied by the King or his heirs in this Realme, without the good will and assent of the Arch Bishops, Bishops, Counts, Barons, Justices, Knights, and other the free men of the Community of this Realme. And by other laws and Statutes of this Realme, it is provided, that none should be charged by any tax, or impost, called a benevolence, nor by such like charge. By which the Statute aforesaid, and other the said laws and Statutes of this Realme, your Subjects have intended that freedom, that they should not be compelled to contribute to any such tallage, Aids, or other like charge, nor sit to receive, consent, or be bound thereunto. Yet notwithstanding of late divers Commissioners in severall Counties, have issued by means whereof your people have been in divers places assembled, and required to lend, receive, or make of money unto your Maiestie. And many of them upon their refusal thereto have had an oath administered unto them, not warrantable by the Law of this Realme, and have been constrained to become bound to make appearance and give attendance before your Honourable Council, and in other places, and others of them have been vexed, imprisoned, confined, and sundry other wrongs inflicted and suffered. And divers other charges have been laid and levied upon your people in severall Counties by divers Justices, Deputie Justices, Commissioners for the Sheriff, Justice of Peace, and others by Commission or direction from your Maiestie, or your Honourable Council against the Lawes and free customs of the Realme. And whereas also by the Statute called the Great Charter of the liberties of England, it is declared and enacted that no free man may be taken, or imprisoned, or be disherited of his freehold, or liberties, or his free customs, or be outlawed, or exiled, or in any manner destroyed, but by the lawful judgement of his Peeres, or by the Lawe of the Land. And in the eighth and twentieth years of the reign of King Edward the first, it was declared and enacted by authority of Parliament, that no man of what estate or condition that he be, should be put out of his land, or tenements, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of Lawe. Nevertheless against the tenor of the said Statute, and other the said Lawes and Statutes of this Realme, it hath and is provided, divers of your Subjects have lately been imprisoned, without any cause shewed, and when for their deliverance they were brought before your Justice, by your Maiestie writs of Habeas Corpus there to undergoe and receive of the Court shew'd in order, and intercepted, constrained to certifye the cause of their detention, no cause was certified but that they were detained by your Maiesties speciall commands signified by the Lords of your Honourable Council, and yet were returned back to severall prisons without being charged with any thing to which they might make answer according to the Lawe. And whereas of late divers Companies of Soldiers and Marchants have been appointed in severall Counties of this Realme, and the inhabitants against their will have been compelled to receive them into their houses, and thence to suffer them to forgoe against the Lawes and customes of this Realme, and to the great grievance and vexation of the people. And whereas also by authority of Parliament in the first and twentieth years of the reign of King Edward the first, it is declared and enacted that no man should be forejudged of life, or limb, against the forme of the Great Charter, and the Lawe of the Land. And by the said Great Charter, and other the Lawes and Statutes of this Realme, no man ought to be adjudged to death, but by the Lawe established in this Realme, either by the testimony of his Peeres in this Realme, or by the Lawe of Parliament. And whereas no offences of what kind soever it cometh to the punishment to be inflicted by the Lawe and Statute of this your Realme. Nevertheless of late time divers Commissioners under your Maiesties Great Seale have issued writs by which certain persons have been assigned and appointed Commissioners with power and authority to proceede within any land according to the Justice of Marshall Lawe against such Soldiers or Marchants, or other dissolute persons keeping with them, or should commit any unchaste, debauch, filthy, mutiny, or other offence, or misdemeanour whatsoever, and by such summary way, and order as it should seeme to Marshall Lawe, and as if they were taken in time of warre, to proceede to the trial and condemnation of such offenders, and then to cause them to be executed and put to death according to the same Marshall Lawe, whereas some of your Maiesties Subjects have been by some of the said Commissioners put to death, maimed, and where if by the Lawe and Statute of the Land they had deserved death, by the same Lawe and Statute of this your Realme, and by no other ought to have been judged and executed. And also sundry other offenders by such way, maiming, or execution have suffered the punishment due to them by the Lawe and Statute of this your Realme, by reason that divers of your Justices and Ministers of Justice have commonly refused or forbore to proceede against such offenders according to the same Lawe and Statute, upon petition that the said offenders were punishable only by Marshall Lawe, and by authority of such Commissioners as aforesaid. Whose Commissioners and all other of like nature are contrary and directly contrary to the said Lawe and Statute of this your Realme.

They therefore humbly pray your most excellent Maiestie that no man hereafter be compelled to make or yield any such loan, benevolence, tax, or such like charge without common consent by Act of Parliament. And that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise mistreated, or punished contrary to the same, or for refusal thereof. And that no freeman in any such manner as is aforesaid be imprisoned, or detained. And that your Maiestie would be pleased to remove the said Soldiers and Marchants. And that your people may not be burthened in time to come. And that the aforesaid Commissioners for proceeding by Marshall Lawe may be revoked and annulled, and that hereafter no Commissioners of like nature may issue writs to any person or persons whatsoever to be executed as aforesaid, least by such way any of your Maiesties Subjects be destroyed, or put to death, contrary to the Lawe and franchises of the Land.

All which they most humbly pray your most excellent Maiestie, as those rights and liberties according to the Lawes and Statutes of this Realme. And that your Maiestie would cause your Justice to declare, that the aforesaid danger and grievance to the prejudice of your people in any of the premises shall not be done hereafter into any manner, or example. And that your Maiestie would be pleased graciously, please for the further comfort and safety of your people to declare your speciall will and pleasure, that in the things aforesaid your Justices and Ministers shall follow you according to the Lawe and Statute of this Realme, as they touch the Lawe of your Maiestie, and the privileges of this Realme.



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Počátek revoluce 1640 – 1649

- krátký parlament
- dlouhý parlament
- Velká remonstrace
- poprava lorda Strafforda a arcibiskupa Lauda
- občanská válka
- Oliwer Cromwell
- presbyteriáni, independenti, lewelleři a diggeři X
roajalisté
- svržení a poprava krále



Lord Strafford

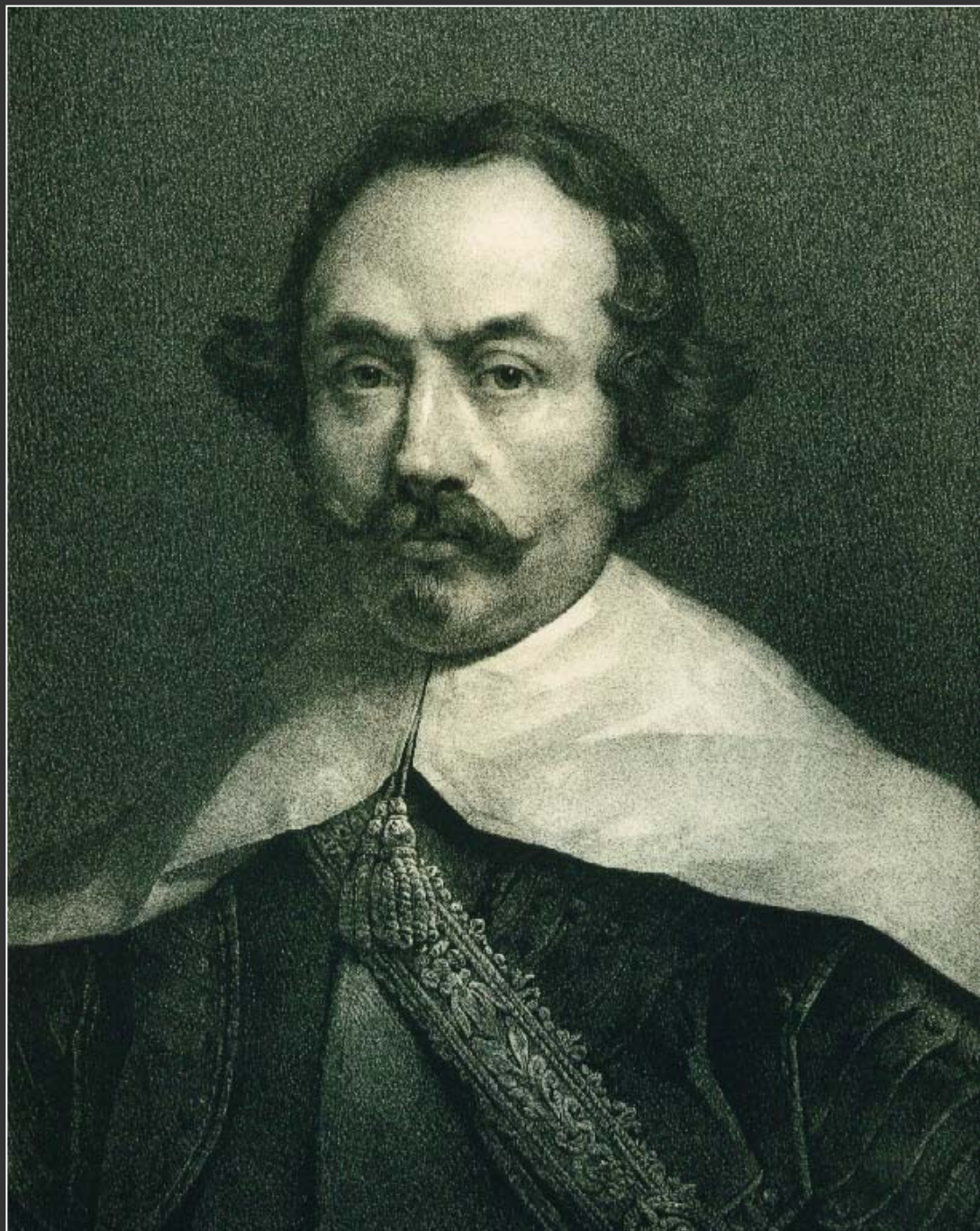
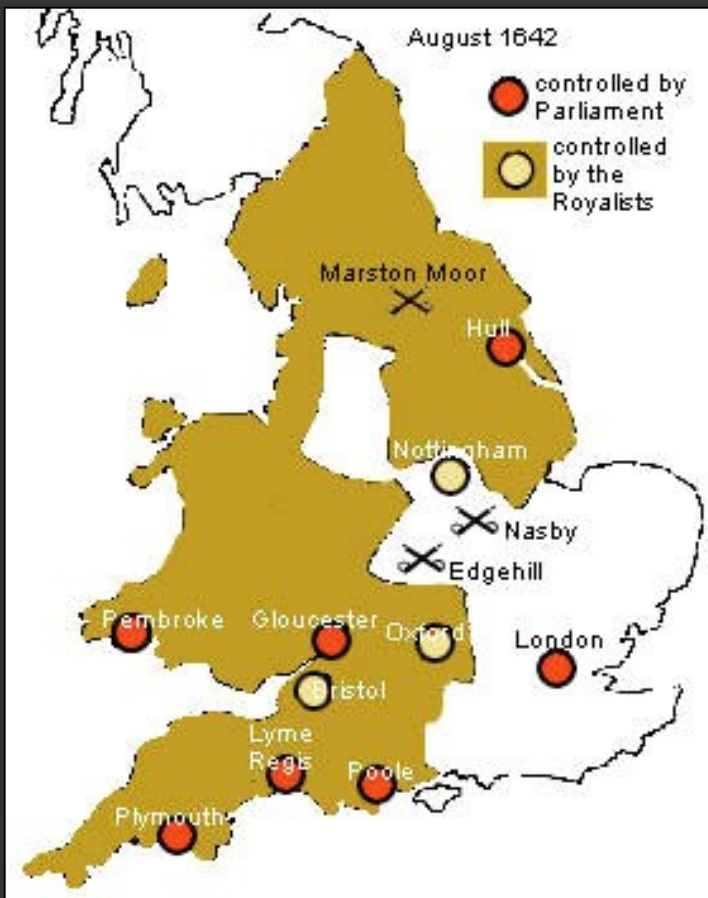


Arcibiskup W. Laud



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Oliwer Cromwell





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Tower





Republika a Protektorát

- neúspěch republiky
- rozpuštění „zbytkového“ parlamentu
- Listina o vládnutí (Instrument of Government)
➡ Protektorát
- Ponížená prosba a rada 1657 ➡ monarchistické prvky
- Richard Cromwell
- Karel II.

1649

-

1651





Cromwell rozpouští parlament



1649-1660



The arms of the Commonwealth

Protektorát





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Richard
Cromwell





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Návrat Karla II.



Porevoluční vývoj

- Bredská deklarace a na ji navazující zákony 1660
- Karel II. a Jakub II.
- Habeas corpus Act 1679
- „slavná“ revoluce 1688
 - Vilém III. Oranžský
 - Bill of Rights 1689
- zákon o následnictví trůnu (Act of Settlement) 1701:
 - ➔ ministerská odpovědnost za akty panovníka, inkompatibilita, neodvolatelnost soudců, podřízenost krále parlamentu, vzdělání členů parlamentu

Karel II.



Jakub II.



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Vilém III. Oranžský



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