

#### 4 — Law and Society.

Law is one of the institutions which are central to the social nature of man and without which he would be a very different creature. However, the role of law in setting order into society has been differently conceived by various thinkers.

During the eighteenth and nineteenth centuries, the reigning thought was that of 'individualism'. Individualist thought assumed, then, a more distinctly economic pattern. With the full impact of the industrial revolution and the growth of capitalist enterprise, individualism became more than a philosophical or psychological tenet: it developed into a political and economic slogan in the form of 'laissez faire'. During much of that period and indeed continuing into the present century, the assumption that law should interfere as little as possible with individual freedom of action, and specially economic action, underlay a good deal of legal and social speculation.

But however influential were the forces of laissez faire they were in fact fighting a losing battle against another philosophy which insisted on the value of social welfare and the necessity of legislative intervention to create the indispensable conditions for attaining this. The opponents of individualism, that is to say the 'socialists', put their emphasis upon increasing the sum of human happiness. Socialism provided a philosophy adapted to improving the material welfare of society as a whole. It, therefore, appealed to the progressive-minded, and seemed to afford a straightforward justification for social and welfare legislation on a wide scale.

As will appear from the inquiry into the 'nature of law' in the following chapter, both the natural law school and their opponents, the positivists, were heavily influenced by an individualist approach to human society. On the other hand, schools of legal thought which concentrate the attention, not upon law as a set of logical rules, but upon the end of law, and its function as a means of social engineering, are influenced by a socialist ideology.