

Rousseau, Montesquieu and the Origins of Inequality

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Jean Jacques Rousseau's critique of the seventeenth-century natural rights theories of Grotius, Hobbes, Locke, Pufendorf and so on, is well-known and widely discussed in the scholarly literature.¹ Rousseau finds assumed in these seventeenth-century theorists a conception of the state of nature that is not adequately radical in its freeing of "natural man" (*l'homme physique*) from the accoutrements of society (the standpoint of *l'homme moral*). Rousseau finds presupposed in these theorists' accounts of *l'homme physique* a humanity endowed with a calculative rationality capable of recognizing natural rights and natural law. Rousseau detects in them an assumed or implicit competitive civil society, lacking only a government to regulate and secure rights already recognized. Thus, the state of nature, for these seventeenth-century theorists, is inherently juridical, and government is established for the purpose of securing rights, as well as ordering and stabilizing according to natural law the presupposed competitive society. To such a government, the apparently natural men of the state of nature commit themselves by covenant or contract, and the government is thereby authorized to use coercive state power as a remedy for the instability - indeed war - of pre-political society. So Rousseau finds that while there is a wide variety in the accounts of the seventeenth-century *jus naturale* theorists, there is as a common underlying element in these accounts the claim that the legitimacy of government rests upon two principles: that the government 1) is in accord with natural law and rights and 2) has been "authorized" or established by contract.

For Rousseau, as he makes clear in the *Second Discourse*, this account of the legitimacy of governments is not only false but manipulative: both the so-called natural laws and rights and the contract to secure them are in fact devices by which the rich secure for themselves the benefits of inequality. The problem for Rousseau is that *l'homme moral* is presupposed and not actually established in these accounts of the state of nature: the man described by seventeenth-century theorists as "natural" is, in truth, a social construct. The very capacity to contract in a juridical context requires the enlightenment of a stable social life, which can only be that contract's eventual result. Rousseau makes this point with characteristic clarity in the Preface to the *Second Discourse*:

The Moderns, recognizing under the name Law only a rule prescribed to a moral being, that is to say, intelligent, free, and considered in his relations with other beings, consequently limit the competence of natural law to the sole animal

¹ See Robert Derathé *Jean-Jacques Rousseau et la science politique de son temps* (Paris, 1950) 125-71; Mario Einaudi *The Early Rousseau* (Ithaca, 1967) 119-20; Louis Althusser *Montesquieu, Rousseau, Marx* (London, 1982) 25-8.

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endowed with reason, namely man; but each defining this law in his own fashion, they all establish it upon such metaphysical principles that even among us there are very few people capable of comprehending those principles, far from being able to find them by themselves. So that all the definitions of these learned men, otherwise in perpetual contradiction to one another, agree only in this, that it is impossible to understand the Law of Nature and consequently to obey it without being a great reasoner and profound Metaphysician: which means precisely that men must have used, for the establishment of society, enlightenment which only develops with great difficulty and in a very few People in the midst of society itself.²

The seventeenth-century natural rights theorists are subject to Rousseau's critique that, far from getting to *l'homme physique*, they presuppose and require an already established *l'homme moral* in order for their natural law theories to be effective.³ This failure to get back to nature in turn undermines the claim to legitimate certain social and political forms as supposedly grounded in nature and primordial contract. In the *Second Discourse* and elsewhere, Rousseau presents a powerful and effective critique of the seventeenth-century accounts of the state of nature and of the legitimation those accounts provided for certain existing forms of polity.

The focus of this paper, however, will not be not this well-studied critique, but rather Rousseau's relation to a much less familiar, but closer, predecessor: Montesquieu. Rousseau's critique of the seventeenth-century account of the state of nature and laws of nature is not so evidently compelling when applied to Montesquieu's account of the state of nature and of what legitimates a political form. In fact, Montesquieu precedes Rousseau in criticizing Hobbes, as representative of the *jus naturale* tradition, on precisely the same grounds as Rousseau does: that Hobbes's description of the state of nature as a war of all against all, confuses a social accomplishment with that which is naturally given.⁴ Montesquieu's *Spirit of the Laws* came out only seven years before the *Second Discourse* and is referred to only once (and obliquely) in the main body of that text, yet it is nonetheless evident that it exercised a significant influence on Rousseau's thinking.⁵ While I will turn to the textual reference shortly, it is first useful to outline the way in which Montesquieu's account of the state of nature is not apparently vulnerable to Rousseau's critique of natural law theories.

The key point here is that Montesquieu's state of nature is non-judicial; for Montesquieu, the state of nature is not a sphere of rights, and natural law is not a moral principle to be recognized by a rational being. Montesquieu does speak of natural laws –

² Rousseau, *Discourse on the Origins of Inequality (Second Discourse)* (Dartmouth, 1990), 14.

³ See Robert Wokler "From *l'homme physique* to *l'homme moral* and back: towards a history of Enlightenment Anthropology" *History of the Human Sciences* 6 (1990), 121-38.

⁴ Montesquieu, *The Spirit of the Laws* (Cambridge, 1989) 6. On this point, see Anne M. Cohler *Montesquieu's Comparative Politics and the Spirit of American Constitutionalism* (Kansas, 1988) 45.

⁵ See Derathé, 53-4, 281, 300; Nannerl Keohane *Philosophy and the State in France: The Renaissance to the Enlightenment* (Princeton, 1980) 425-6; Maurice Cranston *The Noble Savage* (Chicago, 1991) 4-5; Judith Shklar *Montesquieu* (Oxford, 1987) 115.

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four of them – but they are laws in a “sociological” or developmental sense.⁶ They describe stages of development belonging to *l’homme physique*, from an initial fear and peace among natural men, to the pursuit of physical needs in nature, to a recognized mutuality among humans that establishes social relations, and, finally, to the establishing of “knowledge” as a benefit that belongs to society *per se*. Montesquieu’s laws of nature may be seen to outline a development from *l’homme physique* to *l’homme moral* not dissimilar to that sketched out by Rousseau in the *Second Discourse*. So the most striking feature of Montesquieu’s account is its similarity to Rousseau’s in breaking with an assumed relation in the state of nature to a rational natural law as directly knowable for natural man.⁷ Montesquieu, no more than Rousseau, requires *l’homme physique* to be a metaphysician.

Given this shared break with the *jus naturale* tradition, it is striking that Montesquieu and Rousseau come to such different conclusions. For Montesquieu, the state of nature points beyond itself and gives legitimacy, not to one particular form, but to a whole array of social forms including both republics and monarchies. And so, from Montesquieu’s perspective, “nature” does not point to a determinate political form that realizes a set of “natural” juridical requirements. “Nature” establishes no single type of regime as legitimate:

It is better to say that the government most in conformity with nature is the one whose particular arrangement best relates to the disposition of the people for whom it is established.⁸

Because Montesquieu’s state of nature is evacuated of definite juridical content, rather than presenting an external and critical standpoint by which to judge existing society, his account can appear to be interested in legitimating, not what ought to be, but what is the *status quo*:

⁶ Montesquieu, 6-7. To say that Montesquieu’s account is “sociological” is to differentiate it from the juridical accounts of the seventeenth century. However, Montesquieu’s view is not to be assimilated, as some commentators would have it, to nineteenth- or twentieth-century sociology. The distinction between “descriptive” and “normative” or between “facts” and “values” that belongs to sociology in its developed form does not apply to Montesquieu – something that has frustrated many commentators who have tried to read Montesquieu as if he were a sociologist in the nineteenth and twentieth century sense of the term. The “description” of the state of nature in *The Spirit of the Laws* is not of “facts”, but of what Montesquieu calls, “the nature of things”. In short, there is no simply non-normative or non-evaluative standpoint according to Montesquieu. A less anachronistic way to consider this issue will be in terms of Rousseau’s distinction between the science of political right and the science of positive right. See below.

⁷ This shared shift can be compared with Berkeley and Hume’s parallel critique of primary qualities in seventeenth-century accounts of epistemology – but that is another story. In general, in the mid-eighteenth century there is a critique of what is understood as a confusion in the seventeenth century of the rational and the sensible, the moral and the natural and so on. This critique involved a clearer separation of the two sides, but also a confidence or intuition that the two sides could and would be united. For Hume, this intuition took the form of “custom”; for Montesquieu, “*l’esprit des lois*”; for Rousseau, “feeling”. See David Carrithers “The Enlightenment Science of Society” in Christopher Fox, Roy Porter and Robert Wokler (eds.) *Inventing Human Science* (Berkeley, 1995) 247-9 for a discussion of the widespread break with state of nature social contract theory as a confusion of the natural and the moral.

⁸ Montesquieu, 8.

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If I could make it so that everyone had new reasons for loving his duties, his prince, his homeland, and his laws and that each could better feel his happiness in his own country, government, and position, I would consider myself the happiest of mortals.⁹

But while for Montesquieu, the discovery of a non-judicial state of nature seems to provide a background of justification for much of the status quo, for Rousseau, by contrast, the state of nature – equally non-judicial - serves as a standard by which to judge the degenerate character of all existing social forms. Rousseau captures this difference in approach in a passage from *Emile*:

The science of political right is yet to be born, and it is to be presumed that it will never be born.... The only modern in a position to create this great and useless science was the illustrious Montesquieu. But he was careful not to discuss the principles of political right. He was content to discuss the positive right of established governments, and nothing in the world is more different than these two studies.¹⁰

Montesquieu has, according to Rousseau, established the conditions of a true science of political right in contrast to Hobbes and Grotius – and I infer this to be by Montesquieu’s having set a pre-judicial and pre-moral state of nature over and against all given social and political forms – but he has not built on this foundation a science of political right, but merely of positive right. From Rousseau’s perspective, all Montesquieu has accomplished is to explain why we have the laws that actually exist, and not what they ought to be.¹¹

From a twentieth- or twenty-first-century standpoint, Rousseau’s contrast between positive and political right can appear parallel to that between “descriptive” and “normative,” or between “fact” and “value,” as these terms are used in contemporary sociology. Indeed, a number of Montesquieu scholars have developed the view that Montesquieu is in fact a precursor of modern sociology, seeking to establish a value-free, or descriptive, science of social and political forms.¹² Rousseau’s characterization of Montesquieu would seem to confirm this interpretation of Montesquieu; however, such a conclusion would be misleading. There are two important points here: that Rousseau’s opposition between political and positive right does not belong to Montesquieu’s own self-understanding; and that Rousseau’s own contrast between political and positive right only vaguely parallels the neo-Kantian categories (such as fact and value) that underlie

⁹ Montesquieu, xlv.

¹⁰ *Emile*, 458.

¹¹ For the claim that Rousseau’s critique of Montesquieu is accurate see Shklar, 115.

¹² For readings of Montesquieu as a sociologist, see Auguste Comte *Cours de Philosophie Positive* (Paris, 1967 [1838]) 85; Emile Durkheim *Montesquieu and Rousseau: Forerunners of Sociology* (Ann Arbor, 1960) 15-23; Raymond Aron *Main Currents of Sociology* vol.1 (Harmondsworth, 1965) 17; John A. Baum *Montesquieu and Social Theory* (Oxford, 1979).

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much of contemporary sociology.¹³ So the contrast between Montesquieu and Rousseau cannot be captured as a contrast between description on the one side and normativity on the other. Rather, it is better understood as a contrast between an account that provides legitimacy for existing forms (positive right) and an account that finds legitimacy only in a form of government that has not yet, or only rarely, come to be. That is, even if we view Rousseau's description of Montesquieu's science as one of positive right, it is important to see that this "science" has as much a "normative" as a "descriptive" content: it legitimates (and delegitimizes) positive law, even while describing and explaining it.¹⁴ In fact, as Montesquieu scholars have discovered, Montesquieu makes for a pretty confused sociologist by peppering his text, not only with metaphysical and speculative terms such as "the state of nature," but, more problematically, with a whole set of normative concerns in a supposedly descriptive science. As part of his "science," Montesquieu both opposes practices and laws that are repressive or cruel and supports legal reform that increases liberty and humanity. More significantly, Montesquieu finds illegitimate and *contra natura* the most widespread (and so most "positive") political form of his day: despotism. In describing Montesquieu's science as one of "positive right," Rousseau is perfectly aware of the normative and legitimating aspects of this science. What this suggests is that what distinguishes a science of political right from a science of positive right is not that one establishes criteria of legitimacy and the other does not, but that the depth or level of legitimation is different. One could say, therefore, that Rousseau would question the legitimacy of Montesquieu's account of legitimation.

One way to understand this difference between Montesquieu and Rousseau is to look at their accounts of the state of nature, which form for both Montesquieu and Rousseau (as for the early modern period generally), the background to questions of political legitimacy. But, it is precisely in their accounts of the state of nature – and in their shared critique of the seventeenth-century accounts – that Montesquieu and Rousseau seem so close. Both Montesquieu and Rousseau argue that the kind of war that Hobbes or Locke finds in the state of nature does not belong there, but is rather a subsequent development that belongs to a social context. That is, both Montesquieu and Rousseau argue that the state of nature is characterized by peace. This mutually recognized peace suggests that there is no inherent conflict of rights or interests that would form the juridical ground of the state. In fact, the state is not grounded in a set of natural criteria at all; the state serves no pre-political or "naturally" given ends, but itself constitutes the ends it realizes. For both Montesquieu and Rousseau, the state of nature as non-judicial cannot, for that very reason, directly "legitimate" any regime: "legitimacy" is a moral term that does not properly belong to the state of nature. But, as we shall see, for both Montesquieu and Rousseau, in spite of their evacuation of juridical legitimation from the state of nature, the character of the state of nature does bear upon the question of legitimacy and establishes its larger context: while the legitimacy of any regime is self-grounded, this self-grounding is itself open to a judgement in relation to the state of nature.

¹³ On the neo-Kantian basis of contemporary sociology see Gillian Rose *Hegel contra Sociology* (London, 1981) 1-47; J.T. Bergner *The Origins of Formalism in Social Science* (Chicago, 1981).

¹⁴ On just this point, see Robert Wokler "The Enlightenment Science of Politics" in Fox *et al.*, 340.

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But why do Montesquieu and Rousseau make such startlingly different judgements about the self-legitimation of existing regimes while sharing an apparently common account of the character of the state of nature as a non-juridical state of peace? It is the *kind* of peace at work in the state of nature that crucially distinguishes Rousseau from Montesquieu here. As Rousseau points out – in the only reference to him in the *Second Discourse* – Montesquieu finds, “that nothing is so timid as man in the state of Nature, and that he is always trembling and ready to flee at the slightest movement he perceives.”¹⁵ For Montesquieu, man in the state of nature has a sense of his own weakness, a sense of need and fear, that, at first, produces peace by making each individual flee contact with another, but then, with the perception that the fear and need is mutual, draws human beings into social relations of mutual support.¹⁶ Rousseau, by contrast, argues that man in the state of nature is, and feels himself to be, self-sufficient, and that this isolated self-sufficiency is the source of peace in the state of nature.¹⁷

At first glance, this distinction between Montesquieu and Rousseau can appear arbitrary: what is to decide whether man in the state of nature is needy or self-sufficient? From a “positivist” point of view, it appears that Rousseau is giving us one set of “facts,” derived, for example, from anthropological studies of orangutans, in contrast with Montesquieu’s different set of “facts” concerning the state of nature.¹⁸ But, of course, Rousseau, like Montesquieu, has told us that he is “setting all the facts aside.”¹⁹ So the basis of their differing accounts of the state of nature is not factual or positive. But what, then, is the basis for distinguishing among versions of the state of nature, such that Rousseau can claim that Montesquieu’s account misdescribes the state of nature, especially given that Montesquieu does not make the kind of assertions about the state of nature made by seventeenth-century natural law theorists?

Because for Montesquieu a sense of weakness or timidity is what first defines man in the state of nature, Montesquieu establishes “lack” as the condition of, and not a merely passing moment in, the state of nature. It is, on the other hand, the sense of weakness and its correlative, dependency, that for Rousseau precisely defines socialized humanity and points to a standpoint of comparison and relativistic self-awareness. Montesquieu characterizes *l’homme physique* as other-directed, not independent and self-sufficient, and so as implicitly living in relation to others, even when isolated by fear and a sense of weakness, and, as such, already “corrupt” in Rousseau’s terms. As Rousseau brings out in Part II of the *Second Discourse*, it is the work of comparative reflection that activates the powers of perfectability which corrupt primitive man through the development of a sense of *amour propre*.²⁰ Because, for Montesquieu, we are already needy and weak, we are already en route to society, a development that is articulated in

¹⁵ *Second Discourse*, 21.

¹⁶ See the laws of nature in Montesquieu, 6-7.

¹⁷ *Second Discourse*, 22-42.

¹⁸ See Robert Wokler “Anthropology and Conjectural History” in Fox *et al.*, 43-4; Robert Wokler “Perfectable Apes in Decadent Cultures: Rousseau’s Anthropology Revisited” *Daedalus* (summer, 1978) 107-34.

¹⁹ *Second Discourse*, 19 see also 14-5; see also Montesquieu *Défense de l’esprit des lois* in Roger Callois (ed.) *Oeuvre Complètes* (Gallimard, 1951) 1131.

²⁰ See *Second Discourse*, 43-54.

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Montesquieu's four laws of nature. The state of nature is, in Montesquieu, primed for society; for Rousseau, society is an accident only contingently related to natural man.²¹

Thus, from Rousseau's perspective, Montesquieu's natural man – even in his initial feeling of weakness – is already corrupted. While Montesquieu has freed his conception of the state of nature from the rights and law structure of seventeenth-century theorists, and so removed an assumed natural foundation for a certain kind of social order that sustains such rights and law, he has not removed its more general “societal-directed” character: thus, from Rousseau's point of view, he has not separated the principles of “political right” from the realm of “positive right.” That is, for Montesquieu, because *l'homme physique* is only complete in and through a larger social whole, he requires the legal and political order necessary to that society. Therefore the social/legal order in which he (or she) finds himself (or herself) is (through the work of what Montesquieu calls *l'esprit des lois*) thereby, at least provisionally legitimated (except for despotisms which by their very nature are destructive of socialized personality). From Rousseau's standpoint, then, Montesquieu's natural man – even before entering society – is already given over to social forces, and so cannot provide a standpoint of independent self-relation capable of determining the legitimacy of social forms.²² Thus, this difference in how natural man is conceived – either as self-sufficient or as incomplete – points to the radical difference in judgement regarding the legitimacy of existing society that distinguishes Rousseau from Montesquieu. For Rousseau, in a crucial sense *all* political forms are corrupt relative to natural man. He so builds up the completeness and integrity of natural man that, as he puts it in the *Social Contract*, all society is “in chains”: the only question is whether these chains can be legitimized.²³ For Montesquieu, man is “made for living in society,”²⁴ and so all societies (except for the unnatural form of despotism) have a *prima facie* legitimacy and educate the individual towards justice and rational self-direction:

I do not write to censure that which is established in any country whatsoever. Each nation will find here the reasons for its maxims, and the consequence will actually be drawn from them that changes can be proposed only by those who are born fortunate enough to fathom by a stroke of genius the whole of a state's constitution.²⁵

²¹ *Second Discourse*, 40-3. See Norman Barry “Hume, Smith and Rousseau on freedom” in Robert Wokler (ed.) *Rousseau and Liberty* (Manchester, 1995) 34-6

²² This ambiguity in Montesquieu, that natural man is prior to any determinate social form, but is nonetheless inherently social, is captured in Montesquieu's claim that man is by nature both initially isolated and by nature social. See Montesquieu, 5 and 6.

²³ *Social Contract*, 131. There is an aspect of Rousseau's thought which points to the insufficiency of all social and political forms – even the virtuous republic or the state ruled by the General Will. This aspect emerges in various forms: in his despair that natural man came to develop his powers of perfectability in the role of civic religion in the state, but perhaps most clearly in his portrayal of the lonely wanderer in his *Les Rêveries du promeneur solitaire*. The sense here is that there is a freedom in aesthetic communion with nature, in religion or in sentimental friendship and love, that can nowhere be realized in the state. This freedom is figured in its integrity in the undeveloped self-completeness of *L'homme naturel* of the *Second Discourse*, living fully within himself.

²⁴ Montesquieu, 5.

²⁵ *Spirit of the Laws*, xlv.

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Therefore, while both Montesquieu and Rousseau see moral and societal inequality or equality as inherently social in both origin and nature, Montesquieu displays a certain indifference toward republican equality and monarchic hierarchy, affirming the legitimacy of both: each is the result of various social forces and both are educative in their respective ways.²⁶ In fact, for Montesquieu, extreme equality is a danger for republics, and, indeed, it belongs to all social forms that they be articulated in and through differences and distinctions and structures that necessarily exclude. This articulated and differentiated structure is necessary to educate individuals to a larger whole of which they are a part.²⁷ But it is precisely this socially structured moral inequality and dependency that Rousseau opposes. For Rousseau, the only consolation for the loss of the state of nature is the equality and unity found in the General Will, where alone there is the means to recover in society something of the independence of the state of nature. It is precisely the independent and self-sufficient character of *l'homme physique*, man in the state of nature, which Rousseau, somewhat ironically, elevates to an absolute moral standard against which existing social life is found wanting:

Such is, in fact, the genuine cause of all these differences: the savage lives within himself; the sociable man, always outside himself, knows how to live only in the opinion of others; and it is, so to speak, from their judgement alone that he draws the sentiment of his own existence.²⁸

For Rousseau, nature as a whole is, in its self-sufficiency, an implicit moral standard. And Rousseau argues that Montesquieu did not sufficiently strip away sociable man to uncover the state of nature in its own stability and independence, and thereby uncover the ground for a true science of political right. The demand is that this integrity found in savage man, in order that it be retained for social man, must, by social man, be directly and for himself willed, and this can be attained only through the General Will, which alone gives legitimacy to social life. For Montesquieu, the character of the state of nature – its sense of lack and weakness – tends to legitimate existing social and political forms.

For Rousseau and Montesquieu both, justice has an absolute character founded in the nature of things.²⁹ For Montesquieu, society, precisely in its differences and

²⁶ Here I am opposing the dominant American reading of Montesquieu as an advocate of certain forms of modern republicanism and hence something of an egalitarian. In my account, Montesquieu's standpoint is more objective and not a position of advocacy for any particular form – as he says himself. He is not on the side of ancient republics, of medieval monarchies, modern commercial republics: but rather on the side of a stable social order that can articulate and relate the various social and other forces constitutive of it. That is to say that all these forms – putting despotism to one side – are responses to the problematic posed in the state of nature: how individuals can come to direct themselves in accordance to law, when they are not directly cognizant of the legal order. In this sense, all of these “moderate” regimes are educative through the “spirit” of their laws to justice and hence legitimate. See Book I of *The Spirit of the Laws* for a clear statement of the problematic and how it is resolved through *l'esprit des lois*.

²⁷ See Montesquieu, 46-7 and 112-4.

²⁸ *Second Discourse*, 66.

²⁹ See *Social Contract*, 152 and *Spirit of the Laws*, 4.

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hierarchies, can be a means or device that (through the work of *l'esprit des lois*) makes individuals just and educates them to a sense of justice, in some sense, behind their backs.³⁰ From this point of view inequality can be itself a means to realize justice: it is not a loss of “self,” but rather a device by which to educate individuals to a socially constituted and juridically-informed self – which, according to Montesquieu, in the state of nature they are not.³¹ Precisely because, for Montesquieu, the individual only comes into a stable and juridically informed sense of identity in and through social and political relations to others, liberty cannot be accomplished by the individual in isolated self-relation, but is itself a social and political accomplishment. Therefore, for Montesquieu, liberty is all about the opposition and conflict within government and society that educates individuals and groups to justice by exposing the general structure underlying social life, which, in turn, is the basis for any socially meaningful individual self-direction. For Rousseau, such a conception of society and government is corruption and loss of self, as the factional or partial moment is given a certain independence and the self is lost in opposition and particularity: we must rather turn into the simplicity and directness of our own inwardness.³² For Rousseau, the General Will is reached not through the separation of powers or the conflict of parties, but through the direct universality of a sovereign assembly of equal citizens, where the common good can be determined directly and for itself. For Rousseau, to allow factions and conflicts reality is already to corrupt the General Will into, at best, the Will of All – that is, to dissolve society into a compromise of parties and ultimately a device by which one faction dominates others.³³

Rousseau here takes a crucial and necessary step beyond Montesquieu and crosses the lintel that separates the contemporary from the early modern. Montesquieu is an enlightened observer of the Ancien Regime, seeking to bring rational reflection and a reforming spirit to bear on its social and political forms – but his is not a revolutionary standpoint that questions the basic legitimacy of the Ancien Regime. Rousseau sees more clearly and radically the demand of enlightened subjectivity to establish itself directly in the world in its own social and political forms. However, the movement of political thought beyond Rousseau, born out of the failings of the French Revolution, in Burke and more completely in Hegel, is to argue that what is lost in the Rousseauian immediacy of direct self-government is the education towards enlightenment and insight in and through the concrete circumstances and divisions of existing, historically-contingent social forms. What Hegel and Burke warn us of is that, without such an educative aspect, enlightened self-government readily becomes terror. The need, then, is to think together Montesquieu and Rousseau: to unite inner self-government and the educative power of social and political forms, so that our freedom is not only inner integrity, but also actual and effective in the world. In this way, in spite of Rousseau’s insistence to the contrary, the science of “political right” and the science of “positive right” can be seen as forming one

³⁰ *Pensées*, #1798(943), Callois, 1430.

³¹ This is captured in the relation between what Montesquieu refers to as the principle of the state and the nature of the state. See Montesquieu, 10-30.

³² On this difference between Montesquieu and Rousseau, see Keohane, 442-3.

³³ See *Social Contract*, Book II, ii-iv.

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science.³⁴ From such a standpoint, equality and inequality need not be seen to be mutually exclusive, but rather as aspects of a larger freedom comprehensive of their difference.

³⁴ An interesting parallel to the Montesquieu/Rousseau debate is the debate in the American colonies around the case for the American Revolution. In particular, see Charles Inglis' critique of Thomas Paine's *Common Sense*, entitled *The True Interest of America Impartially Stated In Certain Strictures On A Pamphlet Intituled Common Sense* (Philadelphia, 1776). Inglis cites Montesquieu to criticize Paine's simple, egalitarian republicanism. He saw revolution as leading to a kind of constitutional abyss. The Constitutional Convention of course came to build into the American Republic precisely those elements of complexity and differentiation that Montesquieu had praised in the English constitution and Paine so vigorously criticized in *Common Sense*.