

Nature could not have been as insecure and solitary as Hobbes depicts it, or there must have been some kind of miraculous occurrence which made men make their original agreement, and neither of these possibilities fits well with Hobbes's own argument. It also matters because if an original contract of the kind Hobbes proposes is an impossibility, then the original attributes of sovereignty which Hobbes deduces from the original contract might not be those which men would voluntarily give to a Sovereign in the State of Nature. This in its turn would take the polemical edge off Hobbes's implied argument that, *pace* the liberty-lovers and the dividers of sovereignty, if men had the chance to begin again and construct a polity from scratch, they would voluntarily set up a Sovereign with powers in the face of which any contemporary absolutism would pale by comparison.

The case of Locke's State of Nature is different. It is so naturally social that the absence of a state is by Locke's own admission only 'inconvenient'. Granted Lockian men's fear of government as being immeasurably more powerful and therefore immeasurably more threatening than any individual or group of individuals in the State of Nature, one begins to wonder whether rational Lockian men in the State of Nature would ever take the risk of setting up a state in the first place. What are the inconveniences of the State of Nature, it might be asked, compared with the possible invasions of Natural Rights of which a state is capable?

It has been fashionable for a long time to wonder how sane men could ever have been capable of believing in the theory of the Divine Right of Kings while forgetting that Lockian Natural Rights are equally divinely inspired. Filmer's special contribution to Divine Right theory, which had been long in the making, was to add to the usual compilation of biblical texts the idea that Divine Right monarchy conforms to the natural order of things. Nature is patriarchally ordered (even animals obey the authority of dominant males), God is the author of nature, therefore what is in accordance with the order of nature must be divinely intended. Just as God wants the father of a family to be its ruler, so he wants kings to be the fathers of their peoples. The Divine Right of Kings was the only natural right that Filmer was prepared to allow after the pattern of nature, but he took the crucial step away from arguing theologically to arguing naturalistically. All it took was for Locke to argue from the nature which God had created that all men are endowed with Natural Rights for an important shift to occur in the nature of political theorising. From Filmer on, political theorising could begin to cease to be a minor branch of theology and become a subject of enquiry in its own right. When the doctrine of Natural Rights in its Lockian version came under attack from others who were kindly disposed to human liberty and improvement, rights would come to be seen, as they were by the utilitarians, as just another means to human happiness, with no independent philosophical or political status of their own.

Of course, this did not happen everywhere or at the same time. The United States of America is the place where a notion of Natural Rights has survived as a kind of trumps which supersedes any other moral claim. To say in America that I have a right to something is to put forward a claim which, *prima facie*, overrides any other kind of moral claim. Jefferson's Declaration of Independence is the classic statement of the claim that men have a multitude of rights independent of government. Some of those rights are

enshrined in the Declaration, and some in the first amendments to the Constitution, but only *some*. There is a clear implication that there are lots of other Natural Rights which from time to time Americans will ask government to recognise and guarantee, which has left the citizens of the United States with the paradox that government is expected both to increase liberty and to curtail it at the same time. As Bentham was to recognise, and as Locke would concur, government and liberty are two jealous antagonists, and it is making two contradictory demands on government that it should be asked to increase liberty by recognising more and more pre-existing Natural Rights while recognising that governments exist to stop men doing what they sometimes want to do. The whole history of American government could be written on that theme.

Theories of Natural Rights have never really progressed beyond their Lockian origins as rights granted to men by God. People are always bound to ask: Where do Natural Rights 'come from?', and the only remotely satisfactory answer has always been: From God. No matter how much a Natural Rights thinker may have his doubts about what God's attributes are and what he does, he always does wisely when he keeps God up his sleeve with the job of giving men their Natural Rights.

NOTES ON SOURCES

The standard edition of Locke is *John Locke: Two Treaties of Government*, ed. P.Laslett (2nd edn 1967), and the standard life is still Maurice Cranston, *John Locke: A Biography* (1957; 2nd edn 1985). Recent studies of Locke include J.Dunn, *The Political Thought of John Locke* (1969), in which Dunn argues that Locke could only mean what his contemporaries could have taken him to mean, and Geraint Parry, *John Locke* (1978). Willmore Kendall, *John Locke and the Doctrine of Majority Rule* (1965), is wayward and brilliant. M.Seliger's *The Liberal Politics of John Locke* (1968), has never received the critical attention it deserves. J.W.Yolton, ed., *John Locke: A Collection of New Essays*, (1969), is useful. Like Hobbes, Locke wrote a good deal about other things. His *Essay Concerning Human Understanding* is the classic text of British empirical philosophy, and his essay *On Education* was probably the most widely read of Locke's books during his lifetime.

SOCIAL CONTRACT III

The Rousseauist version

JEAN-JACQUES ROUSSEAU

Rousseau was the first political thinker to make a text of his own life. His *Confessions* and *Rousseau Judge of Jean-Jacques* are apologies for a life which went wrong. Some readers of the *Confessions* find them embarrassingly frank; others point to how limited even honest introspection was in a world of pre-Freudian innocence. Rousseau always seems to have been able to arouse strong passions in others, not least in bluestocking upper-class women (about whom he could make appallingly ungallant remarks). The affection which Rousseau inspired in others sometimes turned into distaste, and even hatred. His was a trusting and suspicious nature by turns; his character contained a wide streak of paranoia, and, as is frequently the case with paranoiacs, his paranoia was self-fulfilling because it sometimes made enemies out of erstwhile friends. Rousseau's capacity for dividing people into sides for and against him by no means ended with his unhappy death. On one day you can find yourself detesting Rousseau, and the next day you can find yourself defending Jean-Jacques to the death. What is certain is that no-one who came into contact with Rousseau for long was likely to come out of it unscathed.

Born in Calvinist Geneva, the young Rousseau was destined for the life of an artisan, but, at the age of sixteen in 1728, he left Switzerland under a cloud, wandered into France, and at Annecy was befriended by Mme de Warens, who made him her lover to protect him from the corruptions of the world. Rousseau then began to climb the greasy pole in a France where noble patronage was the only hope for a man of the people who was also a foreigner. By 1743 Rousseau had settled in Paris, and formed his nearly lifelong relationship with his 'child of nature', Thérèse Lavasseur, by whom he had five children, all deposited in the Foundling Hospital by the man who wrote *Emile*. In 1751, Rousseau broke into the philosophic world with an essay on the arts and sciences, and in the next decade he wrote the works which we still read, including the second *Discourse*, the *Nouvelle Héloïse* and *The Social Contract*. These were the years when he tried to give up his social climbing and his posh friends, some of whom were to blacken his name all