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Richard Herr, *Separate but Equal: Individual and Community since the Enlightenment*. Berkeley: Institute of Governmental Studies Press, 2016. 361 pp. \$30.00 U.S. (pb). ISBN 978-0-8777-2452-0.

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Despite the eyebrow-raising title of *Separate but Equal*, Richard Herr's volume is a commendable narrative of European and U.S. history from the eighteenth century to the present. It embeds, as the subtitle promises, successive understandings of "individual" and "community" into the social histories of two continents. A good-faith effort to wed intellectual and social history, *Separate but Equal* could be assigned in college courses on either U.S. or European history where one wants a survey of the trans-Atlantic linkages of Europe and America over three centuries. For me, the fascination of the text lies in teasing out what one might call its logic of regimes. It is an account of the regime choices the eighteenth-century enlightenment made apparent, choices between rival and unstable conceptions of society whose consequences over several centuries of war and revolution are still a feature of European and American history. It is also a progressive history with a happy ending, which may or may not satisfy contemporary sensibilities.

In many accounts of the European enlightenment (or enlightenments), the Baron Montesquieu, author of the *Spirit of the Laws* (1748) is dutifully listed as one of the Olympian intellectual gods of the era. There is occasional commentary about his serious readers and critics, David Hume, Adam Smith, Adam Ferguson and many other figures from the Scottish enlightenment, the Americans James Madison and Alexander Hamilton, G.W.F Hegel, Benjamin Constant, Alexis de Tocqueville, Emile Durkheim up to Raymond Aron and Hannah Arendt. In addition, the debates occasioned by one bit or another of Montesquieu's *oeuvre* will sometimes come into play. [1] Nevertheless, the standard rehearsals of this genealogy often suggest this is only intellectual history window dressing. The motive forces for historical change lie elsewhere, which then raises an awkward question. If Montesquieu was so important, why can we not show that what he wrote and what his readers and critics responded to, touched historical nerve endings as we can presumably say about Rousseau, Marx or even Tocqueville? Richard Herr's *Separate but Equal* offers a singular exception to those histories. Here thought and action are on the same path. Montesquieu lies at the center of enlightenment discourse and at the center of actual regime choices.

For Herr, the enlightenment is the (sometimes half-hearted) effort to break free of the theological confinement of Christian framework. As he acknowledges, the debate goes back to Carl Becker and continues in Jonathan Israel. [2] The question posed to the radical enlightenment is whether people can live without a sense of cosmic purpose. "Purpose" may have been partially abandoned but it assumed a ghostly form, Herr suggests, in enlightenment natural law. One could add that something like cosmic

purpose seems to be at work in progressive politics and progressive histories of which this work is an exemplar.

As thinkers became less anchored by transcendent purpose, the more they had to rely on this-worldly sources of social order. In the eighteenth century, two kinds of more or less acceptable this-worldly orders were on offer: hierarchical societies whose elites were motivated by plural cultures of honor that highlighted different understanding of individual freedom; and egalitarian societies in the grip of a singular (if fought over) sense of justice and public virtue. For Herr, it was Montesquieu who discerned in the evolving mores and constitutional structures of early modern European life these two rival kinds of potentially secular societies and their correspondent governments. I am adding to Herr's descriptions but not undermining the spirit of his proposal when I say that these models were (1) monarchies anchored in plural ideals of honor where the authority of monarchs was subverted by courts and intermediary bodies; and (2) republics where elite authority depended on self-denying adherence to egalitarian virtue. The self-subverting character of these governments guaranteed that the societies over which they presided were not stable. Each regularly threatened to go off the road, which is the plot device that exhibits how two incomplete models of social order worked their ways through revolutions and wars to the (presumably) more stable and recognizable forms we are familiar with.

Today the successors to inegalitarian monarchy and egalitarian republic are alive and well under assumed identities which Herr sometime elides into contrasting democracies, state averse America; state-centric France. Montesquieu's logic of regimes defined by degrees of equality and inequality is the key for unlocking the puzzles of successive transformations in Western societies.

There is of course a standard methodological riposte. Is this not merely an outmoded historical idealism? Herr's text may lack an interest in such debates but an answer can be supplied anyway. With these regime tropes Herr has in effect deployed a "social imaginary," a map of competing vocabularies either of which enables participants both to describe a social environment and to *negotiate* shifting patterns of power and practice in it. Observers discern and debate novel vocabularies of action. Actors adopt one or another vocabulary for describing where they are going. What actors subsequently do, albeit under the impact of unscripted contingencies, decides the fate of competing vocabularies. [3]

Herr overlooks elements in Montesquieu's description of honor, the way it paved the way for aristocratic (civil) disobedience to the king and the way in which it curbed the individualism it appeared to celebrate. [4] Consequently Herr's picture of honorific individualism easily converts into a kind of self-satisfied bourgeois individualism. Herr elides the differences between Montesquieu and Adam Smith (albeit a Smith without a "Theory of Moral Sentiments"); and merges aristocracies of honor with the self-interest of commercial classes. In a kind of soft version of Marx, the privilege of rank is the veil which conceals the privilege of property. Unlike Marx, the advantage that was eventually to arise from these practices was this: a monarchical aristocracy and a property holding market elite converged in providing normative space for difference, differences of rank or different degrees of wealth. Both pointed to the same thing: tolerance for different ways of using one's resources to lead a life. This was unsatisfying since the backdrop in both instances was separate but *not* equal. There remained a hierarchy in resources and in status which left future generations with the question of how to find support for difference while taming hierarchy. (A separate philosophical question: does contemporary "meritocracy" reproduce all the bad old elements of hierarchy?)

The virtuous egalitarian republic, Montesquieu's other enlightenment model and the one Rousseau celebrated, was equally unstable. For Herr, Europeans before the French Revolution were easily deceived about how egalitarian or virtuously republican the rebellious American colonies were. The French Revolution taught them that there were potentially no brakes on the enforcement of uniformitarian virtue. The virtuous one-right-way republic contained the seeds of the "Terror." Not much better, Herr thinks, was the return of monarchy in the hedonist and predatory standards of "Thermidor," whose commercial sins were, Herr adds, duplicated in the early nineteenth century American Republic.

State centric enforcement of communal virtue and irresponsible, predatory individualism were the vices of the two rival models of social order. In Herr's happy formulation, each required the moderation that could be achieved by borrowing from the other, the "Individual and Community" of the subtitle pointing toward mutual conciliation. However, neither model was self-correcting. Enter stage left (or stage right) two extraordinary and little paired figures: Napoleon Bonaparte and George Washington. Each sought to tame the distinct vices of rival models. Bonaparte and Washington completed the work of Enlightenment.

Again the text is not self-conscious about method so there is no defense for this pivot to a *deus ex machina* explanation, the "great man" intervention in a story that earlier focused on the inertial quality of social formations and the stickiness of cultural legacies (the Renaissance civic republic, Christian views of charity etc.). Nevertheless this story of leadership has distinguished philosophical and historical pedigrees.

For Hegel in the *Phenomenology of Spirit* (1807) as for Richard Herr, both the French enlightenment and the French Revolution were fragile moments in time where every attempt at order was overridden by contradictions. [5] There is additional support. In a famous letter, Hegel identified Napoleon as the font of the new order that had emerged; he was the *Weltseele* or world-soul, the global spirit on horseback. [6] In the American case, George Washington presided over a tension ridden cabinet that opposed Thomas Jefferson and Alexander Hamilton, the duo which in any number of histories, perhaps most famously in Herbert Croly, *The Promise of American Life* (1907), represented the historical dialectic that congealed into American "promise," that is to say, into an accommodation of Jeffersonian ends by Hamiltonian means. [7]

Herr's nineteenth century features a new set of rival concepts, a "second act" as he puts it, the horizontal versus the vertical society. A horizontal society was organized around conflict that crossed national boundaries, e.g., the eighteenth century European aristocracy; or after the Revolution, those who were for constitutional government versus those for throne and altar; and later still, socialist labor versus bourgeois property. Herr even discerns a liberal nationalist international, Mazzini in Europe and Andrew Jackson in the United States. Herr's synthetic ambitions remind me of an older text, Louis Hartz, *Liberal Tradition in America* that was similarly suggestive about hidden cross Atlantic pairings. [8]

The fate of horizontal community led up to 1914 where it stepped off a cliff. The socialist international voted for the nation, for the vertical society. It was a tragedy, leaving countless dead, the destruction of Europe. The argument in the latter part of the book is animated by a sense of horror at the numbing

loss of life in World War I that came about because the citizens of the respective belligerent powers were so deeply committed to the “nation.”

Herr offers a good Tocqueville-like explanation of why workers did not stick together in their version of international, horizontal society. [9] Individuals were offered opportunities to compete. When successful, they were expected to abandon their communities of origin for wealthier precincts. This move could have led—did sometime lead—to guilt and anxiety: how to reconcile personal ambition with betrayal to the horizontal community of origin? This anxiousness was muted by re-imagining society in its vertical not its horizontal form so that when individuals changed their economic prospects, they did not feel they had abandoned the community since now the community was the nation itself. This, I think, explains a lot.

The downside of the vertical society of the nation state was the loyalty and patriotism it elicited that began in 1914 the half-century unraveling of Europe. This excessive loyalty was closely connected to what Herr calls the “third act,” which invokes a new concept, the rise of “homogenous society” (yet another Tocqueville theme). Here the culprit is evidently individual rights themselves. Enlightenment thinkers in reaction against the corporative societies of *ancien regime* privilege thought that moral refuge lay in constructing a universal society of individual rights. If, however, everyone possessed the same rights, it was sometimes hard to resist the moral conviction that they ought to live the same lives. Herr returns us to the anti-Enlightenment theme that the egalitarian enlightenment was hard on “difference.” Of course, we can now see the need for an explanatory “fourth act,” namely the rise of difference, the proliferation of group loyalties within the nation state.

With this fourth act we may turn to the mysterious title, *Separate but Equal*, which echoes the infamous U.S. Supreme Court decision (*Plessy v Ferguson*, 1896) that justified segregation and African-American exclusion, and which was only over-turned by the 1954 *Brown v Board of Education* decision. In effect, Herr asks his readers to imagine a future counter-factual story in which the background to a Plessy-like decision was not the Jim Crow South or racial hierarchy, but a society in which each group really did have equal resources. Would it not be a good thing if each group in society could go its own way whether in education or with respect to any other public good? This species of left libertarianism (or identity politics) is perhaps justly animated by prior history which from 1914 on suggested that national identity too quickly slid into tyrannical conformity.

For Herr, progressive history will replace national identity with particular identities. As a consequence *Separate but Equal* is trendily up to date in its advocacy of ethnic, gender, religious, sexual and other claims for separate identity, all under the banner of separate but equal. In the latter chapters one finds informed accounts of Affair of the Scarves in French schools, claims for feminist separatism in the United States, and many other issues. Whenever possible, opting for the privilege of a particular identity secures us against excessive patriotism cum nationalism. If this trend continues, Richard Herr seems to suggest, we will be nearly at the happy end of history.

I have doubts about this agenda. It is not self-evident that this sort of commitment to identity politics is perfectly compatible with the presupposition that Herr depends upon to make “separate but equal” something different than what it was in school segregation of the last century, a cover for hierarchy. A commitment to advancing one’s group is only a magnified form of individualism. Neither teaches duty to sacrifice for others outside the self or the group. Even if we do not believe that individual or group

selfishness is strongly in play, focusing on the freedom of each group to live as it will is at least a distraction from focusing on how all groups can live well together, presumably in the non-hierarchical world that Herr prefers. The particularism of the old regime, animated as Montesquieu suggested by standards of honor unique to each group, is being recreated in the identity politics of the present moment. Also being recreated is the hierarchy of status and resources which were characteristic of the pre-revolutionary monarchy and which today goes under the name of a “new Gilded Age.”

Suppose by contrast that each of us has both thick and thin identities, reflecting thick or thin moral commitments. Herr imagines that the worst possible world is one where we think of the nation as the foundation for thick identity. He has the weight of twentieth century history on his side. Nevertheless, in redressing the balance, he deprives the nation (the state, the country) of the resources of even thin commitment. A sense of justice requires some a way of identifying with people beyond the scope of narrow social identity, whether these involve gender, race, ethnicity, religion, sexuality, profession etc. In addition, a global sense of justice would require emotionally recognizing the significance of people who are not citizens, which is an equally important capacity as nations negotiate trade relations and open or closed borders. In a world of particularity—the one which I am tempted to say Herr favors—we must ask what happens to duties that require respect for others beyond the frame of narrow identities?

The U.S. Civil Rights Law of 1964 may have emerged from particular conflicts over blacks and whites, as Herr suggests; but it was a law that had general application beyond this specific issue. Herr sees all the particulars in any given moment of time but sometimes avoids the general or universal ethical claims that may arise out of them. He writes, for instance, that the participants in the 1964 Free Speech Movement at Berkeley went to jail because they “were demanding the right to campaign on campus for black liberation” (314-15). As a veteran of that movement, I think that Herr states the 1960’s argument for “free speech” too narrowly to capture the beauty of what took place: students and faculty united around a universal ideal and constitutional norm where, to be sure, each participant could fill in his or her particular motive. All this is now, of course, wonderfully muddled as “free speech” has moved as an issue from left to right, but this is another matter.

It is worth noting the range of Herr’s bibliographic imagination which stretches over many generations of scholarship. He seems as much at ease with the famous older William R. Langer edited series “The Rise of Modern Europe” as he is with the contemporary scholarship of, say, Dan Edelstein and David A. Bell, and he weaves both together skillfully. [10]

Separate but Equal begins with Montesquieu as a pertinent guide to the options available to his eighteenth century contemporaries. In the subsequent section of the book Tocqueville replaces Montesquieu as guide to nineteenth century societies. It is a genealogy acknowledged by Tocqueville, too. While writing *Democracy in America* Tocqueville confessed in a letter to his friend Louis de Kergolay that he had the works of Montesquieu, Rousseau and Pascal constantly on his mind. [11] In *Separate but Equal*, we not only have Tocqueville’s two models of aristocracy and democracy, which first emerge as Montesquieu’s monarchy and republic; but also a demonstration of how tyranny can take a legal and democratic form. Tocqueville’s example was U.S. government policy toward Indians about which he sarcastically noted, “one would not know how to destroy men with more respect for the laws of humanity.” [12] This was a direct consequence of equal rights regimes which demanded stripping away from individuals all that was peculiar to them in favor of a homogenous norm. This is Herr’s

argument, too. The difference is that Herr has backed the argument into an accusation against the eighteenth century enlightenment.

What then were these eighteenth century writers up to? Many of them—though not Montesquieu—thought the old regime was a failure because it lacked a common standard of justice that could weave together all its otherwise unjustified particularities and privileges. In the alternative order, the republic of common standards, the question turns, as Annelien de Dijn puts it, to the prospects of “liberty in a levelled society.” [13]

Justice is also a leveling concept, one no society either of individuals or groups can do without. But this thought collapses into the paradox implicit in the great divide between two kinds of societies on offer in the secular European world of the Enlightenment. The republic (either that of Montesquieu or Rousseau) unified by *a leveling and common standard of justice* was only one of the viable models. Montesquieu’s constitutional monarchy was the decent alternative. Its existence raised the question whether its *corporatism and plural standards*, which also flourished in Herr’s American pluralist equivalent, were *unjustly* discriminated against in republics organized around *a common and egalitarian standard*. It may not have been a resolvable question.

If readers have followed the thread of discussion—one viable model leads to satisfactory resolution, two viable models to moral and political paradox—a little philosophical consolation may be in order. Allow me to commend Jacob Levy’s recent *Rationalism, Pluralism, and Freedom* where the two models that unsettle the conclusion to Richard Herr’s work represent the pull of rationalism versus the pull of pluralism. [14] Like Herr’s story, Levy’s analysis is carried by narrative. It is also a terrific piece of history, even if lacks the detail and range of *Separate but Equal*.

NOTES

[1] To document this would require a separate study. For a few suggestions, see Michael Mosher, “The Particulars of a Universal Politics: Hegel’s Adaptation of Montesquieu’s Typology,” *American Political Science Review*, Vol. 78 No. 1, March 1984, 179-188.

[2] Carl Becker, *The Heavenly City of the Eighteenth Century Philosophers* (New Haven: Yale University Press, 1932). Jonathan Israel celebrates a Dutch and Spinoza indebted radical enlightenment and is critical of a moderate enlightenment typified in Montesquieu. The argument of all the volumes is readily available in the first, Jonathan Israel, *Radical Enlightenment: Philosophy and the Making of Modernity, 1650-1750*, (Oxford: Oxford University Press, 2002). For more, see my review, *Political Theory*, Vol. 32 No. 3, June 2004, 427-431.

[3] For a lively description of these issues, see Samuel Moyn, “Imaginary Intellectual History,” in Darrin M. McMahan and Samuel Moyn, *Rethinking Modern European Intellectual History* (Oxford: Oxford University Press, 2014), 112-130.

[4] For his ideas of honor as a source of civil disobedience and as a social and not a purely individualistic ethic, See Montesquieu, *Spirit of the Laws*, translated by Anne Cohler, Basia Miller, and Harold Stone (Cambridge: Cambridge University Press, 1989), Book 3, Ch.5-8, Book 4, Ch 2, especially p. 33) and Book 5, Ch 9-12, p, pp.5-8, 31-4, 55-8.

[5] G. W. F. Hegel, *Phänomenologie des Geistes*, ed. Johannes Hoffmeister, (Hamburg: Felix Meiner, 1952), 347-422; in translation, Hegel, *Phenomenology of Spirit*, translated by A. V. Miller (Oxford: Oxford University Press, 1977), 294-363. From “Self-Alienated Culture,” a description of unstable social order, the reader moves to “The Struggles of Enlightenment with Superstition”—for Hegel the central tension underlying 18th century instability—which culminates in revolutionary collapse under the heading of “Absolute Freedom and Terror.” The last chapter hints at the antinomies of one size fits all republican liberty. This was to prove a persuasive model for theories of revolutionary collapse in the nineteenth century. To be sure, Herr’s model is neither so dramatic nor so pinioned to the cross of irreconcilability.

[6] See *Briefe von und an Hegel*, ed. Johannes Hoffmeister (Berlin: Akademie-Verlag, 1970), Band I, 120. In translation, *Hegel: The Letters*, trans. Clark Butler and Christine Seiler (Bloomington: Indiana University Press, 2005). Living in Jena at the conclusion to the Battle of Jena (1806), Hegel spotted the victor, Napoleon Bonaparte: “I saw the Emperor—this world-soul— riding out of the city on reconnaissance. It is indeed a wonderful sensation to see such an individual, who, concentrated here at a single point, astride a horse, reaches out over the world and masters it.” Herr gives alternative expression to this idea in his comparison of Napoleon and Washington as mutually reinforcing conciliators of unstable social orders.

[7] Herbert Croly, *The Promise of American Life* (Princeton: Princeton University Press, 2014 [original 1909]). 35. “Neither the Jeffersonian nor the Hamiltonian doctrine were entirely adequate,” but synthesized, they were for Croly the American “promise,” which arose out of Washington’s cabinet. In revisionist mode, Washington’s political skills have recently been enjoying favorable reviews. For instance, see Ch. 5 “Moderation, American Grand Strategy, and Washington Statesmanship” in *Paul Carrese, Democracy in Moderation* (Cambridge: Cambridge University Press, 2016), 143-72. American history understood as a dialectical confrontation in need of conciliation has undergone many reiterations. For a recent effort, see Elvin T. Lim, *The Lovers’ Quarrel: the Two Foundings and American Political Development* (Oxford: Oxford University Press, 2014).

[8] Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought since the Revolution* (New York: Harcourt, Brace, 1955).

[9] Though a specialist on Spain, Herr wrote a recent book on Tocqueville: Richard Herr, *Tocqueville and the Old Regime* (Princeton: Princeton University Press, 2015).

[10] Herr refers the reader to Robert C. Binkley, *Realism and Nationalism, 1852-1871* (New York: Harper & Brothers, 1935) and reminds the reader that it was part of the “Rise of Modern Europe” series edited by William L. Langer. At the same time he encourages the reader to turn to the newer ways of writing, Dan Edelstein, *The Terror of Natural Right: Republicanism, the Cult of Nature, and the French Revolution* (Chicago: University of Chicago Press, 2009); or David A. Bell, *The Cult of the Nation in France: Inventing Nationalism, 1680-1800* (Cambridge: Cambridge University Press, 2001). See *Separate but Equal*, 14, 74, 129, 133. Herr has written a work that synthesizes several generation of scholarship. More modestly it finds overlapping themes that emerge from scholars’ generational conflict.

[11] “Il y a trois hommes avec lesquels je vis tous les jours un peu, c’est Pascal, Montesquieu, et Rousseau” 10 November, 1836 in *Correspondance d’Alexis de Tocqueville et de Louis de Kergolay*, ed. André

Jardin, tome XII of Alexi de Tocqueville, *Oeuvres complètes*, ed. J. P. Mayer (Paris: Gallimard, 1977), p. 418.

[12] “On ne saurait détruire les hommes en respectant mieux les lois de l’humanité,” the last sentence of the section “Etat actuel et avenir probable des tribus indiennes qui habitant le territoire possédé par l’Union,” which is in turn found in the last chapter of volume one (“Les trois races aux Etats-Unis”) of Tocqueville, *De la Démocratie en Amérique*, ed. Francois Furet (Paris: Flammarion, 1981), 452-3.

[13] Annelien de Dijn, *French Political Thought from Montesquieu to Tocqueville: Liberty in a Levelled Society* (Cambridge: Cambridge University Press, 2012).

[14] Jacob Levy, *Rationalism, Pluralism, and Freedom* (Oxford: Oxford University Press, 2015).

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