Law 622. Jurisprudence Readings Seminar (Spring 2022)

Adam Smith's Foundations of Jurisprudence

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Perhaps in large part because he is the true father of our Declaration of Independence, John Locke has often been considered America's philosopher. That honor might more deservedly go to Adam Smith. Although Smith is widely regarded as a founder of the modern science of economics, his breadth of vision was no less comprehensive than that of Locke. Smith deals more directly than Locke does with the operation of our most important institutions, and he arguably has more to teach us about the issues we face today.

A careful study of Smith's thought is particularly appropriate at Scalia Law. Some at this school assume too easily that "law and economics" provides the best way to understand and influence law and legal policy, while others are too quick to regard this approach as repulsive or irrelevant. Smith undertook the development of an integrated philosophy of law, combining what we call economics, political science, and psychology. He made substantial progress toward completing this project, and we will try this semester to make some progress in understanding what Smith meant to teach.

A number of scholars have interpreted Smith's major works as a response to Jean-Jacques Rousseau's critique of Enlightenment philosophy and of modern commercial societies like ours. Whether or not that is the best interpretation of Smith, Rousseau does present an important alternative to Smith's philosophic vision. We will look briefly at that alternative, which should serve us as a useful foil.

Learning outcomes: Students will exercise professional skills that should be expected of all members of the legal profession, including careful textual analysis, probing investigation of the prerequisites of a free society, and thoughtful evaluation of important public policy issues.

Starting with the week of January 17, everyone will email me a short paper about the readings for the class on Thursday, which will be due each week by noon on Wednesday. These required papers can be as short as a page or two and will not be graded, though well-done papers will count positively toward the 25% class participation component of the grade for the course. The principal purpose of the weekly papers is to help you get started in thinking about the reading for that week's class. They can be a summary of the reading assignment, or brief reflections on some puzzle or difficulty in the reading, or anything else that you find useful in preparing for class.

A seminar paper that analyzes one or more of the assigned readings will constitute 75% of the grade for the course.

We will use the following editions:

> Jean-Jacques Rousseau, *The Discourses and Other Early Political Writings*, ed. & trans. Victor Gourevitch (Cambridge: Cambridge University Press, second edition, 2019, ISBN 978-1-107-15124-6)
>
> Adam Smith, *The Theory of Moral Sentiments*, ed. D.D. Raphael & A.L. Macfie (Liberty Fund reprint of the Glasgow edition, ISBN 0-86597-012-2)
>
> Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. W.B. Todd, 2 volumes (Liberty Fund reprint of the Glasgow edition, ISBN 0-86597-008-4)

Assignments

Week 1 January 20	Rousseau, *Discourse on the Origin and Foundations of Inequality Among Men*, pp. 113-143; 194-202
Week 2 January 27	Rousseau, *Discourse on the Origin and Foundations of Inequality Among Men*, pp. 143-164; 202-225
Week 3 February 3	Rousseau, *Discourse on the Origin and Foundations of Inequality Among Men*, pp. 165-193; 225-29
	Smith, "Letter to the Authors of the Edinburgh Review," attached to this syllabus
Week 4 February 10	*Theory of Moral Sentiments*, Part I, pp. 9-66
Week 5 February 17	*Theory of Moral Sentiments*, Part II, pp. 67-108
Week 6 February 24	*Theory of Moral Sentiments*, Part III, pp. 109-78
Week 7 March 3	*Theory of Moral Sentiments*, Parts IV-V, pp. 179-211
Week 8 March 10	*Theory of Moral Sentiments*, Part VI, pp. 212-264
Spring Break	
Week 9 March 24	*Theory of Moral Sentiments*, Part VII, §§ I-II, pp. 265-314

Week 10 March 31	*Theory of Moral Sentiments*, Part VII, §§ III-IV, pp. 314-42
Week 11 April 7	*Wealth of Nations*, Book V, pp. 689-723
Week 12 April 14	*Wealth of Nations*, Book V, pp. 723-58
Week 13 April 21	*Wealth of Nations*, Book V, pp. 758-816

LETTER TO THE *EDINBURGH REVIEW*

OF the letters which have been sent us by our learned Correspondents, we have room to publish no more in this number, except the following. It is long; but we are sure the public will reckon themselves indebted to us for it. We hope this ingenious and learned Gentleman, will continue to favour us with his assistance, for enlarging our plan in the manner which he proposes, and which we very much approve. We shall always acknowledge our obligations to any who favour us with literary memoirs, observations or criticisms, and take the first proper opportunity of transmitting them to the world.

[Alexander Wedderburn, editor][1]

A LETTER to the Authors of the *Edinburgh Review.*

GENTLEMEN,

1 It gives me pleasure to see a work so generally useful, as that which you have undertaken, likely to be so well executed in this country. I am afraid, however, you will find it impossible to support it with any degree of spirit, while you confine yourselves almost entirely to an account of the books published in Scotland. This country, which is but just beginning to attempt figuring in the learned world, produces as yet so few works of reputation, that it is scarce possible a paper which criticises upon them chiefly, should interest the public for any considerable time. The singular absurdity of some performances which you have so well represented in your first number, might divert your readers for once: But no eloquence could support a paper which consisted chiefly of accounts of such performances.

2 It is upon this account, that I take upon me, in the name of several of your readers, to propose to you, that you should enlarge your plan; that you should still continue to take notice, with the same humanity and candour, of every Scotch production that is tolerably decent. But that you should observe with regard to Europe in general the same plan which you followed with regard to England, examining such performances only, as, tho' they may not go down to the remotest posterity, have yet a chance of being remembered for thirty or forty years to come, and seem in the mean time to add something to that stock of literary amusement with which the world is at present provided. You will thus be able to give all proper encouragement to such efforts as this country is likely to make towards acquiring a

[1] [See Stewart, I.12. Wedderburn was Solicitor-General (1780), Lord Chancellor (1793–1801), Earl of Rosslyn (1801). In 1778 he invited Smith to write a memorandum on the likely outcome of the American War. The piece is reprinted in Corr., and was first published by G. H. Guttridge in the *American Historical Review*, xxxviii (1933).]

reputation in the learned world, which I imagine it was the well-natured design of your work to support; and you will oblige the public much more, by giving them an account of such books as are worthy of their regard, than by filling your paper with all the insignificant literary news of the times, of which not an article in a hundred is likely to be thought of a fortnight after the publication of the work that gave occasion to it.

3 Nor will this task be so very laborious as at first one might be apt to imagine. For tho' learning is cultivated in some degree in almost every part of Europe, it is in France and England only that it is cultivated with such success or reputation as to excite the attention of foreign nations. In Italy, the country in which it was first revived, it has been almost totally extinguished. In Spain, the country in which, after Italy, the first dawnings of modern genius appeared, it has been extinguished altogether. Even the art of printing seems to have been almost neglected in those two countries, from the little demand, I suppose, which there was for books: and tho' it has of late been revived in Italy, yet the expensive editions which have been published there of the Italian classics are plainly calculated for the libraries of Princes and monasteries, not to answer the demand of private persons. The Germans have never cultivated their own language; and while the learned accustom themselves to think and write in a language different from their own,[2] it is scarce possible that they should either think or write, upon any delicate or nice subject, with happiness and precision. In medicine, chemistry, astronomy, and mathematics, sciences which require only plain judgment joined to labour and assiduity, without demanding a great deal of what is called either taste or genius; the Germans have been, and still continue to be successful. The works of the Academies, indeed, both in Germany and Italy, and even in Russia, are the objects of some curiosity every where; but it is seldom that the works of any particular man are inquired for out of his own country. On the contrary, the works of many particular men both in France and England are more inquired for among foreign nations than those of any of their academies.

4 If we may pass any general judgment concerning the literary merit of those two great rivals in learning, trade, government and war: Imagination, genius and invention, seem to be the talents of the English; taste, judgment, propriety and order, of the French. In the old English poets, in Shakespear, Spencer and Milton, there often appears, amidst some irregularities and extravagancies, a strength of imagination so vast, so gigantic and supernatural, as astonishes and

[2] i.e. French.

confounds their reader into that admiration of their genius, which makes him despise, as mean and insignificant, all criticism upon the inequalities in their writings. In the eminent French writers, such sallies of genius are more rarely to be met with; but instead of them, a just arrangement, an exact propriety and decorum, joined to an equal and studied elegance of sentiment and diction, which, as it never strikes the heart like those violent and momentary flashes of imagination, so it never revolts the judgment by any thing that is absurd or unnatural, nor ever wearies the attention by any gross inequality in the stile, or want of connection in the method, but entertains the mind with a regular succession of agreeable, interesting and connected objects.

In natural philosophy, the science which in modern times has been most happily cultivated, almost all the great discoveries, which have not come from Italy or Germany, have been made in England. France has scarce produced any thing very considerable in that way. When that science was first revived in Europe, a fanciful, an ingenious and elegant, tho' fallacious, system was generally embraced in that country: nor can we with reason wonder that it was so. It may well be said of the Cartesian philosophy, now when it is almost universally exploded, that, in the simplicity, precision and perspicuity of its principles and conclusions, it had the same superiority over the Peripatetic system, which the Newtonian philosophy has over it.[3] A philosophy, which, upon its first appearance, had so many advantages over its rival system, was regarded by the French with peculiar fondness and admiration, when they considered it as the production of their own countryman, whose renown added new glory to their nation; and their attachment to it seems among them to have retarded and incumbered the real advancement of the science of nature. They seem now however to be pretty generally disengaged from the enchantment of that illusive philosophy; and it is with pleasure that

[3] [It is noted in LRBL ii.133–4 (ed. Lothian, 139–40), that there are two 'methods' which may be used in didactic (i.e. scientific) discourse, the Aristotelian and the Newtonian, and that the latter:

'is vastly more ingenious, and for that reason more engaging than the other. It gives us a pleasure to see the phenomena which we reckoned the most unaccountable, all deduced from some principle (commonly a well-known one) and all united in one chain far superior to what we feel from the unconnected method, where everything is accounted for by itself, without any reference to the others. We need not be surprised, then, that the Cartesian philosophy (for Descartes was in reality the first who attempted this method), though it does not perhaps contain a word of truth ... should nevertheless have been so universally received by all the learned in Europe at that time. The great superiority of the method over that of Aristotle, the only one then known, and the little enquiry that was then made into those matters, made them greedily receive a work which we justly esteem one of the most entertaining romances that have ever been wrote.'

Cf. TMS VII.ii.4.14 and Astronomy, IV.61 ff. and note. For comment see W. S. Howell, in *Essays on Adam Smith*, 32–3, and cf. LRBL ii.133 (ed. Lothian, 139).]

I observe in the new French Encyclopedia[4] the ideas of Bacon, Boyle, and Newton, explained with that order, perspicuity and good judgment, which distinguish all the eminent writers of that nation. As, since the union, we are apt to regard ourselves in some measure as the countrymen of those great men, it flattered my vanity, as a Briton, to observe the superiority of the English philosophy thus acknowledged by their rival nation. The two principal authors of that vast collection of every sort of literature, Mr. Diderot and Mr. Alembert, express every where the greatest passion for the science and learning of England, and insert into their work not only the discoveries and observations of those renowned philosophers I just now mentioned, but of many inferior English writers, whose names are now almost unknown, and whose works have been long disregarded in their own country. It mortified me, at the same time, to consider that posterity and foreign nations are more likely to be made acquainted with the English philosophy by the writings of others, than by those of the English themselves. It seems to be the peculiar talent of the French nation, to arrange every subject in that natural and simple order, which carries the attention, without any effort, along with it. The English seem to have employed themselves entirely in inventing, and to have disdained the more inglorious but not less useful labour of arranging and methodizing their discoveries, and of expressing them in the most simple and natural manner. There is not only no tolerable system of natural philosophy in the English language, but there is not even any tolerable system of any part of it. The Latin treatises of Keil and Gregory,[5] two Scotsmen, upon the principles of mechanics and astronomy, may be regarded as the best things that have been written in this way by any native of Great Britain, tho' in many respects confused, inaccurate and superficial. In Dr. Smith's Optics,[6] all the great discoveries which had before been made in that science are very compleatly recorded, along with many considerable corrections and improvements by that Gentleman himself. But if, in the knowledge of his science, he appears much superior to the two Scotsmen above mentioned, he is inferior

[4] *Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers*, ed. Denis Diderot and Jean le Rond d'Alembert (1751–72). Five volumes had appeared by 1755, and were purchased by Smith for Glasgow University Library. See Scott, *ASSP*, 179 and note.

[5] John Keill (1671–1721), the first to teach experimental physics at Oxford (Hart Hall), succeeded his Edinburgh professor David Gregory in the Savilian Chair of Astronomy at Oxford in 1712. His *Introductio ad Veram Physicam* (1701) is an introduction to Newton's *Principia*. *Introductio ad Veram Astronomiam* appeared in 1718.—David Gregory (1661–1708) taught Newtonian 'philosophy' and mathematics at Edinburgh till 1691, then at Oxford; wrote *Astronomiae Physicae et Geometriae Elementa* (1702).

[6] Robert Smith (1689–1768), Plumian Professor of Astronomy and Master of Trinity College, Cambridge, wrote the internationally famous *Compleat System of Opticks* (1738); and *Harmonics or the Philosophy of Musical Sounds* (1749), long the standard work on its subject.

even to them, who are far from being perfect, in the order and disposition of his work. It will not I hope be imputed to any mean motive, that I take notice of this fault, which in these subjects is not of the highest importance, and which that Gentleman himself would, I dare say, be willing to acknowledge; for whose knowledge and capacity I have the highest esteem, whose book has every other quality to recommend it, and who is himself, along with Dr. Bradley,[7] almost the only person now remaining in England to put us in mind of their illustrious predecessors. The learned world has been highly instructed by the labours and ingenuity of both these Gentlemen, and I will venture to say would have been much more so, if in their own country they had had more rivals and more judges. But the English of the present age, despairing perhaps to surpass the inventions, or to equal the renown of their forefathers, have disdained to hold the second place in a science in which they could not arrive at the first, and seem to have abandoned the study of it altogether.

6 The French work which I just now mentioned, promises to be the most compleat of the kind which has ever been published or attempted in any language. It will consist of many volumes in folio, illustrated with above six hundred plates, which make two volumes apart. There are above twenty Gentlemen engaged in it, all of them very eminent in their several professions, and many of them already known to foreign nations by the valuable works which they have published, particularly Mr. Alembert,[8] Mr. Diderot, Mr. Daubenton,[9] Mr. Rousseau of Geneva, Mr. Formey Secretary to the academy at Berlin, and many others. In the preliminary discourse, Mr. Alembert gives an account of the connection of the different arts and sciences, their genealogy and filiation as he calls it; which, a few alterations and corrections excepted, is nearly the same with that of my Lord Bacon.[10] In the body of the work, it is constantly marked, to what art or science, and to what branch of that art or science each particular article belongs. In the articles themselves, the reader will not find, as in other works of the same kind, a dry abstract of what is commonly known by the most superficial student of any science, but a compleat, reasoned and even critical examination of each subject. Scarce any thing seems to be omitted. Not only mathematics, natural philosophy and natural history, which commonly fill up the greater

[7] James Bradley (1693–1762), whom Newton called 'the best astronomer in Europe', was successively Savilian Professor and Astronomer Royal; wrote on the aberration of light, the nutation of the Earth's axis, etc.

[8] d'Alembert was responsible for the mathematical and scientific entries in the *Encyclopédie*; Diderot was chief editor.

[9] Louis-Jean-Marie Daubenton (1716–1800): see below, 248. Jean-Henri-Samuel Formey (1711–97), secretary of Berlin Académie from 1748.

[10] In *Novum Organum* (1620).

part of works of this kind, are compleatly treated of; but all the mechanical arts are fully described, with the several machines which they make use of. Theology, morals, metaphysics, the art of criticism, the history of the *belles lettres*, philosophy, the literary history of sects, opinions and systems of all kinds, the chief doctrines of antient and modern jurisprudence, nay all the nicest subtleties of grammar, are explained in a detail that is altogether surprising. There are few men so learned in the science which they have peculiarly cultivated, as not to find in this work something even with regard to it which will both instruct and entertain them; and with regard to every other, they will seldom fail of finding all the satisfaction which they could desire. It promises indeed to be in every respect worthy of that magnificent eulogy which Mr. Voltaire bestows upon it, when, in the conclusion of his account of the artists who lived in the time of Louis the fourteenth, he tells us, 'That the last age has put the present in which we live in a condition to assemble into one body, and to transmit to posterity, to be by them delivered down to remoter ages, the sacred repository of all the arts and all the sciences, all of them pushed as far as human industry can go.' This, continues he, 'is what a society of learned men, fraught with genius and knowledge, are now labouring upon: an immense and immortal work, which seems to accuse the shortness of human life.'[11]

7 This work, which has several times been disagreeably interrupted by some jealousy either of the civil or of the ecclesiastical government of France,[12] to neither of which however the authors seem to have given any just occasion of suspicion, is not yet finished. The volumes of it which are yet to be published, will deserve, as they successively appear, to be particularly taken notice of in your future periodical reviews. You will observe, that tho' none of the authors of this collection appear to be mean or contemptible, yet they are not all equal. That the style of some of them is more declamatory, than is proper for a Dictionary; in which not only declamation, but any loose composition, is, more than any where, out of its place. That they seem too to have inserted some articles which might have been left out, and of which the insertion can serve only to throw a ridicule upon a work

[11] *Le Siècle de Louis XIV* (Berlin, 1751), ii.438: 'Enfin le siècle passé a mis celui où nous sommes en état de rassembler en un corps, et de transmettre à la postérité le dépôt de toutes les sciences et de tous les arts, tous poussés aussi loin que l'industrie humaine a pu aller; et c'est à quoi travaille aujourd'hui une société de savans, remplis d'esprit et de lumiéres. Cet ouvrage immense et immortel semble accuser la briéveté de la vie des hommes.'

[12] On 7 February 1752 the King's Council suppressed volumes i and ii after religious and other complaints, and suspended printing of more for eighteen months. The editors promised greater discretion, but five more volumes produced further complaints and on 8 March 1759 the Council revoked the *privilège*. Influential friends eventually enabled the remaining ten volumes of the main work to appear by 1772.

calculated for the propagation of every part of useful knowledge. The article of *Amour,*[13] for example, will tend little to the edification either of the learned or unlearned reader, and might, one should think, have been omitted even in an Encyclopedia of all arts, sciences and trades. These censures however fall but upon a few articles, and those of no great importance. The remaining parts of the work may give occasion to many other observations of more consequence, upon the candour or partiality with which they represent the different systems of philosophy or theology, antient or modern; the justness of their criticisms upon the celebrated authors of their own and of foreign nations; how far they have observed or neglected the just proportion betwixt the length of each article and the importance of the matter contained in it, and its fitness to be explained in a work of that kind; as well as many other observations of the same nature.

8 Nor is this the only great collection of science and literature at present carrying on in that country, to merit the attention of foreign nations. The description of the cabinet of the King,[14] which promises to comprehend a compleat system of natural history, is a work almost equally extensive. It was begun by the command of a minister whom France has long desired to see restored to the direction of the marine, and all Europe to that of the sciences, the Count de Maurepas. It is executed by two Gentlemen of most universally acknowledged merit, Mr. Buffon and Mr. Daubenton. A small part only of this work is yet published. The reasoning and philosophical part concerning the formation of plants, the generation of animals, the formation of the foetus, the development of the senses *etc.* is by Mr. Buffon. The system indeed of this Gentleman, it may be thought, is almost entirely hypothetical; and with regard to the causes of generation such, that it is scarce possible to form any very determinate idea of it. It must be acknowledged, however, that it is explained in an agreeable, copious, and natural eloquence, and that he has supported or connected it with many singular and curious observations and experiments of his own. The neatness, distinctness and propriety of all Mr. Daubenton's descriptions, seem to leave no room for criticism upon his part, which, tho' the least pompous, is by far the most important of the work.

9 None of the sciences indeed seem to be cultivated in France with more eagerness than natural history. Perspicuous description and

[13] i.367–74, by the Abbé Claude Yvon (1714–91). The future author of *The Theory of Moral Sentiments* might have been expected to look more kindly on an article beginning 'Il entre ordinairement beaucoup de sympathie dans l'*amour*'.

[14] *Histoire naturelle, générale et particulière, avec la description du Cabinet du Roi,* vols. i–xv (1749–67), ed. Georges Louis Leclerc, Comte de Buffon, and Louis-Jean-Marie Daubenton. Vols. i–v had appeared by 1755; xvi–xliv appeared by 1804.

just arrangement constitute a great part of the merit of a natural historian; and this study is perhaps upon that account peculiarly suited to the genius of that nation. In Mr. Reaumur's history of insects,[15] a work of which we are still to expect some volumes, your readers will find both these in the highest perfection, as well as the most attentive observation assisted by the most artful contrivances for inspecting into such things in the oeconomy and management of those little animals, as one would have imagined it impossible that he ever should have discovered. Those who complain of his tediousness, have never entered regularly upon his work, but have contented themselves with dipping into some parts of it. As mean as the subject may appear, he never fails to carry our attention along with him, and we follow him thro' all his observations and experiments with the same innocent curiosity and simple-hearted pleasure with which he appears to have made them. It will surprise your readers to find, that this Gentleman, amidst many other laborious studies and occupations, while he was composing, from his own experiments too, many other curious and valuable works, could find time to fill eight volumes in quarto with his own observations upon this subject, without ever once having recourse to the vain parade of erudition and quotation. These, and all other such works as these, which either seem to add something to the public stock of observations, if I may say so, or which collect more compleatly, or arrange in a better order, the observations that have already been made, the public will be pleased to see pointed out to them in your periodical *Review,* and will listen with attention to your criticisms upon the defects and perfections of what so well deserves to be criticised in general. As the works of all the academies in the different parts of Europe, are the objects of a pretty universal curiosity, tho' it would be impossible for you to give an account of every thing that is contained in them; it will not be very difficult to point out what are the most considerable improvements and observations which those societies have communicated to the public during the six months which preceed the publication of every *Review.*

10 The original and inventive genius of the English has not only discovered itself in natural philosophy, but in morals, metaphysics, and part of the abstract sciences. Whatever attempts have been made in modern times towards improvement in this contentious and unprosperous philosophy, beyond what the antients have left us, have been made in England. The Meditations of Des Cartes excepted, I know nothing in French that aims at being original upon these

[15] René Antoine Ferchault de Réaumur (1683–1757) published *Mémoires pour servir à l'histoire des insectes* in 1734–42, and left much material on ants, beetles, etc. in manuscript.

subjects; for the philosophy of Mr. Regis,[16] as well as that of Father Malbranche, are but refinements upon the Meditations of Des Cartes. But Mr. Hobbes, Mr. Lock, and Dr. Mandevil, Lord Shaftsbury, Dr. Butler, Dr. Clarke,[17] and Mr. Hutcheson,[18] have all of them, according to their different and inconsistent systems, endeavoured at least to be, in some measure, original; and to add something to that stock of observations with which the world had been furnished before them. This branch of the English philosophy, which seems now to be intirely neglected by the English themselves, has of late been transported into France. I observe some traces of it, not only in the Encyclopedia, but in the Theory of agreeable sentiments by Mr. De Pouilly,[19] a work that is in many respects original; and above all, in the late Discourse upon the origin and foundation of the inequality amongst mankind by Mr. Rousseau of Geneva.[20]

11 Whoever reads this last work with attention, will observe, that the second volume of the Fable of the Bees[21] has given occasion to the system of Mr. Rousseau, in whom however the principles of the English author are softened, improved, and embellished, and stript of all that tendency to corruption and licentiousness which has disgraced them in their original author. Dr. Mandeville represents the primitive state of mankind as the most wretched and miserable that can be imagined: Mr. Rousseau, on the contrary, paints it as the happiest and most suitable to his nature. Both of them however suppose, that there is in man no powerful instinct which necessarily determines him to seek society for its own sake: but according to the one, the misery of his original state compelled him to have recourse to this otherwise disagreeable remedy; according to the other, some unfortunate accidents having given birth to the unnatural passions of ambition and the vain desire of superiority, to which he had before been a stranger, produced the same fatal effect. Both of them suppose the same slow progress and gradual development of all the talents, habits, and arts which fit men to live together in society, and they

[16] Pierre-Sylvain Régis (1632–1707), author of *Système de philosophie* (1690); Nicolas Malebranche (1638–1715), author of *De la recherche de la vérité* (1674; English trans. 1694).

[17] No doubt the Newtonian Samuel Clarke (1675–1729), metaphysician and divine, whose collected works were published in 1738.

[18] Francis Hutcheson (1694–1746), Professor of Moral Philosophy at Glasgow and disciple of Shaftesbury; Smith was his pupil.

[19] *Théorie des sentimens agréables; où, après avoir indiqué les régles que la nature suit dans la distribution du plaisir, on établit les principes de la théologie naturelle et ceux de la philosophie morale* (1747), by Lévesque de Pouilly. This Shaftesburian treatise appeared in another version (*Réflexions sur les sentimens agréables*) in pirated editions in 1736 and 1743; and in an English translation 1749.

[20] *Discours sur l'origine et les fondemens de l'inégalité parmi les hommes.* Par Jean Jaques Rousseau citoyen de Genève (1755).

[21] Bernard Mandeville's *Fable of the Bees: or private vices publick benefits*, part ii, appeared in 1728. He adumbrated his views in 'An enquiry into the origin of moral virtue' in part i of the *Fable* (1714).

both describe this progress pretty much in the same manner. According to both, those laws of justice, which maintain the present inequality amongst mankind, were originally the inventions of the cunning and the powerful, in order to maintain or to acquire an unnatural and unjust superiority over the rest of their fellow-creatures. Mr. Rousseau however criticises upon Dr. Mandeville: he observes, that *pity*, the only amiable principle which the English author allows to be natural to man, is capable of producing all those virtues, whose reality Dr. Mandeville denies. Mr. Rousseau at the same time seems to think, that this principle is in itself no virtue, but that it is possessed by savages and by the most profligate of the vulgar, in a greater degree of perfection than by those of the most polished and cultivated manners; in which he perfectly agrees with the English author.

12 The life of a savage, when we take a distant view of it, seems to be a life either of profound indolence, or of great and astonishing adventures; and both these qualities serve to render the description of it agreeable to the imagination. The passion of all young people for pastoral poetry, which describes the amusements of the indolent life of a shepherd; and for books of chivalry and romance, which describe the most dangerous and extravagant adventures, is the effect of this natural taste for these two seemingly inconsistent objects. In the descriptions of the manners of savages, we expect to meet with both these: and no author ever proposed to treat of this subject who did not excite the public curiosity. Mr. Rousseau, intending to paint the savage life as the happiest of any, presents only the indolent side of it to view, which he exhibits indeed with the most beautiful and agreeable colours, in a style, which, tho' laboured and studiously elegant, is every where sufficiently nervous, and sometimes even sublime and pathetic. It is by the help of this style, together with a little philosophical chemistry, that the principles and ideas of the profligate Mandeville seem in him to have all the purity and sublimity of the morals of Plato, and to be only the true spirit of a republican carried a little too far. His work is divided into two parts: in the first, he describes the solitary state of mankind; in the second, the first beginnings and gradual progress of society. It would be to no purpose to give an analysis of either; for none could give any just idea of a work which consists almost entirely of rhetoric and description. I shall endeavour to present your readers therefore with a specimen of his eloquence, by translating one or two short passages.

13 'While men,' says he, *p.* 117. 'contented themselves with their first rustic habitations; while their industry had no object, except to pin together the skins of wild beasts for their original cloathing, to adorn

themselves with feathers and shells, to paint their bodies with different colours, to perfect or embellish their bows and arrows, to cut out with sharp stones some fishing canoes or some rude instruments of music; while they applied themselves to such works as a single person could execute, and to such arts as required not the concurrence of several hands; they lived free, healthful, humane and happy, as far as their nature would permit them, and continued to enjoy amongst themselves the sweets of an independent society. But from the instant in which one man had occasion for the assistance of another, from the moment that he perceived that it could be advantageous to a single person to have provisions for two, equality disappeared, property was introduced, labour became necessary, and the vast forrests of nature were changed into agreeable plains, which must be watered with the sweat of mankind, and in which the world beheld slavery and wretchedness begin to grow up and blosom with the harvest.'

14 'Thus, says he, *p.* 126. are all our faculties unfolded, memory and imagination brought into play, self-love interested, reason rendered active, and the understanding advanced almost to the term of its perfection. Thus are all our natural qualities exerted, the rank and condition of every man established, not only upon the greatness of his fortune and his power to serve or to hurt, but upon his genius, his beauty, his strength, or his address, upon his merit or his talents; and those qualities being alone capable of attracting consideration, he must either have them or affect them: he must for his advantage show himself to be one thing, while in reality he is another. To be and to appear to be, became two things entirely different; and from this distinction arose imposing ostentation, deceitful guile, and all the vices which attend them. Thus man, from being free and independent, became by a multitude of new necessities subjected in a manner, to all nature, and above all to his fellow creatures, whose slave he is in one sense even while he becomes their master; rich, he has occasion for their services; poor, he stands in need of their assistance; and even mediocrity does not enable him to live without them. He is obliged therefore to endeavour to interest them in his situation, and to make them find, either in reality or in appearance, their advantage in labouring for his. It is this which renders him false and artificial with some, imperious and unfeeling with others, and lays him under a necessity of deceiving all those for whom he has occasion, when he cannot terrify them, and does not find it for his interest to serve them in reality. To conclude, an insatiable ambition, an ardor to raise his relative fortune, not so much from any real necessity, as to set himself above others, inspires all men with a direful propensity to hurt one another; with a secret jealousy, so much the more dangerous, as to

strike its blow more surely, it often assumes the mask of good will; in short, with concurrence and rivalship on one side; on the other, with opposition of interest; and always with the concealed desire of making profit at the expence of some other person: All these evils are the first effects of property, and the inseparable attendants of beginning inequality.'

15 'Man,' says he afterwards, *p.* 179. 'in his savage, and man in his civilized state, differ so essentially in their passions and inclinations, that what makes the supreme happiness of the one, would reduce the other to despair. The savage breathes nothing but liberty and repose; he desires only to live and to be at leisure; and the *ataraxia* of the Stoic does not approach to his profound indifference for every other object. The citizen, on the contrary, toils, bestirs and torments himself without end, to obtain employments which are still more laborious; he labours on till his death, he even hastens it, in order to put himself in a condition to live, or renounces life to acquire immortality. He makes his court to the great whom he hates, and to the rich whom he despises; he spares nothing to obtain the honour of serving them; he vainly boasts of his own meanness and their protection, and, proud of his slavery, speaks with disdain of those who have not the honour to share it. What a spectacle to a *Caraïb* would be the painful and envied labours of a European minister of state? how many cruel deaths would not that indolent savage prefer to the horror of such a life, which is often not even sweetened by the pleasure of doing well? but to see the end of so many cares, it is necessary that the words, *power* and *reputation*, should have an intelligible meaning in his understanding; that he should be made to comprehend that there is a species of men who count for something the looks of the rest of the universe; who can be happy and contented with themselves upon the testimony of another, rather than upon their own. For such in reality is the true cause of all those differences: the savage lives in himself; the man of society, always out of himself; cannot live but in the opinion of others, and it is, if I may say so, from their judgment alone that he derives the sentiment of his own existence. It belongs not to my subject to show, how from such a disposition arises so much real indifference for good and evil, with so many fine discourses of morality; how every thing being reduced to appearances, every thing becomes factitious and acted; honour, friendship, virtue, and often even vice itself, of which we have at last found out the secret of being vain; how in one word always demanding of others what we are, and never daring to ask ourselves the question, in the midst of so much philosophy, so much humanity, so much politeness, and so many sublime maxims we have nothing but a deceitful and frivolous

exterior; honour without virtue, reason without wisdom, and pleasure without happiness.'

16 I shall only add, that the dedication to the republic of Geneva, of which Mr. Rousseau has the honour of being a citizen, is an agreeable, animated, and I believe too, a just panegyric; and expresses that ardent and passionate esteem which it becomes a good citizen to entertain for the government of his country and the character of his countrymen.

17 It is not my intention, you may believe, to confine you to an account of the philosophical works that are published either at home or abroad. Tho' the poets of the present age seem in general to be inferior to those of the last, there are not however wanting, in England, France, and even in Italy, several who represent not unworthily their more renowned predecessors. The works of Metastasio are esteemed all over Europe; and Mr. Voltaire,[22] the most universal genius perhaps which France has ever produced, is acknowledged to be, in almost every species of writing, nearly upon a level with the greatest authors of the last age, who applied themselves chiefly to one. The original and inventive genius of that Gentleman never appeared more conspicuous than in his last tragedy, the orphan of China. It is both agreeable and surprising to observe how the atrocity, if I may say so, of Chinese virtue, and the rudeness of Tartar barbarity, have been introduced upon the French stage, without violating those nice decorums of which that nation are such delicate and scrupulous judges. In a letter to Mr. Rousseau of Geneva, he denies that the history of the last war, which has been published under his name in Holland, is to be regarded as his in the state in which it has been printed. There are indeed in it a great number of very gross misrepresentations with regard to the share which Great Britain had in the last war, for which, Mr. Voltaire, as it was published without his consent, is not answerable, and which will certainly be corrected in the first genuine edition that is published with the consent of the author.

I am,

Your most humble Servant, etc.

[22] The earliest of Smith's many expressions of admiration for Voltaire and for French drama: cf. Stewart, III.15. *L'Orphelin de la Chine* was presented in Paris on 20 August 1755 and published (with the letter to Rousseau, 30 August 1755, appended) in September. The story of the piracy by the publisher Prieur of Voltaire's *Histoire de la dernière guerre* is outlined by Georges Bengesco in *Voltaire, Bibliographie de ses œuvres* (1882), i.363–5. At least four editions (1755–6) of the piracy, with imprints Amsterdam, The Hague, or London, are known, as well as five of an English translation. Chapter V of *Histoire de la guerre de mil sept cent quarante-un* deals with Britain's role. Its quality may be judged by its treatment of names: 'Pwelney' (Pulteney), 'Posombi' (Ponsonby), 'Albermale', etc. For Voltaire's reactions to the event see his letters of late 1755: *Correspondence*, ed. T. Besterman, vol. cvii; Banbury, vol. xvi. Voltaire later incorporated parts of this work in *Essai sur l'histoire générale* (vol. viii, 1763), and with additions as *Précis du siècle de Louis XV* (1768).

APPENDIX: Passages quoted from Rousseau

Discours sur l'origine et les fondemens de l'inégalité parmi les hommes. Par Jean Jaques Rousseau citoyen de Genève. Amsterdam: 1755.

pp. 117–18:

Tant que les hommes se contentérent de leurs cabanes rustiques, tant qu'ils se bornérent à coudre leurs habits de peaux avec des épines ou des arrêtes, à se parer de plumes et de coquillages, à se peindre le corps de diverses couleurs, à perfectionner ou embellir leurs arcs et leurs fleches, à tailler avec des pierres tranchantes quelques Canots de pêcheurs ou quelques grossiers instrumens de Musique; En un mot tant qu'ils ne s'appliquérent qu'à des ouvrages qu'un seul pouvoit faire, et qu'à des arts qui n'avoient pas besoin du concours de plusieurs mains, ils vécurent libres, sains, bons, et heureux autant qu'ils pouvoient l'être par leur Nature, et continuérent à joüir entre eux des douceurs d'un commerce independant: mais dès l'instant qu'un homme eut besoin du secours d'un autre; dès qu'on s'apperçut qu'il étoit utile à un seul d'avoir des provisions pour deux, l'égalité disparut, la propriété s'introduisit, Le travail dévint nécessaire et les vastes forêts se changérent en des Campagnes riantes qu'il falut arroser de la sueur des hommes, et dans lesquelles on vit bientôt l'esclavage et la misére germer et croître avec les moissons.

pp. 126–9:

Voilà donc toutes nos facultés développées, la mémoire et l'imagination en jeu, l'amour propre intéressé, la raison rendüe active, et l'esprit arrivé presqu'au terme de la perfection, dont il est susceptible. Voilà toutes les qualités naturelles mises en action, le rang et le sort de chaque homme établi, non seulement sur la quantité des biens et le pouvoir de servir ou de nuire, mais sur l'esprit, la beauté, la force ou l'adresse, sur le mérite ou les talens, et ces qualités étant les seules qui pouvoient attirer de la consideration, il falut bientôt les avoir ou les affecter; Il falut pour son avantage se montrer autre que ce qu'on étoit en effet. Etre et paraître devinrent deux choses tout à fait différentes, et de cette distinction sortirent le faste imposant, la ruse trompeuse, et tous les vices qui en sont le cortége. D'un autre côté, de libre et independant qu'étoit auparavant l'homme, le voilà par une multitude de nouveaux besoins assujéti, pour ainsi dire, à toute la Nature, et surtout à ses semblables dont il devient l'esclave en un sens, même en devenant leur maître; riche, il a besoin de leurs services; pauvre, il a besoin de leur secours, et la médiocrité ne le met point en état de se passer d'eux. Il faut donc qu'il cherche sans cesse à les intéresser à son sort, et à leur faire trouver en effet ou en apparence leur profit à travailler pour le sien: ce qui le rend fourbe et artificieux avec les uns, imperieux et dur avec les autres, et le met dans la

nécessité d'abuser tous ceux dont il a besoin, quand il ne peut s'en faire craindre, et qu'il ne trouve pas son intérêt à les servir utilement. Enfin l'ambition dévorante, l'ardeur d'élever sa fortune relative, moins par un veritable besoin que pour se mettre au-dessus des autres, inspire à tous les hommes un noir penchant à se nuire mutuellement, une jalousie secrete d'autant plus dangereuse que, pour faire son coup plus en sûreté, elle prend souvent le masque de la bienveillance; en un mot, concurrence et rivalité d'une part, de l'autre opposition d'intérêt, et toujours le désir caché de faire son profit au depends d'autrui; Tous ces maux sont le premier effet de la propriété et le cortége inséparable de l'inégalité naissante.

pp. 179–82:

L'homme Sauvage et l'homme policé différent tellement par le fond du coeur et des inclinations, que ce qui fait le bonheur suprême de l'un, réduiroit l'autre au désespoir. Le premier ne respire que le repos et la liberté, il ne veut que vivre et rester oisif, et l'ataraxie même du Stoïcien n'approche pas de sa profonde indifférence pour tout autre objet. Au contraire, le Citoyen toujours actif suë, s'agite, se tourmente sans cesse pour chercher des occupations encore plus laborieuses: il travaille jusqu'à la mort, il y court même pour se mettre en état de vivre, ou renonce à la vie pour acquerir l'immortalité. Il fait sa cour aux grands qu'il hait et aux riches qu'il méprise; il n'épargne rien pour obtenir l'honneur de les servir; il se vante orgueilleusement de sa bassesse et de leur protection, et fier de son esclavage, il parle avec dédain de ceux qui n'ont pas l'honneur de le partager. Quel Spectacle pour un Caraïbe que les travaux pénibles et enviés d'un Ministre Européen! Combien de morts cruelles ne préféreroit pas cet indolent Sauvage à l'horreur d'une pareille vie qui souvent n'est pas même adoucie par le plaisir de bien faire? Mais pour voir le but de tant de soins, il faudroit que ces mots, ***puissance*** et ***réputation***, eussent un sens dans son esprit, qu'il apprît qu'il y a une sorte d'hommes qui comptent pour quelque chose les regards du reste de l'univers, qui savent être heureux et contens d'eux mêmes sur le témoignage d'autrui plûtôt que sur le leur propre. Telle est, en effet, la véritable cause de toutes ces différences: le Sauvage vit en lui-même; l'homme sociable toûjours hors de lui ne sait vivre que dans l'opinion des autres, et c'est, pour ainsi dire, de leur seul jugement qu'il tire le sentiment de sa propre existence. Il n'est pas de mon sujet de montrer comment d'une telle disposition naît tant d'indifférence pour le bien et le mal, avec de si beaux discours de morale; comment tout se réduisant aux apparences, tout devient factice et joüé; honneur, amitié, vertu, et souvent jusqu'aux vices mêmes, dont on trouve enfin le secret de se glorifier; comment, en un mot, demandant toujours aux autres ce que nous sommes et n'osant jamais nous interroger là-dessus nous mêmes, au milieu de tant de Philosophie, d'humanité, de politesse et de maximes Sublimes, nous n'avons qu'un extérieur trompeur et frivole, de l'honneur sans vertu, de la raison sans sagesse, et du plaisir sans bonheur.

Preface and Dedication to William Hamilton's Poems on Several Occasions