

Montesquieu stated that the Fourth Law of nature is that man desires to live in society with the advantage of acquired knowledge.

Locke also presumed a natural affinity whereby men are "induced to seek communion and fellowship with others," but he was speedy to add that only unanimous consent could formalize this relationship and lend authority to the society to enforce the will of the sovereign. In fact, according to Locke, men enter society in order to establish a jurisdiction on earth equal for all, to replace the need to appeal to the deity for justice, an appeal which may be neither enforceable nor just because of man's imperfect power of knowing the law by reason. The state of nature, as Locke saw it, is one in which men who live singly are subject to their imperfections and, therefore, unable to provide for themselves well materially and to live a life "fit for the dignity of men." The highest motive, then, inspiring men to join society, is the desire to enjoy property in peace and safety. Men sacrifice their utopian liberty to take anything which is tempting, for civil liberties whereby men agree by compact to the ownership of goods which are adequate for an individual; thus substituting moral and legal equality for "all those physical inequalities which men suffer."

In like manner, Rousseau argued in his Second Discourse, *De l'Inegalite parmi les Hommes*, that the growth of population necessarily leads to the formation of a community based upon the development of commerce, a situation ripe for instituting the original contract. Rousseau asked: "Had there been no original contract, why, unless the choice was unanimous, should the minority ever have agreed to accept the decision

of the majority?"<sup>13</sup> Hume might have responded: "Accustomed to respect overwhelming force, they have no alternative." To which Rousseau would undoubtedly have shook his head: "No such thing as overwhelming force in the hands of a tyrant! Men are plainly fools to acquiesce in the arbitrary exercise of personal will on the part of their government." According to Rousseau, man is clearly free in society, for liberty and equality before the law is the greatest good; through uniting with others for the sake of protection man renders *obedience to his own will* by agreeing to abide by majority rule. It takes little insight to see that Rousseau redefined *one's own will as what one ought to will* for the good of society. If one wills contrary to the general will one must be misguided or expressly in search of evil.<sup>14</sup>

It becomes evident that such a belief would tend to squelch individualism. The seventeenth century form of contractarianism (Locke and his precursors, e.g., Hugo Grotius) is said to be a compromise between two ideas: (1) man is naturally social, and (2) all men are naturally free and equal (the individualist principle). New England Puritans, in standing up for religious liberty and in denouncing persecution, were considerably more eager to preserve the privileges of independence for their own societies than the liberty of each individual member. Groups of both Calvinists and Huguenots clung firmly to contract theory, asserting their non-involvement in the original contract and their consequent independence as reli-

<sup>13</sup> *Id.* at 179.

<sup>14</sup> For a lengthier definition of the concept of general will, see 2 J. ROUSSEAU, *DU CONTRAT SOCIAL OU PRINCIPES DU DROIT POLITIQUE*, chs. 1-6 (Garnier Frères ed. 1962).