# MONTESQUIEU'S MANNER OF DISCOVERING MAN'S DUTIES

to which are appended translations of

Montesquieu's *Essai Touchant Les Loix Naturelles et La Distinction du Juste et de L'Injuste*
and
Newton's *De Gravitatione et Aequipondio Fluidorum*

by
W. B. Allen



## INTRODUCTION

The purpose of the following introductory remarks is to discuss especially those characteristic features of modern political philosophy which are peculiarly obscured by the influential advocates of political philosophy in our time and which it is necessary not to overlook in an account of the sources of our republican morality. These remarks are not intended to sketch the outlines of an adequate interpretation of modern political philosophy. Their purpose is but to indicate what seems to me the only credible point of departure for any rigorous student of things at once political and scientific.

In my essay, "That Politics is Nobody's Business," I distinguish the Socratic question, "Whether it is the work of education to form souls whose work or function is politics," from the platonic question, whether politics is at all a decent work or business. The platonic question produces the most profound embarrassments for modern political philosophy. In the essay I give complete scope to the possibility that politics is an activity unworthy of the best souls:

> Politics is that realm of things which we, as human beings, must care for although no good come out of it. In spite of the persistence of the business of politics, we may know that our affairs lie elsewhere, though we know not where. . . To speak loosely, the old view is that politics is nobody's business, because politics is the work of our ignorance.

Nevertheless, that essay carefully points out that this perspective is won by the fallacious move of comparing the origins of politics and the end of philosophy. Once that move is corrected, it becomes possible to conclude, "By suggesting that education can bring men to no more than the beginning of philosophy, [one] equally suggests that the work of education is to disclose to men the end of politics." It is precisely the denial of an end for politics in the modern world, and the consequent detachment of education from politics, to which modern political philosophy is open and by which political philosophy in our time is embarrassed. For it pretends to offer humans an end, philosophy, which has no proper beginning, and talks about a beginning, politics, which has no end at all.

This modern failure to appreciate the seriousness of all politics (as the expression of human nature) is the greatest obstacle to philosophic inquiry. It is a case of the skeptical tradition

of philosophy become a weapon against not only politics but philosophy also. I have long sought to argue, though it does not originate with me, the necessary connectedness of politics and philosophy—that is, the view of the two as differing but related expression of a single human activity. In "Questioning What Everyone Knows: The Art of Political Inquiry," I characterize the modern situation thus: The only defense we will accept—and therefore will make—for the kind of life we live is that it is what we want, for now. The greatest sin of our time in the eyes of intellectuals is moral absolutism. And because moral absolutism always aims at a conception of general human goodness (whatever its actual results), and alone does so, the greatest evil of our time is the idea of general human goodness. There have been two outstanding sources of this evil in human history: religion and philosophy. In fact, both have subserved a single historical phenomenon, the city or, properly speaking, politics. Politics, therefore, is the outstanding force of evil in human history.

There is, and always has been, but one science whose task it is to understand and articulate the claim of goodness, and that is political philosophy. Political philosophy articulates a regime's claim about goodness in such a way that every citizen, whatever his art or inquiry, may know whether to assume his obligation to mind the business of the whole. There is a pre-condition to be sure: the citizen must be a student of politics before he can become a student of political philosophy. I do not pretend that political philosophy is just one of many disciplines carrying out its assigned function. Rather, I mean to deny the conclusions drawn by them that think that a philosophical understanding is incompatible with a moral or political understanding.

My view is, concededly, no more peculiarly ancient than peculiarly modern. But it reposes on two distinctions essential to the purposes of this paper. First, the view enunciated here is wholly compatible with the American founding—that is, with the one wholly modern regime.[1] Thus, as conclusions derived from America's claims, this view is bound by though not limited to the sufficiency of those claims. Secondly, the view enunciated here is wholly compatible with the architectural principles of modern political philosophy, namely, in this case, Montesquieu's reflections on human duties. The difficulty to which modern political philosophy is open, the divorce of politics and philosophy or reason, is merely platonic and not necessary. Were we to speak of equalities, rather than compatibilities, we would further hold that two things, each equal to a third, are equal to each other. But that is not the manner of demonstration here. Let us rather, provisionally, reduce the three to a single albeit paradoxical assertion, which is, that the *a priori* denial of the rational authority of every possible moral proposition itself generates the claim that freedom alone both begets and requires goodness. Insofar as this conclusion is fatal neither to politics nor to science, and I submit that it is not at all, then every assault on modernity which treats modernity's moral equality as if it were nihilistic or relativistic overshoots the mark and ends rather by impugning what such assaults purportedly set out to defend, namely, the necessity of politics and the possibility of philosophy.

Let no one object that a political philosophy which departs from the principles of science must be independent of politics. For such a claim requires that demonstration as opposed to exhortation establish the principle of the detachment of philosophy from politics. But the world has yet to see and (unless I err) to hear such a demonstration, not, perhaps, because it has yet to be achieved but rather because it is not possible. That, at least, is the thrust of what I meant in "A Vision of Anutopia" when I called philosophy "morality *manquée*."

If Rousseau, so often in error, be nevertheless correct in judging that the single motive of human action is the "love of well being," and thinking too is a human action according to Newton (*de gravitatione*, below), then philosophy and politics may at a minimum be seen to derive from a single impulse. Skepticism and the idea of moral equality would to no less extent derive from the same impulse. Similarly, Rousseau's discovery of benevolence in the great-souled man (erroneously if Christianly founded in pity), in spite of its explicit detachment from political illusions, would point no less to political reality than to philosophy. These two quintessentially modern scientists, Newton and Rousseau, would accordingly fall into line with Aristotle ("Every art and every inquiry, equally practice and pursuit, seems to be aimed at some good."), reducing the distinction between ancients and moderns to a footnote to the discussion of human nature.

The implications of this last statement affect both interpretations of Montesquieu's political philosophy and, presently, disputed interpretations of political philosophy among students of Leo Strauss and those influenced by him. The distinctions elucidated by Strauss, above all that between ancients and moderns, are so diversely understood as to persuade some that political philosophy is so little serious as merely to offer the occasion to re-discover philosophy independently of political philosophy, while others understand in political philosophy the comprehensive mode of philosophic inquiry.

Rousseau seems to be the key to this dispute, oddly enough from the point of view of Leo Strauss. Rousseau first suggested a clear and distinct perception of a changed human nature (thus expelling nature as the goal of thought about human things). In the "Discourse on the Origin of Inequality Among Men," Rousseau argues that the differences between men of the first ages and those of the last ages are so vast as to suggest that those men are not of the same genre, and the "attentive reader" will conclude that "the human soul and passions, insensibly mutating, change nature so to speak."

Strauss' students who take the differences between ancients and moderns to describe essentially different human possibilities effectively adopt Rousseau's conception of a changed human nature. Understandably, therefore, they conceive the project of comparing and choosing among the human types or models thus portrayed. While they would not be so naive as to imagine that they can become ancient, their emphasis upon the necessity of choice does serve to allow them, as they and Rousseau say, to detach themselves from the political illusions, the low and degrading ambitions of their time. Thence, presumably, they are liberated to philosophize, which must then mean to spend their time in thought about—well, about what is uncertain, since even Nietzsche could dream up new illusions, but they would at least think <u>as</u> <u>if</u> politics did not matter.

This approach has long vitiated reflection upon Montesquieu's principles and upon the American regime, for it treats his reflections on regimes, along with the idea of a right regime, as mere propaganda designed to render the life of passion palatable. The thought of such an accommodation with modernity would mean that Montesquieu were Socrates' sophist (*Republic*, 493a-c), who seeks to soothe a beast by calling whatever delights it good and whatever angers it bad. The leading commentator on Montesquieu in our time is Professor Thomas Pangle. His *Montesquieu's Philosophy of Liberalism* suggests that, for Montesquieu, there are no human du-

ties properly so called, precisely because of the changed conditions and expectations of human life. In my review of his work (*Journal of the History of Philosophy*, XIII, 2), I strongly urged the inadequacy of this view. If we now continue that discussion, and along the way clarify the dispute among Strauss' students, we serve the purpose of justifying the serious study of Montesquieu.

The dispute among Strauss' students has heretofore turned on the question of who best conveys Strauss' teaching—that is, did Strauss concede the force of platonic doubts about modern politics or did Strauss lay a foundation for re-discovering genuine politics within the modern regime. The latter enterprise, which may be identified within the work of Harry V. Jaffa, can stand on its own independently of Strauss.[2] And the former position, appealing to the tradition of the most modern teachings about politics, is to that extent larger than Strauss and hence also independent of him. I submit, therefore, that the question of who speaks for Strauss is of merely antiquarian if not sectarian interest. For my purposes it suffices to assume that Professor Pangle, perhaps Strauss' best student, holds custody of the true Strauss. Thence, we conclude that Strauss teaches "that it is only when our commitment to public action is qualified that our commitment to private thought and truth can be unqualified" (*Montesquieu's Philosophy of Liberalism*, "Introduction"), and that we need forget the twentieth century, the problems of our times, inasmuch as neither modern political philosophy nor the American founding are compatible with the idea of natural right and the goal of the contemplative life. Might we not render academic the question of his legitimate heirs by simply refuting Strauss, thereby justifying the aim of the present study, which is based on the common notion that an unqualified submission to truth necessarily has unqualified public consequences (cf., my review of Goyard-Fabre, *Nietzsche et la question politique*, in *Review of Metaphysics*, XXXIII, 2)?

Let's state more fully Strauss' case, as Professor Pangle might put it, and then indicate the possible responses of which the following essay is the more full example. The argument seems to run as follows: The modern commercial republic is, by definition, incompatible with civic education and virtue. These two elements of the ancient city were the foundation of that city's pretense to decency. In the modern world not even that pretense is preserved, as all politics become slavish, unnatural. The decent regime—if not decency itself—becomes impossible. Apparent hopes of decency, in the American founding for example, represent only the confusion and limited understanding of the founders. They did not fully appreciate how far the "moral" horizon had become a-telelogical and thus amoral. In *Montesquieu's Philosophy of Liberalism*, Professor Pangle calls Montesquieu's principles Hobbesian and crypto-teleological, by which he seems also to mean a-teleological in the decisive sense. In any event, we are enabled to discover these tendencies, not by studying the American regime, nor Montesquieu alone, but by studying the ancients and the various kinds of legitimate regimes (moderns believe that only liberal democracy is legitimate, properly speaking). In that manner we discover the insufficiency of our principles, how low we are. That is, not only is the serious study of America's claims incapable of leading one beyond those mere claims (for they do not point to nature), but such study runs the risk of confirming one in the baseness he shares with his fellows. Thus, the proper beginning for the liberated mind is to lose every hope for this regime. Serious students turn to the ancients not to bolster false hopes but to escape modernity.

This argument is false, not least of all because its disinterested philosophic perfection makes no specific claims about human goodness and might be reducible to a mere aesthetic. But further, it makes the mistake of treating a convention—something called modern political philosophy—as a necessity of nature. As I held in "Cares, Labors, and Dangers: A Free Society in an Unfree World," "arguments based on peoples' systems of thought cannot invoke the rule of logical (or natural) necessity, for those arguments stand upon the shifting sands of the human propensity to change." To speak of human prospects in our time, therefore, as though they were confined to the sparest prospects of any philosophical tradition is precisely to fail to raise one's sights beyond convention, beyond the cave. Strauss' argument would mean, therefore, that modern men cannot consult nature simply because the ruling authority has banished all appeals to nature.

The argument is further false politically speaking, depending as it does on assumptions about the American founding which can scarcely be proved. For how could one demonstrate that George Washington, in the First Inaugural Address, were simply confused when he called for making "private morality" the "foundation of public happiness?" He argued the point at some length, and the most one could venture would be that he erred in the terms of his argument. It would not do to deny that he understood what he said merely because modern political philosophy did not give him leave to understand. And, so far as I can determine, neither Strauss nor those considered his best students have ever ventured in any depth to study the founding. In other words, it is extraordinarily difficult to explain the American founding, not by studying the prolific and thoughtful works of the founders, but with reference to their supposed mentors. When James Madison, in 1792, claims to have advanced the understanding of republicanism beyond what Montesquieu and others understood, one cannot know what to make of it save by studying Madison and the founding. The question whether the founders understood Montesquieu cannot be answered merely with reference to Montesquieu.

Careful study of the founding must assume that the regime's claims bear some analysis. One may confirm this short of demonstrating that it is a designed utopia, however. Leave aside the question of how political consciousness can dawn in any human being apart from the claims of his regime. There is a practical matter, namely, that the regimes circumstances are such as to impose upon the thoughtful the question of its goodness. The Thucydidean principle of necessity is completely wound through with the claim of goodness, as Diodotus' speech shows. Again, in "Cares, Labors, and Dangers," I express it thus: because any city may deal with every other city as if the other's citizens need only consult their individual safety, or the opinion that they are safe, there is the further implication that the city which succeeds in foreclosing to its own citizens the reflex of merely consulting their individual safety establishes itself as good beyond all other possibilities. This means that what might appear rational to one man, which is to prefer personal safety under the dominion of a strong enemy rather than to risk death along with his hapless fellows, cannot appear treasonous to any man who does not credit the claim of goodness of that man's city. An American turned Soviet spy may be welcomed in the Soviet Union; a Russian turned American spy will be welcomed in the United States. The rule of necessity is bound up with the discovery that one city, our city, is good, while others are evil. This is the eternal, unchanging condition of human life, however the particular prejudices of peoples obscure this truth.[3] What remains is to learn how men arrive at that truth from a beginning which emphasizes interest, indeed, self-interest.

Strauss' argument would be wrong in a final respect if it denied utterly any foundation in modern science for a concern with human ends, or more precisely, however native it be to humans to aim at an end, if it denied that there are means available to modern science to pursue that concern and tools available to modern man beyond modern science. It would mean, decisively, that modern science is not properly speaking a human enterprise, an expression of human nature, like ancient science, subject to the imperatives of human nature. As we said, this can be true only if there is no human nature or if it has changed, which is the same thing. This argument partially reposes on the former discussion of modern political philosophy's ruling force. To that extent it has been answered. But it bears further investigation from the point of view of whether the liberalism modern science spawned, in any of its variants or eras, is so single-minded as may appear at first glance. The following discussion of Newton and Montesquieu's approach to natural right will respond to this most forceful objection. For now, it is sufficient, first, to concede that classical political philosophy will seem more directly concerned with political life, and, secondly, to maintain that, whether one turns to 'ancient science or to modern science to clarify human ends, it seems one must do so from a prior concern with politics or morality.

This question, too, I have discussed elsewhere, and I will conclude this introduction by borrowing the argument from "The Manners of Liberalism: A Question of Limits" (*Improving College and University Teaching*, Fall, 1982). The problem of liberalism's inadequacy respecting ends derives from the prior question of the goodness of philosophy, since the generation of the liberal regime bears a closer relation to philosophy than does any other regime. In America the *locus classicus* for this query is the founder (that "theoretic politician"), Thomas Jefferson. There have been at least two kinds of criticism of Jefferson, which call into question either his moral intentions or the consequences of his moral principles. We might dismiss the simple-minded egalitarians, of whom plenty remain. The second form of criticism, however, suggests that Jefferson's deep philosophical education ultimately led him to the nihilistic, amoral consequences of modern philosophy. This was regarded as causing him to misperceive the human condition and thus to pursue the revolution of liberalism in a halting manner.

Jefferson, therefore, provides a suitable foil for this discussion. The criticism, in effect, reflects doubt about how far the founders of liberalism as a system of thought ought also to be regarded as the founders of liberalism as a way of life, with its attendant prejudices about right. A simple consideration is in order: not one of the philosophers of liberalism could have had any reasonable expectation of either living under or directly founding such a way of life. Madison was correct to claim that he understood liberalism more profoundly than they—that is, as an actual regime. Their principles often produced conclusions more readily applicable either to individuals or societies in general than to any particular community.

The criticism of Jefferson insisted that his pegging the success of liberalism on individual exertions rather than on the designed effects of the community as such left nothing to rely on once he realized that the universal exertions of individuals (vitiated by natural differences) could never reach up to the point of securing a way of life informed by universal enlightenment and offering responsible freedom. Jefferson, himself, had a reasonable alternative to regarding every human being as living up to the highest human potential: natural aristocracy. He outlined a proc-

ess of liberal education to favor the emergence of the natural aristocracy. Thence society could presumably live at the highest levels, though not all men could attain that level.

However, Jefferson expressed this ideal in an unfortunate figure of speech which belied the very hopes for mankind upon which the ideal was based. He saw the process of successively elevating the brightest men, without regard to class, through every educational level, until, at the top, there stood only the best and the brightest, as "raking the diamonds from the dunghill." But this figure of speech suggests equivocation on his part about the purpose of entrusting ultimate authority to the many. By imagining that, unless the best actually do rule, liberalism fails, he wavers in his commitment to liberalism. By admitting that liberal education does not make all fit to rule, he suggests the impossibility of liberalism. In this view the weaknesses of the many are incorporated in the very idea of the liberal regime, contrary to every expectation of decency.

The necessary response, philosophically, is to weaken the idea of community within the liberal regime (reflecting the absence of natural right in modern philosophy). The argument then denies (where Washington affirmed) the possibility of self-discovery within the community over and above the individual interest to which liberalism as a system of thought had pointed.[4] True or no, the idea is that Jefferson (and in the broader argument here we are forced also to say Strauss) could not conceive the moral and philosophical power of the actual existence of a particular community conveying to men a necessary idea of their existence. But as this is the sufficient condition of political right (See, Aristotle, *Ethics* V, and Shakespeare, *Henry V*, iv, lines 130-220), so too is it the necessary condition of philosophic inquiry. What must be deduced from this is a foundation of human duties or obligations as the complement of the universal exertions liberalism expects of individuals.

Reflection on politics, even under liberalism, is in fact reflection on the power of prejudice even more than reflection on the power of human nature (indeed, isn't it the pathway to the discovery of human nature?). Neither liberalism (the ultimate authority of the many) nor liberal education (the pursuit of excellence or wisdom) leads men to substitute tolerance or ambiguity for righteous indignation. Jefferson need not have despaired of liberalism had he realized that the exertions of individuals which it summoned were the necessary but not sufficient condition of liberalism's success. No more need Montesquieu abjure inquiry into the foundations of human duties, nor we to connect a political philosophy based on principles of science with politics, Strauss' students to the contrary notwithstanding.

## II
## MONTESQUIEU

There are important reasons to pay attention to the manner in which Montesquieu sought to derive human duties. Most important, perhaps, is that Montesquieu departed sharply from the practice of his age. I will try ultimately to show the significance of this. But let us begin, first, by listening to Montesquieu "relax" (so he justified himself to a recalcitrant printer) in the midst of an immense and even laborious work, *The Spirit of the Laws*.

"INVOCATION TO THE MUSES"

Pierian Virgins! Do you hear the name I give you?
Inspire me! I've run a long career and am burdened
with pains, difficulties and fatigues.
Give me that calm and gentle mind which today
escapes me by far.

Never are you so divine as when you lead
toward wisdom and truth by way of pleasure.
But if you won't soften the rigor of my tasks,
hide the task itself.

Lead me to reflect—and to appear to feel.
Arrange things that men may be instructed though I should
not teach,
and that, proclaiming the useful, men should believe me
to know nothing—
thinking you have told me all.

When the waters of your fountain spring from the rock you love
their climb toward heaven is not to fall again.
They flow gently into the prairie.
They are your delectations
because they are the fine pleasures of Shepherds.

Charming muses, regard me but once
and all the world will read my works—
that which must not be amusement will be pleasure.

Divine muses! I feel that you inspire me—
not only what is sung at Tempe on the Shawn;
or what is repeated at Delos on the Lyre.
Your wish yet is that I give voice to reason.
It is the most noble, the most perfect,
the most exquisite of our senses.

---

Montesquieu's enigmatic prose-poetic invocation, following his sad farewell to the love of truth and to that "certain finesse which taste imparts," that the emergence of the modern republic requires, presents in boldest form in its closing line the problem of his teaching about modern politics. Reason, he holds, is the finest of all our senses! Invariably, commentators have

read this to mean the depreciation of reason. Consider, however, what one must think, if reason, alone, "senses" the command to move in man.

Man, Montesquieu teaches in Book I of *The Spirit of the Laws*, is like every other natural body, subject to the "relationships of mass and velocity." But the order of nature is such that that relationship is expressed in differing ways in differing beings. Man, alone, is required to move himself, over and above the motions his mere matter receives no less than the dust, with recourse to the doubtful faculty of reason. He can not avoid to be moved by circumstance and climate, but he must additionally secure on his own exact "obedience" to the commands of nature or matter, as far as he may. By comparison, beasts, who too have self motion, may have all provided by their constitution. It is not known whether, in them, sense is mediated by reason, or like a machine, is only a lever which transfers motion received from an external cause (cf., III, 10). It is at least observable that they are more constantly obedient to nature's commands than man.

The mode of man's self-motion turns on the prevalence of gratitude for good and requital for evil done to one. Benefiting friends and harming enemies, according to Book I, is the method employed by intelligent beings to assimilate themselves to the requirement that they be "as well governed as the physical world." The burden of distinguishing friends and enemies falls upon the reason of intelligent beings—a reason "subject to error." It is thus, no doubt, that they are capable of "forgetting themselves," or, as Montesquieu says in the "Preface," that they fall subject to prejudices, which is "not that which causes one not to know certain things, but that which causes one not to know himself." This prejudice is nothing less than the particular ignorance which comes to prevail in society, in the form of positive law, when men awakened to the differences among them come to assert their claims of superior advantage (I,3).

The different constitutions or regimes among men are just so many results of one or the other particular ignorance prevailing as a consequence of the trial of strength. The point to retain, however, is that each particular ignorance is an attempt, and is justified by the necessity, to obey the laws of nature. Man cannot completely succeed in that attempt. In principle, of course, there is a perfect constitution, or the complete assimilation of humanity to the laws of motion. But the end and interest of any given constitution is determined by its origin in error.

To take thus seriously Montesquieu's discussion of natural law is perforce to challenge the various arguments that Montesquieu's principles are Spinozistic, Cartesian, Hobbesian, atheistic, or what have you. We have available, however, a shorter road for demonstrating that we may take Montesquieu seriously. We can argue that his principles are Newtonian, and we have available a most succinct statement of the Newtonian perspective which bears a strikingly close resemblance to Montesquieu's argument. Newton's "de gravitatione" (which is appended) has the further advantage of being an explicit refutation of Cartesianism, thus facilitating the drawing of distinctions between Montesquieu and Descartes. And for the skeptic who desires still more, we have Spinoza's *Principles of Descartes' Philosophy*, which, by suggesting Spinoza's degree of agreement with Descartes, brings Spinoza also within the compass of our reflections. And as for Montesquieu's Hobbesianism, indications already given in the "Introduction" to this essay should suffice to eliminate that possibility, though that will not prevent our recurring to it once again. There remains but to elucidate the evidence and implications of Montesquieu's Newtonianism, and to show that Newtonianism is not merely mechanical. It goes without saying that

the brief exposition of Newton's principles which follows assumes that the reader will read the appended essay.

## III
## NEWTON AND MONTESQUIEU

The key to the relation between Montesquieu and Newton (whom Montesquieu defended against the charge of atheism in correspondence) may be found in the *Defense de L'Esprit des Loix*, where Montesquieu echoes Newton's assault on Cartesian atheism. Defending himself against the charge of atheism derived from his natural religion, Montesquieu responds that natural religion is a means of defending and demonstrating the truth of revelation. Further, he held, "it is by natural religion that one destroys the system of Spinoza" (*Defense*, Part I). Newton's essay provides the philosophical foundation for that natural religion, ultimately producing an analogy between the method of the Aristotelians and his own method, save that where Aristotle provided an ambiguous prime matter in which form might work Newton provided the precise conception of space in which God might work. Thus, like Aristotle, he could treat motion as primary and differentiated, where Descartes-Spinoza treated it as secondary or derivative and of a single kind.

Newton began by establishing the identity of his procedure in analyzing motion with that of Euclid's congruence or coincidence propositions (1,4 & 8), the which Newton held to imply motion (Euclid makes no mention of motion), one triangle being "applied" to another. This can be done with abstract forms in a way it cannot be done with bodies (See Newton's "Note"). Thus, equality of bodies, though crucial for Descartes, is a less precise conception than equality of forms or figures. Inasmuch as this appears to challenge Descartes' *res extensa* "gratuitously," for that hinges on exact, mechanical equality of bodies, Newton digresses in an apparently matter of fact technical discussion to refute Descartes explicitly. The digression in turn becomes the substance of the essay.

Newton's distinction between philosophical motion (Descartes) and vulgar motion (Aristotle), imitates Descartes' own references to Aristotelian motion as vulgar. (Compare, for example, *Principiae Philosophiae*, Part IV, Art 202, in Latin and French versions.) By this device, according to Newton, Descartes excludes self-motion as an illusion of childhood[5], and confines philosophical motion to "migration from one place to another" with a one-to-one exchange or transference of bodies. This, above, all, Newton refutes, and along with it the claim that extension and space are identical. Thereby he creates room for motion more than merely mechanical.

Merely mechanical motion is expressed in the notion of a *res extensa*—wherein nothing moves properly, and all is rather conveyed.

> For Descartes, there are no powers and no agents in nature, no causes, beyond the interchange of motion from configuration to configuration. The world is a plenum of this extension-in-motion, and hence is strictly a machine.[6]

Since, for Newton, inquiry into the nature of things and inquiry into the truth of things (thus, of the whole) are one and the same, what Descartes offers is a reductionism which divorces the na-

ture of things from the truth of things. If the motion in the revolving metal of a clock is actually in the particles, alone, one can speak of nothing being accomplished by the whole. Extension, Newton concedes, is closer to being than Aristotle's *hyle*. That is because extension can be known without depending on form to reveal it. The reverse occurs: where Aristotle deduced prime matter, which can not be sensed, from form, now Newton deduces form from extension. He argues that what is first for man, being, generates space and being-extended in space, from which form is deduced. But this also requires that being present itself essentially as forms or wholes of whatever sort. For the perception of the attributes of things presupposes body, leaving only the question of whether form is relative or absolute, created or eternal. What points to the substance of being ("body" is too narrow) as opposed to its attributes are proper dispositions or "actions," "inasmuch as they are thinkings in the mind and motions in body." Which is to say that bodies, besides being subject to being conveyed, must also be subject to being affected in the manners their forms allow.

Descartes' principles produce the result that "nothing is able to be the proper motion of any body whatever." That is; all motion is a-teleological if not unnatural, which Spinoza affirms thus: "For if men clearly understood the whole order of Nature they would find all things as determined and as necessary as mathematics" (*Principles*, Open Court, p. 160). Men confuse themselves by attempting to distinguish the "thing itself" and "its conatus,"[7] a distinction of "reason or words" but not in the thing itself.

> In order to understand this we will notice a very simple example. Motion has the power of preserving itself, i.e., it is in the nature of motion to do so. If I say that in A there is nothing else than a certain amount of motion, it follows that as long as I consider only this body A, I must consider it as moving. For if I should say that it has lost its power of motion, I necessarily attribute something else to it than that which, from the hypothesis, it possessed, and through this it has lost its power of motion. . . this conatus of self-movement is something more than the laws and nature of motion [Spinoza; p. 134.]
>
> . . . since the cause of an affect must be positive (per Ax. 8, Part I) we can not say that the cause of motion is a vacuum, but that it is due to the impulse of some other body [Spinoza; p. 76].

Motion that is caused by the impulse of some other body can at best be only accidentally related to the "end" of the moved body, however necessary its motion.

Descartes' attempt to reduce all motion to one and univocal has the consequence of obscuring what we might call the "inner" or absolute motion proper to each body and the "outer" or physical motion of each body relative to other bodies. In Montesquieu's terms, this would make human self-movement merely a more complicated example of the relations and transferences of matter as extension. It could be designated self-motion, as Spinoza might say, only to the extent of our ignorance of its true origins. (cf., Descartes, *Principiae*, Part IV, Art. 199.) As Spinoza did say, "the best way to understand the *nature* of plants or of men is to see how they arise and develop from their germ cells" (p. 107).

As the nature and the truth of things are divorced, with the consequent depreciation of wholes, so too is human understanding revolutionized in Cartesianism. The example of this atheistic revolution, for Newton, is the change in the idea of infinity.[8] Newton rejects the claim that only the finite is understandable. While we cannot imagine infinite extension, we can understand it—incidentally distinguishing imagination and understanding thereby. In this, Newton not only refutes Descartes (Part I, Art. 26) and Spinoza (p. 68) but also Hobbes, who taught (*Leviathan*, 1, 2-3), "no man therefore can conceive any thing, but he must conceive it in some place; and indued with some determinate magnitude." Hobbes' argument served to demonstrate that all understanding is fundamentally imagination, derived from sense perception. Montesquieu's notion of "relations of justice" anterior to the existence of any intelligent beings and any laws made, depends on a non-Hobbesian conception of human understanding. Thus, Newton: "mind also could be dispersed conceptually through space in its own manner, without any parts." The faculty of understanding, thus, need not be generated by perception. And once infinity is understood as a positive term (a double negative, "no end," Newton says), the understanding is freed to regard the truth about nature, even relations of the world prior to creation, as the aim of natural philosophy.

Descartes' "mechanics" was taken too seriously as a matter of handling material substance, thus his analytic geometry was well designed to break up a universe consisting only of matter. Hobbes' geometry, also, was Cartesian, purely analytic. Newton's calculus, on the other hand, setting Euclidean figures in motion, leaves open the prospect of a material universe put together out of immaterial substances or forms, Timaeus' universe. "Let there be formed the thing tangible [though not body], and mobile, and able to be reflected, and to reflect, and by joining things in some way no less constituting a part than any other corpuscle, and I do not see why it can not equally act on our minds and on the contrary be borne, when it were nothing other than the effect of the divine mind within the definite quantity of space evoked." The notion of an equal and opposite reaction for every action, in this light, is not merely mechanical, that is, not necessarily material.

Newton turns Descartes' view of childish natural science on its head. Descartes (Part I, Art. 71) considered self-motion in the child "fortuitous," and concluded that the outer world was understood in reference to the child's own body as sources of the child's sensations and therefore actually composed of these sensations. Newton responds, first, that our puerile judgment is that extension is in bodies only accidentally, not essentially, and hence that space can readily be overcome. This illusion, however, is founded in the truth of self-motion, which we perceive in ourselves more surely than we perceive sensations in external objects. Thus, we more readily sense in childhood that we move ourselves (toward the flame) than we understand the generation of pain from external bodies. Appropriately, as Montesquieu would have it, we have great powers to act before we have understanding sufficient to action. Thus, the particular ignorances which originally founded peoples' ways are an expression of Newtonian epistemology: "I have deduced the description of bodily nature from the capacity of moving our bodies so that every difficulty in the conception is at length removed by this."

The apparent deism (frank natural religion) with which Montesquieu's essay on duties opens reposes on Newton's demonstration of the insufficiency of Spinoza-Descartes (and Hobbes') argument that "they who seek for some meta physical good which shall be free from

relativity are laboring under a misapprehension . . . as good and evil are only relative terms, so also is perfection, unless we take perfection for the essence of the thing." Accordingly, Montesquieu regarded himself free to conclude that "there will be a difference between good and evil, the just and unjust, and virtue and vice," which reason as the voice of God must interpret. The argument of this paper is that God's voice describes not only relations but duties, which is to say, a preference for the good, the just, and virtue.

## IV
## MONTESQUIEU'S POLITICAL PHILOSOPHY

A means of conveying the significance of Montesquieu's conception of man's duties is at hand. His fable, "The Temple of Cnidus," so hated by Rousseau for its seductive lying in behalf of the cause of truth, speaks to our immediate concern. Montesquieu thought it of some value, Rousseau notwithstanding (*Reveries of a Solitary Walker*, 45). He was still making corrections to its "preface"—the seat of the lie—virtually on the eve of his death. The fable teaches that law as a guide for individuals is preferable to reason. It describes poetically the transition from the ancient sway of Helen and Achilles to the worship of law-abiding men and women. The condition or requirement for this transition is that reason—what is best in man—be content to leave the prize for beauty to what is lawful.

Our heroines and heroes in this voluptuous narrative are named Themira and Camille, the loveliest maidens at Cnidus, and their suitors, Aristeus and our unnamed narrator whom, for good reason, I will call Everyman. Venus rules in Cnidus. And she regularly rewards the most beautiful woman on earth, after they compete for her regards. Aristeus loves Camille, that namesake of Saturn's daughter who threatened to conquer Aeneas and his band. Everyman loves Themira, namesake of Themis, goddess of law and order, justice personified, established law and custom.

Women competed before Venus for the prize Helen so often won. How lucky, then, Everyman, when Venus awards the prize of beauty to Themira "of all the beautiful women I see!" Aristeus wins the hand of Camille, defeating his arch rival, Lycas, Zeus' namesake. Everyman's rival is Thersites, namesake to that vulgar democrat who stirred Odysseus' ire. Everyman wins the hand of the New Helen. Themira, the New Helen, is to modernity as Helen is to Achaia and Troy. Camille would not condescend to compete. Venus did not see her! Everyman was born in Sybaris. Nevertheless, he was able to be inspired by the same god that inspired Aristeus, namesake of the best of men. Everyman and Aristeus were friends—perhaps because Aristeus' love, choosing not to compete for the prize of beauty, makes it unnecessary for Everyman and Aristeus to compete. To tell the truth, however, Everyman's love seemed to him worthy the prize independent of Venus' judgment. He could see no one else.

This sensuous fable is easy to understand, and worthy, Rousseau notwithstanding. By portraying the emergence of law-abidingness to its rightful place of honor, it eliminates the need to apologize for human conventions. Thereby, it contributes to illuminating the central paradox in Montesquieu. He stands out in the long line of modern political philosophers from Locke to Kant as the one who does not found a view of society's origins upon the idea of a social contract.

Not only would such a view be inconsistent with the correct understanding of a constitution, the sway of a particular ignorance, but, figuratively, it would substitute the judgment about what is worthy of the various multitudes of men (supposing any real chance of untutored agreement) for the superior judgment of Venus.

Another way to state the figurative conclusion is to say that Montesquieu avoids the peril implied in the social contract, of founding every human society on nothing more substantial than the whims and caprices of men. Every contract must be referred to its makers for its authoritative sense. Each maker is always authoritative as to what he intended. The variety of human opinions about the good suggests differing opinions about the aim of a contract—a diversity which cannot be overcome by *post facto* philosophic speculations.

The absence of the social contract in Montesquieu also relates to a central problem of our time. That is the problem of the prevailing, liberal interpretation of pluralism, to which we more and more frequently recur in the attempt to derive human duties. This has much to do with Montesquieu's continuing importance for us. Where he found the idea of a social contract a sleight of hand whereby philosophers fobbed off the responsibility to understand society to any and every human being, we are able to see the appeal to pluralism as a sleight of hand whereby statesmen and scientists fob off the responsibility to articulate a common good to sundry subordinate or intermediate associations which relative to themselves are no more able to justify their claims than any individual is able to state the terms of a social contract. The ultimate consequence of pluralist theory, in our time, has been the advent of proportional representation as a serious political claim. The ultimate consequence of social contract theory has been radical individualism (true foundation of radical positivism).

Strikingly, commentaries on Montesquieu have consistently oscillated between these two extremes in grappling with his theory. Some commentators rely upon his individualism to make a case for his republicanism, while others emphasize his dependence on "intermediary orders" to balance political power in a state, and frankly declare him a monarchist. Each extreme is as far removed from Montesquieu's teaching as proportional representation is removed from the principles of the American regime—which is to say they are near, related, but opposed to it. I will borrow a recent and apt portrait of the American dilemma to convey my meaning.

> Nothing could be more alien to the American political tradition than the idea of proportional representation. Proportional representation makes it impossible for the representative process to find a common ground that transcends factionalized interests. Every modern government based on the proportional system is highly fragmented and unstable. The genius of the American system is that it requires factions and interests to take an enlarged view of their own welfare, to see, as it were, their own interests through the filter of the common good. [Edward Erler, "Statement on the Voting Rights Act for the Senate Committee on the Judiciary Subcommittee on the Constitution," January 28, 1982.]

Just as the problem of our time requires our ability to see how seeming incompatibilities, self-interest and the common good, are parts of a consistent whole, the problem of interpreting Montesquieu turns on a similar necessity. There is a close relation between his teaching and the correct understanding of the American tradition.

---

To show Montesquieu's teaching one must dispel some of the common misunderstandings. The best recent examples of these views are found in Molière Granpré's *La Théorie de la Constitution Anglaise Chez Montesquieu* and in Wettergreen's discussion of Harrington and Montesquieu in his "The Fate of Harrington's Ideal" (from his manuscript on Harrington's *Oceana*, forthcoming).

Molière Granpré seizes as the key to his theory Montesquieu's defense of the intermediary orders, much like contemporary pluralists. According to him, Book XI, chapter 5 shows Montesquieu's regard for England to be based on his appreciation of monarchy and the intermediary orders (pages 328-329). There Montesquieu introduced the question of the "objectives" of differing states, which Molière Granpré takes to be equivalent to the notion of the three principles of regimes, that is, fear, honor, and virtue. Montesquieu's allowance in XI, 7, that monarchy too might foster liberty, is then read to mean that monarchy too is acceptable. This "growth" in Montesquieu's view is understood to reflect his maturing preference for monarchy.

Book XI, chapter 5, however, divides its lists of the objectives of states into two. First are those states whose objectives are particular to them. Second, he lists types of states whose objectives in general are described. Then he mentions Poland's objective. Now what is singular is that Montesquieu only mentions the <u>types</u> of despotism and monarchy, whose objectives directly correspond to their principles, fear and honor. He does not mention the republic in general. Instead, he mentions Poland, whose objective is independence for each individual, producing the oppression of all. Thus, Poland takes the place of the republic in general. But Montesquieu had previously discussed Poland (11,3) as the worst republic, a miserable aristocratic republic. Next, he mentions England, whose objective is liberty, the definition of which happens to coincide perfectly with the definition given of virtue not, to be sure, in the *Spirit of the Laws* but in the *Essai Touchant les Loix Naturelles*, to be discussed below. It is, therefore, more reasonable to conclude that England stands in the place of (as an alternative to) the miserable, individualistic republic, and that Montesquieu preserves his regard for the republic's better nature. When, therefore, in XI, 7, Montesquieu infers the possibility of liberty for monarchies, he means only to clarify the ambiguity of XI, 5 (they may have a "spirit of liberty" though not the "objective" of liberty) in the light of XI, 6 ("Whenever the legislative authority is united with the executive authority under the same person or under the same body of magistracy, there liberty is not.")

Wettergreen, following but improving upon Pangle's *Montesquieu*, emphasizes the radical individualism.

> Montesquieu, wishing to secure the infinite variety of private willing and acting, found the idea of such an articulation [of private interests as parts of the interest of mankind] inimical to liberty. Thus, with the free state we witness already the withering if not the disappearing of the state.

Montesquieu's politics, according to Wettergreen, is "single-principled, based on the inviolability of the individual will." His reading, too, is based squarely on Book XI, mostly chapter 6 and mostly on interpretation of the theoretical foundation of "separation of powers." But where Molière Granpré found in these divided authorities the "abstract categorizations" of intermediary Powers, Wettergreen finds an intention to obstruct the emergence of a public will properly so called.

Wettergreen interprets XI, 5, the discussion of objectives, to expand the archetypes of regimes, adding the fourth, "moderate governments." We have shown above that the regime's objective approaches its principle only in general terms. The particular objective is determined by the peculiarities of the regime. To some degree, the distinction between particular and general objectives serves to indicate the extent to which Montesquieu's three-fold typology, monarchy, despotism, republic, might again come to resemble Aristotle's six-fold typology, based on the analysis of regimes as good or bad. Hence, the difference between Poland and England serves to reveal the objective's role as a device for further discriminating regimes based on any one of the three principles (cf., VIII, 15-20 and III, 10).

When one urges, therefore, that Montesquieu sought to "end regime politics"—"broad and permanent contests over principles"—it is natural to wonder how that can be, if discriminating mechanisms are preserved. "Separation of powers is the chief means." This centerpiece of XI, 6—long thought the centerpiece of the entire *Spirit of the Laws*—is designed to detach "the parts of government" from the "forms of government," thereby eliminating the traditional political interests of aristocrats, monarchists, and democrats; that is, the class interests of the intermediary orders. The "separation of powers" has been looked upon as a kind of Newtonian balance, substituting something like the impersonal attraction of gravity for the sphere of prudence in human affairs. This produces impartial, non-sovereign government; hence, the emancipation of individual will and act.

This arrangement so salutary for liberty depends on numerous governmental provisions working soundly. The legislative and executive authority must affect the individual only by the independent agency of the judiciary. Public reasoning or deliberating must be subordinated to legislating—general will-ing. The body of nobles must initiate no legislation, but must defend interests of the nobles and resolve constitutional disputes. The judiciary must literally apply the general will, the laws of the state. And parties must exist only in the form of private interest groups (there are after all no principles to contest.)

Chapter 6 of Book XI does not sustain this reading. It is true that only judges—properly, jurors—operate directly on individuals, while the other two authorities announce and enforce the "general will." But Montesquieu is clear that the "great advantage of representatives is that they are able to debate matters." That is, the differing functions of government are assigned with an eye not only to safety but to capacity. The people are best suited to choose representatives, the latter to form laws upon deliberation. The senate, or body of nobles, is intended not to mediate the institution of the entire "separation of powers" but only the difference between the prince and the people. It is the ruling authority designed to "moderate" the democratic legislative branch and the executive branch; but it can not have a superintending authority over the judiciary, beyond retaining jurisdiction over charges against nobles.

Wettergreen notes the *Spirit of the Laws*' silence on Locke. The argument that the work seeks "to collect the private wills into a general one," however, tacitly reposes on the silent acknowledgement of Lockean social contract reasoning. The idea of a social contract, we may say, was founded on the apparent necessity to reduce the diverse wills of separated individuals to a common foundation of private endeavor (whether for the limited, Lockean objective of peace or the broader aim of "social justice" or harmony).

The tendency to interpret Montesquieu's analysis in the limited terms of Lockeanism stems partly from not connecting all the discussions of England's constitution, especially Books XI and XIX, in a theoretical whole. It is in Book XIX that Montesquieu comes closest to a compact theory, when in chapter 27 he avers that "the men in this nation would be rather confederates than fellow citizens." That seems to mean that they can not be understood in the traditional manner in which citizens are regarded as being formed by a regnant morality. It would not follow, however, that they are independent of a non-traditional or modified regnant morality or regime principle. Because Montesquieu explicitly identifies his argument at this point, in the discussion of the relations of morals, manners, customs, and laws, as completing the discussion of the constitution derived from England in XI, 6, the reader must suspend his judgment of the presentation in Book XI until he has mastered Book XIX and all that it depends on.

With chapter 26 as overture to chapter 27, Montesquieu closes the first twenty-five chapters of Book XIX of the *Spirit of the Laws* and <u>opens</u> the concluding portion of the discussion of the English constitution. Thereby he sets apart all that separates Book XI, 6 and Book XIX, 27 (including XIV, 13, in which the righteous character the English derive from the defect of their climate makes them peculiarly fit, in a free nation, "to disappoint tyrannical projects"), in order to consummate the outline of the regime which is based on the substitution of England for republican Rome (XIX, 9). The teaching set forth in XI, 6 and XIX, 27, however, rests squarely on the teachings about the ancient republic, above all in Books IV and V.

On the surface nothing shows this so well as Montesquieu's refusal to contrast England with the idea of despotism, which he created to replace the ancient notion of tyranny. He shows not only that his change was intentional, but that its value is limited, by <u>always</u> employing the word, "tyranny," or one of its derivatives, in its ancient sense, in every critical discussion of England or the English constitution (cf., 111, 3; XI; XIV, 13; XIX) and certain critical discussions of ancient republicanism. As monarchy responds to the idea of despotism (contrary form of the rule of one man), the modified republic responds to the idea of tyranny. The new regime is not so much dedicated to private willing as to the morality of resistance to tyranny. It is the idea of a regime whose very form or principle is the opposition to tyranny.

The proper understanding of the attempt to resist tyranny is set forth in Books IV and V, above all. There Montesquieu accounts for the "singular institutions" of ancient (and some modern) republics as originating in notions of human duties or ends which are ultimately inadequate to the permanent resistance to tyranny. The problem of those accounts (at least respecting the ancients) is rather something they lacked than wrong-headedness about human duties. That is the peculiar role which Montesquieu assigns to commerce and passion. They believed they had to extirpate or control it for good reasons but on poor grounds.

---

In XIX, 8, Montesquieu reminds us that he is aware of the tendency of commerce when he describes it as a result of the taste for change, fashion. He directs the reader's attention to the *Fable of the Bees* by Mandeville. He cited that work but twice. The only other occasion was in the first chapter of Book VII, where he cited the authority of the same work, whose subtitle is "Private Vices, Public Benefits," for the argument that men in a city are more inclined to distinguish themselves by petty things as their numbers increase. The footnote cites Mandeville as arguing that it is a pleasure for a weak mind, almost as great as that of accomplishing one's desires," to be esteemed beyond one's merit by the multitude.

That chapter is the one in which Montesquieu unveils his Newtonian calculation of luxury, based not on absolute needs but relative equality of fortunes. Thus, he offers a geometric progression (much like that of heterosexual reproduction) as the measure of increments of luxury, which is then contrasted with the arithmetic progression in Plato's Laws. Plato's aims and principles to this extent differed from Montesquieu's: the same number of people, in the same town, could amass far greater wealth, more quickly, while respecting essentially the same proportion of inequality. Thus, on Montesquieu's model there is less need to restrict commerce.

The ancient understanding had the virtue of being a superior prejudice, especially after Plato substitutes the objective of peace for that of war in these cities. This is the main reason that the experiment in Pennsylvania serves to re-affirm the possibility of erecting singular institutions. Penn, "a veritable Lycurgus," actually exceeded his model by making peace the objective of the city. On the other hand, his fellow citizens proved peculiarly incapable of self-defense. The Jesuits in Paraguay, by contrast, did not so well elevate the Indians they ruled, but they at least left them armed. Had the Jesuits themselves taken less pleasure in ruling, had, perhaps, they been free to enter into their religion's project of humility in the face of the task of governing the Indians, they had entered fully into the task of creating Plato's singular-institutions. The mix of ancient and Christian morality still, however, must convey modern arts and needs without luxury and desire (IV, 6).

Let us pose a question here: Can it be man's duty to rid himself of his passions (cf., V, 2)? According to Book I, benefiting friends and harming enemies is the mode by which men seek to imitate the government of the material universe. It is germane that this Newtonian image strongly resembles the most common, if unreflective definition of justice among the ancient philosophers. But Montesquieu adds something: self-renunciation, self-forgetting, is ignorance of one-self. Thence, our question becomes, can it be man's duty to avoid knowing himself? Montesquieu is ironic; by taking the ancients seriously, he forces us to consider whether they do not contradict the injunction, *gnothi séauton*, upon which ancient philosophy is reputedly based. One would think, upon the rejection of the social contract, that Montesquieu would restore the perspective of the ancient and Christian morality, which he had blended. However, he carries us no farther back than is needed to notice that the problem they sought to resolve still needs to be resolved: that is, to discover a non-arbitrary foundation for human duties. The social objective or

end is precise if not obvious, at least if we are to credit the epithalamium that Montesquieu borrowed from Emperor Gallienus as epigram to "The Temple of Cnidus:"

> *. . . non murmura vestra columbae,*
> *Brachia non hederae, non vincant oscula conchae*.[9]

Books IV and V depend on the "Preface" and Book I of the *Spirit of the Laws*.

---

To demonstrate the importance Montesquieu attaches to the opening questions of the *Spirit of the Laws*, one must first dive beneath the surface of Books IV and V. The teaching of those books is brought out most clearly by the casual disorder which Montesquieu introduces in his footnoting, primarily from Plato and Aristotle. More is involved than can be shown here. But two things bear mention.

First, Montesquieu sets out to reconcile the teachings of Plato and Aristotle. To do so he finds it necessary to deny authority to Aristotle's claim that Plato's *Laws* eventually returns to Plato's *Republic*.[10]

Secondly, and more to our point, is the change introduced particularly in footnote "b" of Book V, chapter 17 and in footnote "a" of Book V, chapter 19. In the latter Montesquieu eliminated an intended reference to the "marketplace prefect" of Plato's *Laws*, as the surviving manuscript testifies. That is related to the confusion about the *Laws* and the *Republic* in the former note. The footnote, and the passage to which it was attached, is a fine example of the disorder he created. Something of Montesquieu's intention may be revealed in comparing them. I will cite in order the passage from chapter 17 and its footnote "b" both in manuscript and published form; then, from chapter 19, I will cite the manuscript footnote "a" and its published form:

> [Book V, chapter 17]:
> It's in the ideas of the Republic that Plato (b) intended that they who might receive gifts for doing their duty would be punished with death.
> [footnote "b"]
> [livre] 22 des loix. (ms. p. 177)
> Book 12 of the laws. (published text)
>
> [Book V, chapter 19; footnote "a"]:
> Platon dans sa république, livre 8, met ces refus au nombre des marques de la corruption de la république. Et dans ses loix, liv. 6, il veut qu'on condamne a l'ammende celuy refusoit la préfecture du marché. On banit aujourd'hui à Venise ceux qui—n'accetent pas—refusant les employs. (ms. p.181a)
>
> Plato, in his *Republic*, Book VIII, ranks these refusals amoung the number of indications of the corruption of the republic [549a-e]. In his *Laws*, Book VI, he intends that one might punish them by a fine [756c-e]. At Venice they punish them by exile. (published text)

Two things: first, this sequence demonstrates that Montesquieu fully understood the difference between the *Republic* and the *Laws* as works. The confusion manifest in Book V, chapter 17, as frequently elsewhere, is intentional. So is the evidence in Book V, chapter 19 that one must pay attention to it. This change of mind about being obvious with respect to designating "book 22 of the laws" (a mirror for the "book X, Aristotle's *Politics*" and "book V, Xenophon's *Memorabilia*" at IV, 8), I surmise, is a caution based on wanting to avoid the impression, *à la* Aristotle, that the *Laws* repeats rather than completes the *Republic*.

Secondly, the elimination of the express and correct reference to the "préfecture du marché" constitutes a more subtle as well as conscious collapsing of the *Laws* into the sense of a completion of the *Republic*, while avoiding to attribute by implication his own concern with commerce to Plato. These two notes, ultimately divided by two inconsequential notes from Roman jurisprudence, which were added to chapter 18, actually followed one another in the manuscript. In that sense, the last note would have "explained" the apparent "error" of the first, making the "livre 22" exact and intentional.

The manner in which philosophy and the philosopher are subjected to the rule of law in the *Laws* became for Montesquieu the model upon which <u>any</u> non-arbitrary foundation for human duties must be based. Any principle which would refer the authority of morality to the will of any one man or number of men would fail to fit this model. Modern political philosophy, therefore, in its social contract, achieved nothing more than the democratization and depreciation of the ancient standard.

To solve the problem of his time Montesquieu found it necessary to seek a sound basis for society, a notion of the common good, which could overcome the dichotomies between reason versus revelation, on the one hand, and natural law versus positive law on the other hand. That is the reason his teaching on republicanism is dependent on the terms of the "Preface" and Book 1, the teaching concerning natural laws.

---

The correct interpretation of the "Preface" and Book I leads to the recognition of the need to substitute for maxims derived from philosophy the full authority of reason and nature to the extent they are expressed through revelation and positive law. The latter two constitute the appropriate subject matter of political philosophy as the science of human movement. This science presupposes the end to which its subject matter points. It therefore rejects the formal, almost Cartesian, openness or skepticism, which is presupposed in the view that men may freely contract as they will. In this manner Montesquieu presents his refutation of Hobbes as serious and not merely prudential. It is based on a superior understanding of reason or philosophy.

Adequate authority for this interpretation of Montesquieu, beyond the sense of the text, is conferred by one of his manuscripts which is generally regarded as spurious. That is his *Essai Touchant les Loix Naturelles et la Distinction du Juste et de L'Injuste*. The essay is an explicit attempt to discover an authoritative notion of human duties as prior to all agreements.

The essay's over-all argument and form make it nothing less than the elucidation of the three kinds of law (Book I, *Spirit of the Laws*) governing man over and above the invariable laws of matter. Montesquieu presents those laws in summary form in Book I: Because man must move himself, with recourse to a reason subject to error, he may forget the motives of his motion, of which there are three: the creator, himself, and others. To these weaknesses there correspond divine, natural or self-interested, and social principles. These latter are enforced by "laws of religion" from God, "laws of morality" from philosophers, and "political and civil laws" from legislators.

According to the account in Book I, these "laws" are all attempts to overcome the self-forgetfulness which was described in the "Preface." In the essay the same point is emphasized by its form. It's easily divided into five identifiable sections, which constitute two distinct series of three: three manners of seeking natural laws and three manners of "discovering our duties." In the "True Manner of Seeking Natural Laws" we find the three kinds of maxims which constitute our three "laws" in Book I. But maxims, as the first, unidentified method of discovering nature's command proves, are liable to serious exceptions: the weightiest example is derived from Plato's *Republic* (possibly by way of Cicero's *de Officiis*, though not necessarily); that is, one can not return a weapon to a mad man, even if itis owed to him.

Maxims, therefore, must be converted into laws. But natural reason, which takes nothing more than individual interest as its point of departure, cannot achieve this conversion. The "second manner of finding (not seeking) natural laws" provides the means for accomplishing the conversion. It assumes that society is the end of man. By this it is enabled to produce law, for society would be unable to subsist without government. This last statement is repeated literally in Book I. In addition to the maxims of natural reason, the "true manner" reposes on the beneficence of God (partly because of the fallibility of reason). It therefore converts a philosophic or scientific system into something resembling Christian ethics. The utopian image produced by this conversion, however, is suspended amidst fears that, should men decline from this state, they will lapse into the worst brutalities (resembling Thucydides' description of sedition in Corcyra). The "second manner,"' however, has the means of perpetuating itself and is, besides, *approved* by God.

Had God not "approved" of the second manner," there is yet a "third manner of discovering our duties"—which is to say, a means of conveying to men the truths of reason independent of reason itself. The first, unidentified manner, "the state of the question," is that method which reposes on individual reason solely, and as such the positive maxims it produces strongly resemble the utilitarian principles to which modern philosophy already inclines. Montesquieu, therefore, has lined up his own method against its three chief competitors, revealing the strengths and weaknesses of each, ancient philosophy, Christianity, and modern skepticism.

Beginning with the distinctions between the good and evil, the just and unjust, virtue and vice, he ultimately defines them through successive accommodations. The lawful became the good and just, and virtue, as a result, the habit of law-abidingness. Hence, the efforts to derive the good and bad, the just and unjust, and virtue and vice are not to be imposed on every individual, while the notion of individual benefit shifts its focus from the "rights" of the opening to the "duties" of the close.

An original translation of Montesquieu's essay is appended to this article, to facilitate the analysis of the foregoing parsimonious interpretation. I justify the use of this essay by adding to the demonstrations of M. Xavier Vedere (Editions Nagel, Volume III) not only the fitness of the argument, but a surprising and long ignored confirmation of Montesquieu's probable authorship.

For more than a century commentators have had beneath their eyes a startling coincidence, the unlikelihood of which can have no better explanation than to argue for Montesquieu's authorship. I refer to the Nugent translation of the *Spirit of the Laws*, which actually repeats literal expressions from the essay that can not be found in the text of *L'Esprit des Lois*. One of two possibilities follow: either Nugent, who corresponded with Montesquieu, had a copy of the "Essay" manuscript itself or a version of *L'Esprit des Lois* which has not survived, or Nugent himself wrote the essay. While the latter would not be impossible, the essay's felicity of expression in French (its careful play on transitions between certain nouns and pronouns, for example) would suggest a native and accomplished writer. While Messrs. Shackleton and Brethe de la Gressaye find the essay's literary level beneath Montesquieu—and their arguments deserve respect—I imagine that it is possible they were swayed in their judgment by the unusual strength of God's role on the essay's surface. When one compares Montesquieu's essay to Newton's essay, however, it is clear that is insufficient reason to defeat the claim of Montesquieu's authorship. Rather, one must see God's presence in the light of what Thomas Simpson urges about Newton's development of a "Constitution" of modern science; "Newton's sense of mathematical physics, not as an autonomous endeavor, but as an instrument of philosophy and a means by which man might better understand himself and achieve his true purpose."[11] In this light, Montesquieu's aborted essay is an attempt at the modern "Ethics" which ought to have proceeded his "Politics," *L'Esprit des Lois.* Further, the fact that the definitive editors of *L'Esprit*, DeRathe and Brethe de la Gressaye, as well as editors of the Nugent translations (Carrithers most recently) and commentators specifically concerned with the issue of the essay (Pangle, Molière-Granpré, Rosso,Wolfe, *et. al*.) have in no case suggested variant readings of the texts, argues strongly that the correspondence between Nugent's version and the essay are founded in correspondence between himself and Montesquieu or a lost version of *L'Esprit* (which itself would support the authenticity of the essay).

What, therefore, has heretofore been taken as an example of Nugent's excess as a translator now looms as a product of his intimate familiarity with Montesquieu. The passage of concern to us comes from Book I, Chapter 2. There Montesquieu describes man in the condition prior to civil society:

> ... l'on a trouvé dans les forêts des homes sauvages; tout les fait fuir.
> [which Nugent translates:]
> ... as appears from instances of savages found in forests, *trembling at the motion of a leaf*, and flying from every shadow.

In the essay, departing from the assumption that man is a social animal, Montesquieu demonstrates his "natural weakness:"

> ... errant dans les bois, et tremblant au seul bruit d'une feuille...
> [which we translate:]

> ... wandering in the woods, and trembling at the simple noise of a leaf. . .

Therefore, until a stronger case can be made for regarding the essay as the work of a disciple (Shackleton), a case which accounts for the disciple, who would write in French, working not from the original text of his master, but from an English translation, students will do well to treat the essay as the work of Montesquieu. The effect of that conclusion is to sustain the foregoing argument about Montesquieu's manner of discovering man's duties.

Montesquieu's solution of the problem of his time bears implications for the problem of our time. What has sustained the perspective of pluralism is the notion that the foundations of society are arbitrary—a depreciation of the "evidentness" (*Essai*) of principles such as are enunciated in the *Declaration of Independence* and elucidated in the first paragraph of *Federalist Papers* number thirty-one. In that light, there can be no justification of the idea of a common good, whether by contract or otherwise. In his *Essai*, Montesquieu took that skepticism as a point of departure, and demonstrated that the evidentness of principles of morality is not the source of their authority. That evidentness was doubted only when men imagined the principles of morality to flow from the terms of the propositions about morality. For example, that God is good is thought to produce the good that is possible for men. Where, therefore, God's goodness cannot be demonstrated, the goodness of men is in doubt. Montesquieu insisted that it is rather the good that is necessary for men which demonstrates not God's goodness but the axiom that God is good. The good that is necessary for men shows up as the subject matter of reason—revelation and positive law. As Montesquieu might wonder, why should the philosopher lament that men move themselves thus? If that is what they do, and all that they do, that is what they must do. And the philosopher can inquire no further than whether they, or any of them, do it well. In this sense alone, and properly, may Montesquieu's system be called Newtonian, and that serves primarily to distinguish it from a Cartesian or Spinozan system. To say that man is a political animal is to say that he is born to wear the links of morality. Yet, every moral authority we can find in the modern world insists that man should be free. It is our problem to determine why it is that free men remain moral. The argument wears an uncanny resemblance to Newton's paradox: where man can arrive at an understanding of the cosmos independent of God, how can it be that man yet depends on understanding God to understand the cosmos?

W. B. Allen
Harvey Mudd College
Claremont, California 91711

---

[1] The other regimes we know are rather more distinctively large, and perhaps morally inept, than modern.

[2] Cf., *Crisis of the House Divided*, especially the "Introduction" of 1972.

[3] It suffices even if a different city exist only in theory.

[4] That is what might be called Tocqueville's worst case American scenario when, speaking to the "Real Advantages of American Society," he figures the modern options thus: "If, instead of acting in the heart of a brilliant society, it suffices for you to live amidst a prosperous society; if, at last, the main object of government is not, according to you to impart to the whole body of the nation the greatest strength or the greatest glory possible, but to obtain for each of the individuals of whom it is composed the greatest well-being and avoiding the greatest misery for them; then equalize conditions and establish democratic government. *But if there is no longer time to make a choice*, and should a force superior to the man al-

ready carry you along, without consulting your desires, towards one of the two governments, at least seek to derive from it all the good which it is possible to do; and understanding its good instincts, as well as its evil inclinations, commit yourself to restraining the effect of the latter and developing the former." Here, of course, Tocqueville speaks of the abstract choice between democracy and aristocracy. As to the American democrat, child of a government which can "*enfanter des merveilles*," he noted: "from the moment that the American would be reduced to occupying himself only with his own affairs, he would be ravished of the half of his existence, he effectively would feel an immense vacuum in his days, and he would become incredibly unhappy."

[5] In Aristotle, the fact of self-motion, above all growth, *physis*, is the deepest foundation of the distinction between natural and unnatural (violent) or freakish motion.

[6] Thomas K. Simpson, "Newton and the Liberal Arts," *The College*, January, 1976.

[7] Frequently, and often misleadingly, translated "tendency;" Newton gives the sense of "endeavor."

[8] This is also crucial for Aristotle. See *Physics*, 111, 4-8 and VI, I and 6-8.

[9] "Neither your murmuring doves, nor ivied branches, nor the conquering trumpets mouth."

[10] Montesquieu's own disagreements with Plato are revealed in the same series of footnotes. This series reveals why Montesquieu finds the philosopher-king unnecessary, in spite of recommending the *Republic*. Afterwards, until he discusses the coruption of governments, Montesquieu relies on Plato rather than Aristotle. And when Aristotle is re-introduced in Book VIII, ff., it is usually to stand corrected. Montesquieu obscured <u>his</u> disagreement with Plato, refusing to speak in his own name about the condemnation of selling offices in a republic (V, 19). Yet, Plato speaks of an oligarchy, not as Montesquieu suggests a republic (*Rep*., 55la-d): "But Plato spoke of a republic founded on virtue, and we speak of monarchy." <u>This</u> difference, then, is reducible to an agreement, on the surface. But when he next shows that nothing in the republic can be immune to the censor's correction, speaking in his own name, that surface agreement turns into a basic difference. Plato's *Republic* had been eventually corrupted into an oligarchy precisely because it failed to provide this correction. The guardians-become-less-wise are not necessary, according to Montesquieu.

This difference is especially brought out at the end of VI, 9, though only implicitly. Glaucon is wrong to ask if the guardians are happy (Socrates imputes). They may be unjust—cruel—at the same time that they are extremely happy, if they are governed essentially as slaves (cf., IV, 8). What must be questioned, however, is whether they *believe* the principles of their regime. Reversing *Republic* VII and VIII, Montesquieu holds that we can judge the nation from the individual souls—the condition of those souls with respect to the opinions to which they are attached. The ambiguity as to whom might be the man "exorbitantly favored by fortune" reproduces the *Republic*'s ambiguity, where the philosopher king is neither simply a tyrant (not simply the erotic man) nor simply a monarch (cf., VIII, 2). He makes use of this ambiguity as to the different possibilities of government by one man also to extend it to the other forms of government.

Hence, the search for wisdom is *replaced* by the search for the *sources* of the regnant morality. Thus, such expressions as "atrocious justice" become possible. In them the perspective of wisdom is saved at the same time the ground for legal positivism is laid—"everything that the law calls a penalty is *effectively* a penalty." The converse is true of justice. But this legal positivism clearly emerges in the context of a consideration of the necessary character of a morality as contrasted with the amoral rule of one man alone.

What was *singular* in the *Republic* was the fact that it eschewed the necessity for a regnant morality as *the* canon of taste for a ruler as well as subjects. This "oversight" is corrected in the *Laws*. The remark on Aristotle at the start of Book IV, chapter 8 makes sense. The *Laws* does not come, by degrees, back to the *Republic*, since that would require not only that philosophers rule but that they rule essentially by dictum—and with a contempt for the myth which, itself, becomes a regnant morality, the standard of justice. Cf., VIII, 2, where corruption of the republic spells the end of "morals, love of order, and finally virtue" but not of wisdom, as in the *Republic*.

Montesquieu considers the philosophers to have been civilized in the *Laws*. Insofar as that was Aristotle's entire objective in his political writings, he does not disagree with Montesquieu's Plato.

[11] Simpson, "Newton and the Liberal Arts," *The College*, January, 1976.