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**Modern Virtue, the Pursuit of Liberty, and the Work of Self-
government in *The Spirit of the Laws***

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Abstract

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In *The Spirit of the Laws*, Montesquieu distinguishes between governing regimes and positive law based on principles that emerge from relationships within the actual world and laws based on prejudices or ignorance which encourages one group to exert political power adverse to others. The reduction of the influence of prejudice becomes a central component of Montesquieu's political theory. It requires the promotion of moderation and political liberty and becomes the central work of the legislator in "free and moderate" or self-governing states. Montesquieu's conception of moderation and liberty requires him to develop a conception of liberalism in contrast to the approaches of both the ancient republics of singular institutions and the modern political theorists, Machiavelli and Hobbes. Both the ancient and modern conceptions of liberalism rely on a version of prejudice-inspired regimes that are inappropriate to modern self-government. The English Constitution provides the best practical example of a "free and moderate

state” that can aspire to political greatness. England promotes political liberty in its two forms through the separation of powers and political partisanship, while it encourages moderation by the prudent harnessing of England’s “mores, manners, and received examples” in the form of religion, commerce, and politics (XIX, 27). The English Constitution demonstrates the difficulty of reducing prejudices for other states, and highlights Montesquieu’s ambivalence regarding man’s potential to govern himself given the constraints upon him.

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In the *Spirit of the Laws*, Montesquieu evaluates all the variables one must take into account in order to live within a “free and moderate” or self-governing regime. As he shows in his Preface, first among these considerations is an understanding of the principles that cause a particular regime to act and those prejudices, which threaten the “unity of understanding and feeling” necessary to some extent in all constitutional orders. Instructing rulers in reducing their prejudices and in understanding their regime’s principles becomes the central task of Montesquieu’s political theory. He accomplishes this goal primarily by demonstrating the inadequacy of both the ancient republics of singular institutions and the prevailing modern political philosophies of Machiavelli and Hobbes. Neither the ancients nor the moderns provide human beings with an effective model for governing himself in the modern world because both rest on a rejection of the central passion of the modern republic, which Montesquieu defines as political liberty. His analysis of both the ancient and modern insufficiencies compels him to offer an alternative vision of liberalism in which self-government is possible if not probable for most human beings. The English constitution is not an example of the best regime, but rather as the most free and most moderate state currently existing in the modern world. Only through an evaluation of the English constitution can Montesquieu instruct legislators the extent to which they ought to harness the motives, mores, and manners of their regimes in an effort to make their political orders more moderate and free despite the deterministic constraints placed upon them.

In Preface to *The Spirit of the Laws*, Montesquieu contrasts two standards for governing regimes and subsequent lawmaking, which he identifies in terms of principles

that emerge from “the nature” of and the “relations between” things and prejudices, which depend on the “fantasies” of people and magistrates. Principles are the concepts or ideas that inspire individuals and regimes to act; they emerge from a “unity of feeling and understanding” that men within specific constitutional orders possess and result in the particular duties, obligations, customs, and character of regimes and peoples (I,1). In contrast, prejudice is a form of ignorance “which causes one not to know certain things, but which causes one not to know himself.” It is ignorance that emerges when one’s “mind aligns itself entirely on one side and abandons every other” (Preface). Thinking or reasoning becomes impossible as man’s love of self replaces his duties to “God, himself, and others,” obscures the regime’s conception of justice and the common good, and reduces the impact of the motive force or principle of regime’s constitution over his own action.¹ Prejudice works to grant a faction in a state the excuse to exert its power over others and privilege its interest in law.²

Montesquieu’s political theory strives toward reducing the influence of prejudice over law in order to make self-government possible for modern man. To do so, Montesquieu teaches the rulers and the ruled, not how to be good men or even good citizens,³ but how to be more moderate and more free despite the constraints of their

¹ Montesquieu distinguishes between the nature or structure of regimes, which there are three: republics, monarchies, and despotisms, and its principles, passions, or human impulse that compel a government to act. Political virtue or “love of the fatherland” is the principle in a republic; honor, in a monarchy; and fear, in a despotism (III). Political liberty is one of the two principles (the other is left to the reader to identify) in the English republic (XI).

² For a fuller discussion of prejudice in terms of political power, see William B. Allen’s “Montesquieu’s Manner of discovering Man’s duties”, p 9.

³ This is particularly true for citizens living under despotism. Instead of teaching them to be good slaves, he informs them in methods to mitigate the worst effects of a despot. Montesquieu seeks to give “new reasons

current political and physical circumstances. As Montesquieu affirms, he would “believe [himself] to be the happiest of mortals” if it could be arranged that man would “cure his prejudices” so that “men could practice that general virtue which comprises the love of all.” The reduction of prejudice requires a vision of liberalism in which moderation is a general virtue and political liberty is a necessary principle (Book XI).

Montesquieu’s distinction between positive laws founded on principles with those cementing prejudices compels him to develop a formulation of liberalism divergent from the ancient republicans and modern political theorists, especially Machiavelli and Hobbes. In Montesquieu’s vision, the ancient republics of singular institutions and Machiavellian and Hobbesian political philosophies rests on differing conceptions of prejudice, which are both detrimental to the moderation and political liberty essential for self-government in the modern world. The ancient striving for the good of the polis demands small republics that can neither defend themselves, nor achieve human excellence without immense and absurd costs to the individual’s wellbeing⁴ (Books IV, V). While the ancient republican prejudices at least produce good effects, the ignorance of Machiavellian and Hobbesian political theory advances the desire for power without limits in the forms of glory and reputation and material security, respectively. While Montesquieu’s liberalism of moderation remains distinct from both ancient and modern conceptions, its cultivation in most states will not occur easily, if at all. In fact,

to love one’s country,” which seems to mean not simply that citizen’s understand their country’s principal motivations but so they can act to make their nation more “moderate and free” despite their natural and conventional constraints upon them.

⁴ Montesquieu defines political liberty relation to the citizen in terms of the citizen’s opinion of his own safety (XII, II).

Montesquieu advises that only “those who are happily enough born to penetrate in a stroke of genius the entire constitution of a state” ought to propose changes (Preface). To move their states toward more moderation and increasing liberty becomes the central work of the wise legislator.

This opening discussion of prejudice and principle, ignorance and enlightenment suggests the central task for Montesquieu’s readers and the core work for legislators in modern, liberal states depends on their ability to think or reason: one will “sense” the “many truths” and “certainty of the principles” only after one “reflect[s] on the details” (Preface). To think or to reason is necessary for the discovery of a constitution’s principles and the promotion of political liberty, which becomes the principal aim of the modern republic.⁵ Montesquieu defines political liberty in two ways: first, in regards to the constitution, liberty is the citizen’s ability “to do that which the laws permit” and not to be “coerced to do things which the law does not require of him and not to do things which the law permits him to do” (XI, 4). In relation to the citizen, liberty is the “tranquility of mind arising from one’s opinion of his own security” (XII, 2). Political

⁵ At the end of Book XI, Montesquieu leaves the reader “to think” about “the degrees of liberty” achieved through various versions of the separation of powers in moderate states. In his chapter evaluating the character, manners, and mores of the English people, Montesquieu affirms: “In a free nation it is more often indifferent whether individuals reason well or ill. It suffices that they reason. Liberty, which guarantees the effects of these same reasonings, derives from this.” (XIX, 27). Incidentally, this passage parallels his statement in the Preface: “It is not indifferent whether the people should be enlightened. The prejudices of the magistrates have originated by being the prejudices of the nation. During a time of ignorance one has not the least doubt, even when one commits the greatest evils; in a time of enlightenment, one trembles still when one is doing the greatest good things. One feels ancient abuses; one sees the correction of them. But one sees also the abuses in the correction itself. One allows evil if one fears worse; one leaves the good if one is doubtful about the better. One looks at the parts only to judge the whole; one investigates all the causes in order to see the effects” (Preface). Only the legislators have the capacity to reason well, thus they are charged with encouraging the enlightenment of their citizens by perfecting their imperfect attempts to reason and harnessing their passions in a manner that promotes political liberty.

liberty, in the first sense, arises from the fundamental laws of the constitution and is ensured by the separation of the judging, executive, and legislative powers between the hereditary orders. Liberty in relation to the citizen depends on “the mores, manners, and received examples” of the civil society; it is strengthened not through constitutional forms but through the citizen’s experience of engaging in political and private life free from undue or illegitimate coercion. Like this latter form of political liberty, moderation as a modern virtue emerges out of the customs and habits of citizens rather than constitutional structures.

The English nation operating under the free constitution functions as the best real world example of a government able to reduce the influence of prejudice while promoting moderation and safeguarding political liberty (XIX, 27). It does so by limiting the coercive use of political power through constitutional formalisms and by directing the English people’s natural character, spirit, and passions through religion, commerce, and politics. Appearing most readily in the “works of the mind,” the English character remains the people’s ability to think and reason freely. The ability to reason is essential to a self-governing regime, but is both a virtue and a vice for the English people. According to Montesquieu, reasoning causes England’s liberty to arise regardless of whether the people reason well, while it encourages men to become “absorbed in their own humors” and to seem “alone” while living among many. The citizen, a stranger in his land, becomes most fearful at the moment he is most secure (XIX, 27). To be “moderate and free,” a

constitution ought to operate according to the people's character. By employing religion, commerce, and politics, the English legislators were able to craft a constitutional system that relied upon the people's natural character as well as the nation's climate, and political circumstance. The Free Constitution, although reasonably successful, is not universally realizable, yet it provides a model of modern political life in which human beings are capable of some determination of their own destiny. While the majority of men will never live under a free and moderate state, the English constitution provides a more realistic model for potential of modern life than either of the visions offered by the ancients or the moderns.

Montesquieu and the Ancients

The ancient examples of piety and purpose are too stringent for modern man to emulate if he wants to ensure both political and civil liberty in society; in fact, Montesquieu argues, "When virtue had its strength there, [the ancients] did things which we no longer see today, and which would astonish our petty souls" (V, 4). In Books III, IV, and V of the *Spirit of the Laws*, Montesquieu evaluates how the Greek and Roman republics achieved such great expressions of moral and political virtue in their citizens. He affirms that the republics of antiquity relied on political virtue defined as "love of the fatherland" as the principle or motive force for their constitutions. The Greeks, for example, cultivated singular institutions and a particular, coherent, and multifaceted education in order to shape the morals and manners of their citizenry towards ends conducive to the city's flourishing. By subordinating the individual's appetites and desires to the ends of the

community, the Greek cities sought not only to ensure their survival but also to foster the individual's happiness through his participation in political life. Self-government, defined as direct deliberative participation—or, in the words of Aristotle, the practice of ruling and being ruled finely⁶—became the highest purpose for the citizen because he was able to contemplate and act upon questions regarding human justice. By fostering within each citizen a “love of country, the desire for true glory, self-renunciation, the sacrifice of one's dearest interests, and all those heroic virtues which we discover among the ancients and of which we have only heard accounts,” these republics were able to engender great instances of sacrifice and effort on the part of their citizens for the sake of their communities and ultimately themselves (III, 5). Armies were raised and wars won; temples were built and gods honored; works of intellectual, moral, and political philosophy were written and knowledge obtained, yet Montesquieu asks us to consider all these ancient examples not only in light of what they achieved but also in respect to the cost they imposed on their citizens' sense of wellbeing.⁷

While he never detracts from the greatness of ancient achievements, Montesquieu asks whether one can truly practice virtue without political and civil liberty. In one sense, the ancient examples prove that certain societies can force their citizens to be virtuous without being free; but to do so, Montesquieu argues, these societies would need “the

⁶ Aristotle. *Politics*, 1277a25; For a fuller discussion of Aristotle's influence on Montesquieu's understanding of the ancient republics, see Thomas Pangle's *Montesquieu's Philosophy of Liberalism*, in particular his chapter on Participatory Republicanism, pp. 48-106.

⁷ In Book XII, Montesquieu defines political liberty as the opinion a citizen has of his own security.

extent of genius that was required in those legislators, in order to notice that, by shocking every received usage, by confusing all the virtues, they could display their wisdom to the universe.” To pursue virtue without liberty demands legislators like Lycurgus, who “gave stability to his town, mixing larceny with the spirit of justice, the severest slavery with extreme liberty, and the most monstrous feelings with the greatest moderation. He seemed to eliminate her every resource — arts, commerce, money, and city-walls. There they have ambition without hope to be better. There they have natural feelings, [while] one is neither child nor husband, nor father. Even decency was eliminated from chastity” (IV, 6). While the virtues pursued in antiquity achieved wondrous results by all accounts, they were not as pure, as noble, or even as virtuous as the ancients would have one believe. Moreover, Montesquieu argues that the ancient polities required certain specific characteristics for these laws and morals to have effect on their peoples, which modern nations would be loathe to emulate. The small size of these republics left them vulnerable to their larger, despotic neighbors (Books IX and X). Since wars had to be fought for their cities to survive, these communities utilized “exercises [which] excited only a single class of passions in them: rudeness, anger, and cruelty.” Commerce as well as other arts and crafts had to be stigmatized so that the cities could ensure their people possessed a warrior’s commitment to their security; and music became necessary to “cause a soul to feel gentleness, pity, affection, and sweet pleasure” as a way to make men suitable for civic life (IV, 8). Luxury was obscured in order to pursue equality above all else so that

life for most citizens remained hard and joyless, yet potentially fulfilled through their contribution to the good of their political community.

Montesquieu and the Moderns

While the ancient pursuit of virtue without political and civil liberty is problematic, the modern quest for freedom without regard to virtue is dangerous. One of Montesquieu's contributions to modernity is to make room within liberalism for virtue and morality by combating the amoral relativism of those who seek to reduce politics to the pursuit of power or preservation simply. Montesquieu understands that the prevailing modern solution—that is, the Machiavellian and Hobbesian formulations of man and politics—cannot move humanity toward freedom because by abjuring moral and political virtue; it reduces liberalism to nothing other than a refashioned despotism:⁸

Greek statesmen who lived under popular government recognized no other force than virtue as capable of preserving it. Contemporary statesmen speak to us only of manufactures, commerce, finances, wealth, and even luxury. When that virtue disappears ambition enters the hearts capable of receiving it and avarice enters every heart. Desires change objects. What folk loved previously they no longer love. They were free with laws; they long to be free against the laws. Each citizen is like a slave who has escaped his master's home. What was a maxim, they call rigor. What was a rule, they call restraint. What was attentiveness, they call fear. Frugality there is avarice, rather than the desire for possession. Before, individual property constituted the public treasury. But now the public treasury becomes the patrimony of individuals. The republic is a source of spoils, and its strength no more than the power of a few citizens and the license of all (III, 3).

⁸ For a greater discussion of the theme of despotism, in particular Montesquieu's usage in contrast to ancient and modern thinkers, see Diana J. Schaub's second chapter "Montesquieu's Untraditional Despotism" in her work, *Erotic Liberalism: Women and Revolution in Montesquieu's Persian Letters*, (19-39); Harvey C. Mansfield, Jr's discussion in his chapter "Moderating the Executive" in *Taming the Prince: The Ambivalence of Executive Power*, (213-246).

Montesquieu remains a partisan of liberalism, yet he seeks to mollify its more extreme tendencies by subjecting it to the limitations inherent within his novel definition of liberty and his reformulation of modern political and moral virtue as moderation. By presenting a vision of human nature that is both flexible, yet subject to natural laws, Montesquieu uncovers a human being that is best depicted by Tocqueville's statement at the closing of *Democracy in America*, where he affirms: "Providence has not created the human race either entirely independent or perfectly slave. It traces, it is true, a fatal circle around each man that he cannot leave; but within its vast limits man is powerful and free; so too with peoples."⁹ Montesquieu challenges his reader to understand the full breadth of man's power is not simply to overcome his limits, but to choose to govern himself in spite of the very real constraints placed upon him.

The advocates of modern liberalism advanced an unrealistic account of human nature, while they lacked a clear understanding of what liberty is and the requirements for its emergence. When they denied the existence of a *Summum Bonum*, they rejected the view that human action ought to conform to certain immutable standards or laws in order to advance freedom and promote justice. In Montesquieu's estimation, these critics forgot that "Before any laws might have been made there were possible relationships of justice. To say that there is nothing of justice or injustice other than what positive law ordains is to say that, before someone might have traced [drawn] a

⁹ Tocqueville, *Democracy in America*, 676.

circle, the radii were not all equal” (I, 1). By refusing “to admit [that] some relationships of equity [existed] prior to the positive law that establishes them,” these modern liberals embraced an absurd relativism that obscured man’s natural place, purpose, and potential.

Montesquieu challenges these moderns directly by repudiating their reduction of politics to power when he states, “Political liberty is found only under moderate governments. But it is not always in moderate states. Liberty is there only when they do not abuse power. But it is an eternal experience that every man who holds some power is inclined to abuse it. He carries it to the point at which he finds limits. Who could say it! Virtue itself needs some limits” (XI, 4). Modern liberals, particularly Machiavelli and his adherents, either failed to recognize—or more likely, they understood and manipulated—the link between liberty and legitimate, reasonable constraints on both political power and individual autonomy. Virtue itself needs limits because it is often manipulated by prejudice and abused for the sake of political power. By reducing the classical and Christian virtues to *virtú*, Machiavelli makes the virtues immoderate in a way distinctive from the immoderation seen in the ancient republics. Under the ancient republics, the virtuous man lives a harsh life full of self-sacrifice for its own sake; moral and intellectual excellence equals happiness. In contrast, Machiavelli divorced modern virtue from ends of the good or the noble; while virtue is no longer a renunciation of self, its purpose became arbitrarily dependent on its utility to the advancement of the prince’s power. While Machiavelli had made virtue limitless and thus meaningless, Montesquieu reconceived

virtue as moderation or necessary constraint. Power and liberty are useful to political life in so far as they both are understood in terms of limitations.¹⁰

Montesquieu's insistence on the need to limit virtue is also an admission that political virtue or patriotism as understood by the ancient republicans and Machiavelli's prince remains a problematic principle for modern regimes. Political virtue demands the unleashing of *thumos* or "love of one's own" in such a way that if conditioned by a single-minded, coercive education can lead to actions of political greatness. For all virtues emerge as a consequence of political virtue, he states, "One may define this virtue: the love of the laws and of the fatherland. That love, insisting upon a consistent preference of public interest over one's own, yields all the individual virtues. They are nothing but that preference" (V, 5). While this education existed in the ancient republics, Montesquieu asserts that the modern education is filled with tensions between the obligations imparted by the "education of the world" and those demanded by the Christian religion (V, 4). While this conflicted education makes it impossible for modern man to embrace the self-renunciation necessary for political virtue, it encourages him to submit to a level of self-restraint essential to comply with Christian moral teaching. The noble is not found in political life, but in Divine salvation.

Machiavelli complicates the modern education by jettisoning the obligations imparted by both the ancient singular institutions and the Christian religion. Machiavelli's

¹⁰ Montesquieu discusses the need to limit or check power and with respect to liberty in his distinction between freedom and independence in Book XI

critique of Christianity frees man's basest tendencies from their most basic societal constraints while denying any appropriate alternative except force and aggression. He reverses, the limit that the regime's principle places on the individual passions or prejudices. As Montesquieu affirms, "The less we are able to satisfy our individual passions, the more we give ourselves to the general" (V, 2). Individual passions, freed from limitations or constraints, become the source of prejudices that infect modern man. Love of self, unconditioned by Christian morality or self-renunciation, translates glory and self-aggrandizement into justice. In his effort to liberate man from his enslavement to the principles of the so-called imaginary republics, Machiavelli denies that justice as a natural standard exists, and even if it does, that it could assuage the real weaknesses inherent in human nature. Instead of utilizing religion, philosophy, and law to fulfill human potential by reminding man of his specific duties and obligations to God, himself, and his fellow citizens—that is, to know the good through reason¹¹—Machiavelli subverts all three so that the cunning and the ambitious (or as Strauss argues, the evil) can obtain political power.¹² As he states in *The Prince*, "You ought to know, then, that there are two kinds of fighting: one with the laws, the other with force. The first one is proper

¹¹ "The general political law...aims at that human wisdom [which] has founded all societies" seems to be how Montesquieu defines the good or the end of politics. The full expression, then of politics is the power to discern freely what ends a particular regime will pursue (XXVI, 1). This means then that there are possibly several different goods, which any particular regime or different regimes will pursue depending on what those legislators decide through political laws. See also XXVI, 2 where Montesquieu distinguishes between the good or goods pursued by human law and the best pursued by religion.

¹² As Montesquieu makes clear in Book 1, religion, philosophy, and law all are derive from reason: "There is therefore a primitive reason; and the laws are the relationships which are found between it and the different beings and the relationships of these diverse beings among themselves..." See Leo Strauss's *Thoughts on Machiavelli* (p.11).

to man; the second to the beasts, but because the first proves many times to be insufficient, one needs must resort to the second. Therefore it is necessary for a prince to know well how to use the beast and the man.”¹³ Machiavelli’s reliance on the violence of the beast rather than the reason (or at the very least, the passion) of the man to resolve questions of ordinary politics becomes the focus of Montesquieu’s criticism against him and remains at the crux of his alternative vision of liberalism.

By redefining virtue in terms of limits or moderation, Montesquieu is able to tie it to human duties. A realistic appreciation of humanity requires that one acknowledge that man is flawed and unable to overcome certain deficiencies without extraordinary volition, reason, or effort. And even then, he will often fall short in his endeavors. The problem, as Montesquieu understands it, is that human beings are human; they need authority—be it divine, natural, or governmental—to direct and encourage their efforts toward fulfilling the better, nobler prospects within their nature. Yet, the necessity for authority ought not to translate into a requirement for political coercion, nor need it demand denial of the self. As he informs us at the beginning of his work:¹⁴

Man, as a physical being, is, as well as other bodies, governed by invariable laws. As an intelligent being, he ceaselessly violates the laws that god has established and changes those he established himself. It is

¹³ Machiavelli, *The Prince*. 107

¹⁴ For a contrasting account of Montesquieu’s claims in human nature, see Pangle’s account in *Montesquieu’s Philosophy of Liberalism*. Pangle presents a portrait of Montesquieu’s political philosophy that remains much more indebted to Hobbes’s argument than I am attempting to suggest here. Montesquieu is indebted to Hobbes’ earlier theory. However, from Montesquieu’s perspective, Hobbes misses the point. While man wants to feel secure and be safe, he also yearns for some real authority over his own life. Moreover, as Montesquieu informs his reader, security rests simply on one’s opinion and requires that citizens not fear one another (XI, 6). Since citizens fear the potentially arbitrary actions of the sovereign in his theory, Hobbes’s political science promotes the insecurity of despotism.

required that he should conduct himself, and still he is a limited being. He is subject to ignorance and error, like all finite intelligences. The weak understandings he has, he loses yet. As a feeling creature, he becomes subject to a thousand passions. Such a being could at any moment forget his creator. God has reminded him of his creator by the laws of religion. - Such a being could at any moment forget himself. Philosophers have warned him by the laws of morality. Made to live in society, he could forget the others there. Legislators have subjected him to his duties by political and civil laws (I, 1).

Modern political theorists, especially Machiavelli and Hobbes, lose sight of man's infallibility and mischaracterize his weakness.

Montesquieu presents three separate criticisms of Machiavelli. First, he argues:

Machiavelli attributes the loss of Florence's liberty to the fact that the people did not judge as a body the crimes of *lèse-majesté* committed against themselves, as they did at Rome. There were eight judges established for that. "But," Machiavelli said, "few are corrupted by few." I could well adopt the maxim of this great man. But, since in these cases the political interest impinges, so to speak, on the civil interest (for it is always inconvenient that the people should judge their own offenses), in order to remedy this it is necessary that the laws, as far as they may, provide for the safety of individuals (VI, 5)

Montesquieu introduces the "safety of individuals," which he defines in Book XII as liberty in relation to the citizen, as the standard that the laws ought to promote in order to prevent despotism. When the sovereign, who in the case of a republic is the people, can judge with impunity in cases to which it is party, the liberty of the individual citizen is at risk from the people's potentially arbitrary judgments in the majority's favor. Madison and Tocqueville would later refer to this danger as the tyranny of the majority. Even before he introduces the modern conception of political and civil liberty in Books XI and XII, Montesquieu acknowledges that law is required to limit the sovereign's ability to

deny the individual's security unjustly. Montesquieu seeks to restore the prince's nobility and legitimacy while relegating Machiavellianism to the domain of the despot. As he informs us in Book II of the *Spirit of the Laws*, "monarchy is that in which a single person governs, but by fixed and established laws instead of, [as] in despotic government, a single person without law and rule overbears all by his will and his caprices" (1).

Montesquieu's core divergence from Machiavelli is a formulation of political power and authority that rests not on the preservation of the prince or the advancement of his glory, but relies upon the reason of both the ruler—namely, the legislator—and the ruled—or the republican citizen, indirectly through elections and representation—to discern what is best for themselves as citizens and their political community as a whole. Law, then, becomes the expression and execution of this discernment. While Montesquieu moves closer to Aristotle, his conception of the city's good is not teleological as it is for the Greek philosopher. Instead, many ends for the city exist; those who possess sovereign authority make decisions about the ends of a particular regime independently of any standard that nature might proscribe.¹⁵

Urging moderation as a corrective to Machiavelli's influence, Montesquieu states, "Folk have begun to cure themselves of machiavellianism, and they will cure themselves

¹⁵ This does not mean that nature does not impact the goods a city chooses to pursue; it is just not determinative of the ends of man or the political community. As Montesquieu makes clear when he states, "The climate's empire is the first of all empires" (XIX, 14). Circumstances, including natural ones, such as climate and terrain, influence both the types of people in a nation and its government, but these are not determinative. Their effects can be countered with good laws that promote good morals and customs.

daily. More moderation in counsel is required. What folk heretofore called coups-d'état, today, would only be certain imprudences, independently of the horror. And it is fortunate for men to be in a situation in which, while their passions inspire in them the thought of being wicked, they nevertheless have the interest not to be so" (XXI, 20). Noticeably, he does not advocate the ancient solution of subjugating the individual's passions to the city's good; instead, Montesquieu believes that free citizens will actually choose not to act on their internal yearnings out of their own interest in and understanding of their wellbeing. While Montesquieu does not advocate a teleological standard of justice or the good for men and their political regimes, the individual's pursuit of self-interest within appropriate legal restraints provides for that effect in a free society. Montesquieu undermines the Machiavellian prince's desire for personal political rule with his emphasis on self-government. A free citizen is a self-governing citizen in Montesquieu's regime. He would either be able to rule directly by serving in the legislature or he could participate in political life by attempting to exercise his reasoning function, and thus his liberty, through speech and conversation in support of one of the two principal political parties operating under Montesquieu's free Constitution (XIX, 27). The free and ambitious citizen would not have to found a new nation or create a new science of politics in order to possess political power if his objective is liberty rather than personal avarice, glory, and despotism.

In essence, Montesquieu challenges Machiavelli's statement concerning the vulgar

many and the knowledgeable few:

For men, universally, judge more by eyes than by the hands, because it is given to everyone that they see, but to few that they can touch. Everyone sees what you seem to be, but few touch what you are, and those few will not dare to oppose themselves to the opinion of the many who have the majesty of the state defending them. And with respect to all human actions, and especially those of princes where there is no judge to whom to appeal, one looks to the end. Let a prince then win and maintain the state—the means will always be judged honorable and will be praised by everyone; for the vulgar are always taken in by the appearance and the outcome of a thing, and in this world there is no one but the vulgar. The few have no place but the many have a great number of places upon which they may perch.¹⁶

As his discussion of the judging power in Book XI and XIX makes clear, Montesquieu does not see the people as vulgar dupes; rather, he views them as the only legitimate source of sovereign authority and the protectors of their own liberties through the jury system as well as through vigorous political judging by choosing representatives through elections.¹⁷ By trusting the people with real power over their government, Montesquieu shocks the illiberal and anti-republican initiators of modern liberalism.

Finally, Montesquieu criticizes Machiavelli in his broader discussion of the legislator. He states:

Aristotle wished to satisfy, to some extent his jealousy of Plato, to some extent his passion for Alexander. Plato was indignant about the Athenian people's tyranny. Machiavelli was full of his idol, Duke Valentino. Thomas More, who spoke rather of what had read than of what he had thought, wished to govern every state with the simplicity of a Greek town (x). Harrington only saw the republic of England, whereas a mob of

¹⁶ Machiavelli, *Prince*, 109

¹⁷ See below for a further elaboration of this theme in XIX, 27. Montesquieu develops the theme of the citizen's judging power within juries in XI, 6 and through electing representatives in Book II.

writers found disorder everywhere that they did not see any crown. The laws always encounter the passions and the prejudices of the legislator. Sometimes they sieve through, and take on the tint; sometimes they remain there and become incorporated with them (XXIX, 19).

While Montesquieu titles this chapter, “On Legislators,” he discusses thinkers who fall just as easily into the category of theoretical founders. Moreover, Montesquieu presents each of these thinkers, not as noble, and altruistic philosophers who seek to use reason to discover the light of truth or the best regime, but as selfish and passion-driven politicians whose regimes stem from their unique prejudices. In a sense, Montesquieu implies that all these founder-legislators operate from motives as duplicitous—or as human—as Machiavelli does, but he is simply more forthright regarding the intentions underscoring his politics.¹⁸ One must ponder, what exactly Montesquieu is telling his readers in this strange chapter, and what its implications are for deliberative constitution drafting and lawmaking.

Montesquieu’s use of these illustrious thinkers demonstrates his conviction that men cannot truly free themselves from their prejudices. Human beings can simply become aware of their ignorance and seek to reduce its influence over the law by designing constitutional and mediating structures such as those operating in the English Constitution (XI, 6 and XIX, 27). One reason that Montesquieu spends so much time and effort analyzing the histories of antiquity, why he says “we can never leave the Romans”, is because they serve to remind modern man of the full potential of humanity if

¹⁸ See Strauss, *Thoughts on Machiavelli*, especially chapter 1 (p. 9-15)

conditions and societies were such to force human beings toward continual striving for a public goal or a public good (XI, 13). Within certain limits due to divine, natural, and positive laws, man is capable of much, once his nature and his potential are revealed to him. However, Montesquieu realizes that man's prejudices "make him forget himself"; they obscure who he is and what he can do as an individual and within a committed political society (preface). By contrasting his view of political life in the English republic with the vision of politics in the ancient polities, Montesquieu hopes to make human greatness possible for modern man, while simultaneously avoiding the damaging abuses of Machiavellian and Hobbesian despotism. The ancient examples are not simply the bygone glories of a distant, better, or more enlightened age; they are something that human beings can replicate and improve upon in the current era because modernity has something that the ancients never truly possessed: the dynamism of political and civil liberty.

Montesquieu seeks to remind his audience of something the ancients in their pursuit of excellence understood and the moderns in their quest for pleasure deny—that is, how much effort it takes to enjoy a good human life within a moderate and free society. Throughout his book, Montesquieu writes as if to prepare his reader for the challenge, the work, and the effort ahead. Nothing for Montesquieu appears easy, except of course, for despotism. Montesquieu believes he has uncovered the conditions and variables which one must account for if one hopes to solve man's fundamental political problem—the same problem that Publius raises at the onset of *The Federalist Papers* when he states: "It

has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.”¹⁹ Through his investigation, Montesquieu asks his reader to consider what humanity would need to know about itself universally as men and in particular as individual peoples if human beings hope to preserve good government through reflection and choice. While the purpose of this paper is not to account for all the various facets within Montesquieu’s complex work, it is my intention to assert that Montesquieu accomplishes his great task more generally by denying the usefulness of either of the ancient or modern approaches to disentangling, what for Publius is the problem of founding, and what Montesquieu constitutes, as the problem of legislating. Resolving this basic political dilemma demands combing virtue with human freedom in order to establish the foundation on which self-government might be a possibility for human society.

One might consider Montesquieu arrogant or naïve to think that he possesses a solution to man’s most intrinsic political dilemma that neither the ancient philosophers nor the modern theorists quite obtained, but he denies that there is some sort of universal formula which all peoples can utilize to resolve their most problematic political question.

¹⁹ Federalist no.1. There is an obvious difference between Publius and Montesquieu’s respective formulations of the political problem. Publius remains concerned with founding, and Montesquieu with legislating. However, since the problem of founding quickly gives way to the problem of prejudice-free legislation, ultimately the central difficulty remains the same.

Montesquieu's formulation recognizes three universal elements: (1) all human societies are plagued by this problem; (2) it will take tremendous striving to found and safeguard a political order that is both free in regard to its constitution and in relation to its citizens, while accounting for the particularities of various peoples, places, and situations. After all, he informs us: "It will possibly occur that the constitution will be free, while the citizen will not. The citizen will possibly be free, while the constitution will not" (XII, 1). And (3) Self-government is the most full expression of human liberty, but it is often obscured by man's prejudices. Ultimately, Montesquieu leaves it to the reader to recognize that the prospects for an adequate resolution of dilemma of self-government are not probable for the majority of mankind.

Continuing his critique of modern liberalism, Montesquieu directly challenges Hobbes's conception of human nature by attacking his justification for the state of nature. As Montesquieu notes, "But [Hobbes] does not sense that he attributes to men before the establishment of societies that which can only come about after that founding, which causes them to discover motives for attacking one another and defending themselves" (I, 2). By criticizing Hobbes's view of natural man as engaged in a "war of all against all," Montesquieu undermines the basis for his conception of an absolutist government; a timid man does not need to abandon his natural liberty to an all-powerful Leviathan in order to escape the hostility of the state of nature if the natural world is not in fact warlike. The Hobbesian foundation of political life in man's quest for his preservation, his interests,

and his comfort is not legitimate. According to Montesquieu, Hobbes misunderstands the origin of man's desire for security and how human beings can actually achieve it. Since war occurs between societies, security becomes a concern for citizens.

Montesquieu's conception that one of the goods pursued by man within political societies is security owes much to Hobbes's earlier political theory. However, he rejects the Hobbesian conception of the term. For Montesquieu, the citizen's security becomes the basis for one of his two conceptions of political liberty; he states, "Political liberty, to a citizen, is that tranquility of mind which arises from the opinion that each person holds about his safety. And, in order that one might possess that liberty, it is required that the government should be such that one citizen would not be liable to fear another citizen" (XI, 6). Like Hobbes, Montesquieu wants to remove man's fear; he wants them to live in peace, yet he understands that doing so can occur only within a political system of separated powers that protects individuals from a coercive government and from one another. The separation of the executive and the judging power is essential to reduce arbitrary and unjust governmental coercion.²⁰

When considering Hobbes and Montesquieu, one must ask the question: is Montesquieu repudiating Hobbesian political science or is Montesquieu simply a better political scientist on Hobbesian grounds than Hobbes himself? The answer seems to be the latter. If one considers Montesquieu's analysis of political experience on Hobbesian

grounds, one can discern why Montesquieu is able to reject many of Hobbes's most problematic claims. Like Hobbes, Montesquieu seeks to ground political science in something other than the opinions of man about right and wrong or justice and injustice.²¹ He affirms, "I have not drawn my principles from my prejudices but from the nature of things" (preface). Where Hobbes finds his new science at the "suitable starting point," that is, in a thought experiment about the nature of government formed by consent, Montesquieu rests his political science on the nature of man and states actually existing in the world.

For Montesquieu, it does not matter the conditions in which states or politics begin; rather, his concern is how legislators can correct their constitutions to move their polities toward political and civil liberty while accounting for the circumstances, customs, and natural spirit of their peoples. Montesquieu tells us that his political theory will be successful if it can arrange all of the following: (1) that "everyone would have new reasons in order to love their duties, their prince, their fatherland, their laws—that they would be better able to feel their happiness in each country, in each government, in each

²¹ See Hobbes *On the Citizen*, where he states: *For if the patterns of human actions were known with the same certainty as the relations of magnitude in figures, ambition and greed, whose power rests on the false opinions of the common people about right and wrong [jus et iniuria], would be disarmed, and the human race would enjoy such secure peace that (apart from the conflicts over space as the population grew) it seems unlikely that it would ever have to fight again. But as things are the war of the sword and the war of the pen is perpetual; there is no greater knowledge [scientia] of natural right and natural laws today than in the past; both parties in the dispute defend their right with the opinions of Philosophers...All these things are obvious signs that what Moral philosophers have written up to now has contributed nothing to the knowledge of truth; its appeal has not lain in enlightening the mind by in lending the influence of attractive and emotive language to hasty and emotive opinions (5).*

post in which one finds himself”; (2) “that they who command would increase their understandings about that which they must prescribe, and that they who obey would discover a new pleasure in obeying”; (3) “that men could cure themselves of their prejudices” (preface). Montesquieu’s goal is not simply to make citizens feel more secure, but to ensure that they are in fact more secure. Moreover, he desires not only to remove opinion as the basis for political science, but also to guarantee that the average citizen’s opinions about his own security are immaterial to the reality of his safety.

One’s opinion of his security becomes Montesquieu’s definition of civil liberty because only free citizens can possess an opinion about their security and act upon their sense of their own wellbeing to improve it regardless if they are correct in that estimation. In despotic states, such as under Hobbes’s Leviathan, individual citizens are always insecure; they are at the mercy of their sovereign’s arbitrary whims. His judgment, not law, determines their status in society. Montesquieu challenges the Hobbesian notion of security, because without some measure of political and civil liberty, it becomes nothing but a despotic farce.

Montesquieu and Self-Government—A Treatment of XIX, 27

To uncover his standard of self-government requires a fuller treatment of the contrasts between Montesquieu’s view of political and civil liberty and the modern perspective. Montesquieu denies that human freedom ought to be reduced to political and moral license because he maintains a conception of human nature, in which all human beings possess a specific reasoning capacity that ensures their ability to govern

themselves in the right political circumstances: “Since, in a free state, every man who is thought to have a free soul must be governed by himself” (XI, 6). The problem for most human beings is that they do not live in free states. For those who do, self-government becomes a moral duty to work toward and the purpose of political life. As Montesquieu affirms, “In a state—that is, in a society in which there are laws—liberty can only consist in being able to do that which one ought to wish and in not being coerced to do that which one ought not to wish” (XI, 3). The emphasis of “ought to wish” clearly connects with the task that politics and lawmaking perform in shaping the morals, manners, and customs of a free society. If the people possess any role in legislating, then they have a duty to ensure that good laws are crafted.²²

To comprehend how self-government emerges under Montesquieu’s constitution, one must investigate his theory of partisanship in Book XIX, 27. Beginning with the two visible powers of government—the executive and the legislature—that exist under his theory of separation of powers (XI, 6), Montesquieu proceeds to investigate how a free people might protect their liberties, their individual security, and their constitution itself. Montesquieu presents a two-fold conception of liberty: First, political freedom depends on the right constitution in which the executive power is separated from both the legislative authority and the judging function. The separation of powers, Montesquieu tells us, creates two opposing forces within a free society to which the average citizen

²² In a republic, the people’s duty is to “discern the merit” of their betters and elect them to the legislature. The onus of

allies his beliefs, his preferences, and his fortunes: “Since there would be in this state two visible powers, the legislative and executive authority, and since every citizen there would have his own will, and would profit from his independence as he pleases, most of the folk would have a greater affection for one of these authorities than for the other, usually not having sufficient equity nor sense to embrace both equally” (XIX, 27).²³ This affection for one party within the government occurs when each individual citizen connects his passions, opinions, and interests with those who will allow him the best prospects for profit. As V.O. Key, Jr’s observation about American voters holds for Montesquieu’s free citizens: they “are not fools,” but rather enter politics by making a rational consideration of their economic self-interest.²⁴ Like Hobbes, Montesquieu never denies that security—in particular, material prosperity—is vital to the citizen. In fact, Montesquieu defines liberty in relation to the citizen as “the safety—or, at least the opinion one holds about his safety” (XII, 1).

Since their interest is tied to one of the political parties and corresponding governing institution, the citizens living under the free constitution unleash their passions in defense of the party and the governing authority that will most benefit them. Active citizens become political partisans who challenge the opposing party while vigorously and relentlessly defending their own. And, as Montesquieu notes, the executive’s ability to dispose “of all posts, could give great hopes and never fears, all them that could profit

²³ See Sharon Krause’s “The Spirit of Separate Powers in Montesquieu” *The Review of Politics* The Review of Politics (2000), 62 : 231-265

²⁴ V. O Key *The Responsible Electorate*, p. 7

from it would be inclined to turn to that side, while it would be attacked by all them that would hope for nothing from it.” Politics, in Montesquieu’s free state, thrives on the passions each citizen feels for either of the two authorities within the government: “All passions there being free, hatred, desire, jealousy, and the ardor to enrich and distinguish oneself would be manifest in their entire extent.” In fact, as Montesquieu states in Book II, for free government to work, passion is essential:

Cabals are dangerous in a senate; it is dangerous in a body of nobles: it is not among the people, of whom the nature is to act by passion. In the states where the people have no part in the government, they will stir themselves up for an actor [just] as they would have done for the [public] business. The unhappiness of a republic is when there are cabals no longer. And that happens when one has corrupted the people with the price of silver. They become cold blooded. They give their affection to money, but they no longer but they no longer give their affection to [the public] business. Careless for the government and for whatever one proposes there, they peacefully await their wage.

The best man can do, as both the ancient and modern liberals understood, is to regulate them so that “reason alone”, as James Madison tells us, “...ought to control and regulate the government.”²⁵ By analyzing Book XIX, Ch 27, we will see that Montesquieu seeks to regulate passion by relying principally on equilibrium between two political parties allied with the two dominant powers in government.

Montesquieu affirms, “The hatred which could exist between the two parties would endure, because it would be impotent. The parties being made up of free men, if one prevailed excessively liberty’s effect would be that that one would be brought down while

²⁵ Federalist no. 49

the citizens, like the hands which shake a body, would come to raise up the other” (XIX, 27). Here, Montesquieu argues that partisanship functions to aid in the citizen’s liberty or opinion of his own security. By moving between the parties as his desires for profit dictate, the free citizen is able to act begins to develop a rudimentary conception of public opinion.²⁶ The hatred between the parties is impotent because all the passions are held in tension against each other; it is maintained through the ability of citizens to move between the parties as their interest shift and the relative power of the two governmental authorities and their attached parties expands and contracts. One role of public opinion in the free society is to maintain a balance between these two authorities so that neither endangers the citizen’s liberty by becoming too powerful.²⁷ This threat, Montesquieu informs his reader, will cultivate fear within the citizenry making them wary against any violations of the law, whether they stem from executive or the legislature: “Shortly, one would note a frightful calm, during which everything would be marshaled against the authority violating the laws.” While ensuring equilibrium between the governing parties is the primary method of maintaining liberty, it is not the sole means for profiting from and preserving his security open to the free citizen.

²⁶ While Montesquieu does not use the term public opinion, it seems something akin to what one might call public opinion is operating as a consequence of his description of partisanship. While this is not the conventional reading of his theory of partisanship, see Pierre Manent’s chapter on “Montesquieu and the Separation of Powers” in *An Intellectual History of Liberalism* (p. 53-65) for example. James Madison seems to imply in his Party Press Essay, “The Spirit of Governments” that Montesquieu possessed a “glimpse” of the truth regarding public opinion’s role. This is no doubt a controversial statement. For a discussion of Madison and Montesquieu in the Party Press Essays, see Colleen Sheehan’s *James Madison and the Spirit of Republican Self-Government*.

²⁷ See Manent’s discussion of Montesquieu’s theory of partisanship

To possess liberty, the citizen must not only actually be free by living under a free constitution, but also he must hold the opinion that he is free. The practice of reason—through political communication—engenders the opinion in a free man that he is truly free: “Since, in order to profit from liberty, it’s required that each person should be able to say what he thinks, and, in order to preserve it, it’s also required that each person might say what he thinks, a citizen in this state would say and write everything which the laws have not expressly forbidden him to say or write” (XIX, 27). Speech, as Aristotle affirms in his *Politics*, “serves to reveal the advantageous and the harmful, and hence also the just and the unjust.”²⁸ Reasoning allows citizens to form opinions regarding not only their security, but also their understandings of the good, the just, and the unjust in society. Communication of these opinions encourages citizens to strengthen their views into shared convictions and potentially, to find some consensus about great and trivial matters. In fact, Montesquieu asserts: “If the climate had imparted to many persons worried minds and extended views, in a country whose constitution would give to everyone a role in the government and political interests, they would talk about statecraft much. One would see persons who would spend their whole lives calculating events which, considering the nature of things and the whim of fortune, which is to say, of men, are hardly subject to calculation.” From discussing political matters, citizens learn to calculate, predict, and anticipate outcomes based on whether the legislative or executives

²⁸ Aristotle, *The Politics*, 1253a14-15

parties are more successful in winning the majority of the people to its cause. This in turn enables citizens to move between parties to maximize their individual interests and desires for profit. Montesquieu informs his reader that certain citizens will spend their entire lives analyzing and discussing politics; they will form what today we call, the “chattering class” of pundits and literati who work to engage and cultivate opinion within the broader society.²⁹ Once citizens learn to talk about statecraft and to anticipate the outcomes of their political actions, Montesquieu introduces the concept of reason in light of his view of liberty: “In a free nation it is more often indifferent whether individuals reason well or ill. It suffices that they reason. Liberty, which guarantees the effects of these same reasonings, derives from this” (XIX, 27). For Montesquieu, reason is the result of the citizen’s exertions to think about politics, express his political opinion, react to that of others, and then contemplate and reflect on his longer term good as an individual and as a member of the political community. Liberty derives from this process of reasoning because the citizen who can think about his interest and act upon it is able to anticipate and mitigate potential sources of insecurity in his own life and within the larger political community. Montesquieu makes reasoning the standard of achieving security as thus liberty because he understands that any reasoning about politics will make it more likely that the free citizen act to oppose threats to his freedoms before he loses them. Moreover, discerning citizens will eventually become “emancipated from their prejudices”

through their reliance on their reason. Given the variances within human faculties, some people in a free society will reason well, while most will not. Some, as modern political science demonstrates, will even be indifferent to politics despite their love of their liberty. By making room for those who reason poorly, Montesquieu acknowledges different people within a single society and across different societies will govern themselves with varying degrees of sophistication and success. The fact that they do so to the best of their potential is all anyone can ask of them.

While one would think the rule of reason might fulfill man under the free constitution, Montesquieu implies the exact opposite. He states, “Many persons who would not trouble themselves to please anyone would abandon themselves to their humors. Most, with any mind, would be tormented by their own minds. Subject to disdain or disgust for everything, they would be unhappy amidst so many reasons for not being so.” Since he is his own monarch, the free citizen should seek to maximize his pleasure by pursuing his passions. However, once reason begins to govern his actions, it will constrain him within the bounds set by the laws that he helped to formulate and the public good that he participated in advancing.

The English model, which Montesquieu presents in Books XI and XIX, must be seen, not as an actual regime but what a free and moderate government might look and act like. Montesquieu poses the question: How does this free regime—this idealized England—accomplish what no alternative regimes can, at least not as successfully? How

does it encourage freedom, virtue, moderation, and self-government? Or to use Montesquieu's words, how does civil liberty "arise" through "morals, manners, and received examples" in England? To answer these questions, one must look to Montesquieu's investigation of England as well as his fuller treatment of commerce and religion.

If virtue is inextricably linked with freedom, its work ought to be done unnoticed and uncoerced through endeavors in which the citizen is already engaged. Commerce and religion become a free society's tools for crafting certain private habits of mind and modes of conduct while strengthening the citizen's sense of his security, and thus his freedom. By unleashing and directing man's passions toward the pursuit and protection of his liberty, these forces work to republicanize virtue by depoliticizing it. Only by taking questions of character formation away from the government can Montesquieu—and his later American acolytes—succeed in ensuring that both virtue and liberty exist long enough in moderate states to reinforce each other.

As his analysis of England in Book XIX makes clear, the presence of political and civil liberty in a state can encourage citizens when necessary to act in a manner much like political and moral virtue did for the ancients, except that they would do so willingly in order to preserve their freedom or pursue their interests. Where the ancients needed the oppressive hand of a paternalistic city to inculcate certain modifications of the soul and an education forcing them to repress their most human desires for ones suitable to the city, the free citizens in Montesquieu's veiled republic sacrifice and burden themselves

for their liberty and their sense of security:

This nation would love its liberty mightily, because that would be true liberty. And it could happen that, in order to defend it, it would sacrifice its property, its leisure, and its interests. It would burden itself with the severest taxes, the sort that the most absolute prince would not dare to make his subjects bear. But, inasmuch as it would have certain knowledge of the necessity of submitting to them, that it would pay in the hope of not paying more, the burdens would be heavier there than the sense of these burdens, unlike the states which exist where the sense infinitely exceeds the ill. It would have an established credit, because it would borrow from itself and pay itself. It could occur that it would embark upon an enterprise beyond its natural force and would prevail against its enemies by immense fictional riches which trust and the nature of its government would make real. In order to preserve its liberty, it would borrow from its subjects. While its subjects, who would see that its credit would fail if it were conquered, would have a new motive for making efforts in order to defend its liberty (XIX, 27).

Free citizens, Montesquieu informs his reader, will feel their liberties under threat even when they are most secure; they will be vigilant and wary of those who might threaten their freedom. And yet, these same citizens, whose sacred liberties open them to sacrifice, will not be quite so single-minded as their Roman and Greek forbearers. Those times of self-renunciation will be rarer than in the ancient polities because liberty produces effects that undercut man's willingness and ability to safeguard it adequately through sacrifice for the common good or the political community. While they will fight for their liberty, these same freedoms, fueled by commerce, will make citizens less righteous: "Commerce cures destructive prejudices. And it is almost a general rule that, everywhere that there are gentle morals, there is commerce, and that, everywhere that there is commerce, there are gentle morals. Let no one be surprised, therefore, if our morals are less ferocious than they were before" (XX, 1). Moreover, these so-called citizens would form less of a

community and possess less unity: “The laws not being made more for one individual than for another, each one would consider himself a monarch. And the men in this nation would be rather confederates than fellow citizens” (XIX, 27). While liberty grants citizens some instances to transcend their self-interest as if operating under ancient virtue, to do so becomes increasingly difficult for the free citizen unless liberty itself is directly challenged.

Commerce and self-government

The relationship of commerce to a free and self-governing people is complicated for Montesquieu. It can both reinforce and undermine those tendencies in free peoples to act like their self-renouncing ancestors. As Montesquieu affirms, commerce has the effect of corrupting “pure morals” (XX, 1); it fuels the “disturb[ed] morals and develop[ed] taste” germinating from increased “association with women” by making it easier for unleashed desires to be expressed: “The desire to please more than others establishes cosmetics, while the desire to please more than oneself establishes fashion. Fashion is an important object: at the cost of making the mind frivolous, one ceaselessly multiplies the branches of its commerce” (XIX, 8). The spread of commerce can cultivate a spirit that pervades every aspect of life and every instance of human action: “But, if the spirit of commerce unites nations, it does not similarly unite individuals. We see that, in countries where folk are only affected by the spirit of commerce, they traffic in every human action and all the moral virtues. The pettiest matters, those demanded by humanity, there are performed or given for the sake of money” (XX, 2). If citizens operate with a “market mentality”

without some mitigating sense of morality or concern for justice, all their actions, including their judgment and reasoning capacity, become for sale. A citizenry of monarchs transforms into a multitude of Machiavellian princes, willing to use deceit, treachery, and bribery to gain individual glory, reputation, and renown.

Luckily, commerce works against this tendency by inculcating a sense of rudimentary fairness within those who practice it: “The spirit of commerce produces in men a certain sentiment of exact justice, opposed on the one hand to banditry and, on the other, all those moral virtues which cause that one does not always discuss his interests with rigidity, and that he may neglect them for the sake of others’ interests” (XX, 2). Justice for the commercial citizen becomes not some high-minded self-sacrificial ideal, but the sense of inherent rational fairness one expresses when he upholds his end in a business contract; it means living up to one’s obligations and expecting others to do the same. Commerce—like religion, philosophy, and law—reminds man of his duties to others by linking them directly within his material interest.

If commerce acts like the triad of religion, philosophy, and law, one must ask why Montesquieu does not include it explicitly? One possibility might be that in a modern veiled republic, the influence of philosophy and law give way to that of commerce and liberty. As he affirms in reference to England: “Other nations have caused commercial interests to yield to political interests. This one has always caused its political interests to yield to the interests of its commerce. There are the world’s people

who have best known how to profit from three great things at once: religion, commerce, and liberty” (XX, 7). Interestingly, the importance of the religion’s influence remains over undermining man’s prejudices, while the affect of law becomes subsumed under Montesquieu’s definition of liberty and philosophy’s authority makes way to the more widespread impact of commerce. The commercial requirement that man fulfill his obligations to those with whom he trades functions better than philosophy to remind the citizen of his duties to his compatriots. While this suggestion seems apparent to those with experience living within commercial societies, Montesquieu never goes so far as to say philosophy will cease. He simply concludes that its power to guide man’s actions will diminish because it remains unable to speak to the passions of most commercial citizens.

While the standard of justice as desert appears initially like a pale reflection of the ancient standard of self-sacrificial justice, it is laudable because it remains congruent with political and civil liberty. And, if founded on economy, Montesquieu argues, the spirit of commerce has the potential to harness the citizen’s sense of exact justice into something greater not only for the individual but also for his society:

It is not that, in these states which subsist by the commerce of economy, they would not also perform the greatest enterprises, and that they would not possess a boldness which is not found in monarchies. Here’s the reason for it. One commerce leads to another, the petty to the mediocre, the mediocre to the grand. He who has so much yearned to profit a little places himself in a situation in which he yearns no less to profit much. Further, the great enterprises of traders are always mixed with the public business. But, in monarchies, public business, most of the time, is as much

suspected by merchants as it appears secure in republican states. Great commercial enterprises, therefore, are not for monarchies but for the government of several persons. In a word, a greater assurance of their prosperity, which they believe to have in these states, causes them to undertake everything. And, because they believe to be certain of what they have acquired, they dare to risk it in order to acquire more. They run no risks save in the means of acquiring. Now, men hope for much from their fortunes (XX, 4).

As commercial citizens become wealthier and more ambitious, their sense of exact justice can mature with them. The progression of commerce from small and trivial matters to large private and public enterprises will allow free citizens to replicate the great empires of antiquity not through wars and aggression but through the peace commerce promotes between nations (XX, 2). By freely choosing to harness their collective wealth for projects of prestige and profit, modern commercial citizens can build a new Rome and a new Athens. The sense of greatness, of wealth, of power invoked by the physical structures and the monuments of the ancients can be recaptured and even reconstructed through the development of modern commerce.

The more important question however is: does modern commerce truly allow free commercial citizens to parallel the moral and intellectual rigor of the ancient republicans? Commercial republicans might be able to reconstitute Athenian buildings in the Nevada desert, but does doing so promote solely a morality dictated solely by dollars? For commerce to inculcate morals in a people akin to ancient virtue, a society would need to practice what Montesquieu labels “commerce of economy” rather than “commerce of luxury.” In his example of Marseille, Montesquieu describes the origins of an economical commerce in the natural industriousness, justice, and moderation of its people due to the

particularities of its harsh environment and precariousness of its political situation (XX, 5). People would have to be willing to work for long-term profit in spite of short-term loss. Citizens, living under this economical commerce, would be poor, but that poverty would allow them to “do great things, because that poverty constitutes a part of their liberty” (XX, 3). As mentioned previously, virtue—whether ancient or modern—requires some sacrifice, some self-renunciation, and some self-denial. A commerce of economy demands that citizens practice restraint if they desire to see later profits and to maintain their liberty in their commercial and political lives. As Montesquieu affirms: “The liberty of commerce is not a faculty granted to traders of doing whatever they wish. Indeed, that would rather be servitude. What hampers the merchant does not for that hamper commerce. It is in the countries of liberty that traders encounter numberless restrictions...England hampers the traders, but it is on behalf of commerce” (XX, 12). For liberty to exist—whether political, civil, or commercial—it must have limits as Montesquieu reminds us in his definition in Book XI: “Liberty is the right to do all that which the laws permit. And, if a citizen were able to do what they prohibit, he would no longer possess liberty, for the others would have that same power” (3).

Religion and self-government

Just as a free, moderate commerce reinforces the limits necessary for liberty while inculcating some self-sacrificial tendencies in modern man, religion works to instill beneficial morals and manners in the citizens living under the free Constitution. Religious

practices promote tolerance and peace between individuals by reinforcing the citizen's ownership of his opinions and convictions. As Montesquieu affirms, "With respect to religion, since in this state each citizen would have his own philosophy and consequently would be guided by his own lights, or his fantasies, it would occur, either that each person would have great indifference for every kind of religion of any species there might be, with the result that everyone would be inclined to embrace the dominant religion; or, one would be zealous for religion in general, with the result that sects would proliferate" (XIX, 27). Religious belief arises from man's ability to speculate about the nature of the Divine through his imagination and his reason. While revelation might demonstrate certain theological truths, all forms of religious expression—whether true or false—ought to be protected from coercion by the dominant political and religious authorities. Civil liberty demands that citizens cherish their opinions regarding their political security, while religious freedom requires that they own and are able to express their moral convictions. Religious coercion becomes an illegitimate method of ensuring theological cohesion, and any moral or religious beliefs, including atheism, deserve protection, as Montesquieu states:

It were not impossible that there could be in this nation some persons who would hold no religion, and who yet would not wish that anyone should coerce them to change the one they would hold were they to hold one. For they would feel immediately that life and property are no more their own than their way of thinking. And whoever may violate the one may all the better take away the other. If, among the different religions, there were one the establishment of which would have been attempted by means of slavery, it would be odious there. Because, since we judge matters by their

connections and the accessories we assign to them, that religion could never be presented to the mind along with the idea of liberty. The laws against them that would profess this religion would not be sanguinary. For liberty does not conceive those kinds of punishments. But they would be so repressive that they would do all the ill which can be done with cold blood. (XIX, 27).

Montesquieu develops a freedom of conscience that guarantees the citizen's ability to believe anything he wants. However, Montesquieu's understanding of religious freedom requires certain limitations in line with his comprehension of political and commercial liberty.

While a free citizen is able to hold to any religious or nonreligious doctrines, Montesquieu recognizes that the practices of certain religious faith traditions are more beneficial to free and moderate societies than others. He understands that "thus may one seek among false religions those which are most consistent with the good of the society; those which, though they do not have the result of leading men to the felicity of the next life, are most able to contribute to their happiness in this one" (XXIV, 1) The practice of religion has a civic function in society that is distinct from its theological truth and any transcendent purpose. Christianity—and in particular Protestantism—inculcates various attributes in people, which condition them for being free and self-governing. Montesquieu notes, "For it is indeed more evident to us that a religion ought to soften men's morals than it is that a religion would be true" (XXIV, 4). Even false religions provide the "best guarantee that men were able to have of men's probity" as long as they advance appropriate civilizing morals; he states: "The main points of the religion of the Pégu are

not to kill, not to steal, to avoid promiscuity, to cause no displeasure for one's neighbor, and, to the contrary, to do him all the good that one may. With that they believe that they will save themselves, in any religion that there be – a fact which makes those people, albeit prideful and poor, have some gentleness and compassion for the unfortunate” (XXIV, 8).

Throughout his discussion of religion, Montesquieu recognizes that men are unlikely to be decent if left to their own devices. Religious faith and practice functions to condition human behavior so that man is not only able to be free but also capable of even living in a peaceful society. Like commerce—and ancient singular institutions—religious practices work to ameliorate those violent tendencies in human nature which make it difficult for societies of men to coexist and to govern themselves through reason.

While Montesquieu sees the benefits of a moderate, pluralistic civil religion in a free society, he does not advocate a spirituality of superficial toleration; rather, he advances the Christian religion as both theological truth and necessary for liberty. He affirms: “In regard to true religion, it requires but very little fairness to see that I have never presumed to make its interests yield to political interests, but to unite them. Now, in order to unite them it is required to know them. The christian religion, which commands men to love one another,³⁰ doubtlessly intends that each people would have

³⁰ The French here can be translated to either mean “to love one another” as Anne M. Cohler does, to fit the conventional Christian teaching, or it can mean, “to love themselves” as William B Allen does in his forthcoming translation. On Machiavelli's teaching, Strauss, I think, explains the distinction that Montesquieu might be aiming at if we embrace the notion that *s'aimer* means “to love themselves.” Strauss states, “Patriotism, as Machiavelli understood it, is collective selfishness. The indifference to the distinction

the best political laws and the best civil laws, for they are, after it, the greatest good which men would be able to give and receive” (XXIV, 1). A fuller elucidation of this remarkable statement is necessary if one is to appreciate how Montesquieu links religion and politics. Montesquieu tells us that he never seeks to make the interests of religion yield to man’s political interests, but rather to unite them. One ought to consider this statement in light of Montesquieu’s earlier discussion of the political and commercial interests of England. In his chapter, entitled “The Spirit of England in Commerce,” Montesquieu affirms, “Other nations have caused commercial interests to yield to political interests. This one has always caused its political interests to yield to the interests of its commerce” (XX, 7). Now, one sees that in the case of the free, commercial state, politics yields to commerce, which in turn shares ends that are either identical with or at the very least complementary to those of the true religion. Montesquieu then informs his readers, that one must discern what those interests are. Given his conclusion here and elsewhere, one can conclude that the united interests of politics, commerce, and

between right and wrong which springs from devotion to one’s country is less repulsive than the indifference to that distinction which springs from exclusive preoccupation with one’s own ease or glory. But precisely for this reason it is more seductive and therefore more dangerous. Patriotism is a kind of love of one’s own. Love of one’s own is inferior to love of what is both one’s own and good. Love of one’s own tends therefore to become concerned with one’s own being good or complying with the demands of right. To justify Machiavelli’s terrible counsels by having recourse to his patriotism, means to see the virtues of that patriotism while being blinded to that which is higher than patriotism, or to that which both hallows and limits patriotism” (11). The point being, for Montesquieu, Christianity becomes a subject of man’s patriotism because it depends on a love of his own, yet its higher requirements—that is, its dependency on the love of another—“limits and hallows” man’s blind attachment to himself. Christianity, in Montesquieu’s reading, functions to reorient the ancient conception of political virtue, which one will recall is defined as “the love of fatherland” while also curtailing the new Machiavellian patriotism. In effect, it succeeds by moderating both while maintaining the human desire for attachment to one’s own, which is ultimately necessary for reducing prejudices in the modern republic.

religion is to encourage men to pursue excellence given the limitations placed upon him.

One can discern the end of, what I label, excellence, by uniting the interests of politics and religion. In two different books, Montesquieu delineates the differences between the ends of politics and religion:

Human laws, made to speak to the mind, ought to offer precepts and not counsel. Religion, made to speak to the heart, ought to offer much counsel and little precept. When, for example, it offers rules not for the good but for the best, not for that which is sound but for that which is perfect, it is suitable that those be counsels and not laws. For, perfection does not concern the generality of men, nor of things. Further, if those are laws, there will be required an infinity of others to cause the first to be observed (XXIV, 7).

And in book XXVI, he reasserts that religion aims for the best while politics quests for the good:

Everyone well agrees that human laws are of a nature other than the laws of religion, and that is a great principle. But this principle is itself subject to others that it is necessary to search for. 1. The nature of human laws is to be subject to all the accidents that occur, and to vary to the degree the wills of men change. To the contrary, the nature of the laws of religion is never to vary. The human laws legislate about the good; religion about the best. The good may have another aim, since there are several goods. But the best is only one; therefore it cannot change. One can indeed change the laws, because they are not regarded as being good. But the institutions of religion are always assumed to be the best. (XXVI, 2)

When the end of religion—the perfection of man—is united with the end of politics—the good that reasoning human beings choose to pursue—one gets a purpose for free peoples that is somehow short of the Aristotle’s understanding of moral and intellectual excellence yet far above the ever-changing conception of the good advanced by

Machiavelli and his ilk. Christianity and political and civil liberty allow man to embrace a life where the noble is again possible if they choose to do so.

In Montesquieu's opinion, Christianity is the "greatest good" because it works to grant man his natural, appropriate, and ideal understanding of himself, his purpose, and his place in society. Moreover, it urges man to better his temporal condition by upholding the role of human reason, not only in theological matters, but in political ones as well. When a free people practice religion, they gain an appropriate understanding of their own flaws and imperfections as well as a corresponding hope and desire to improve their condition: "It is not sufficient for a religion to establish a dogma; it is further required that it direct it. That is what the Christian religion has done most admirably with respect to the dogmas about which we speak. It causes us to hope for a state [condition] which we might feel, or which we might know. Everything, up to the resurrection of the body, conducts us to some spiritual ideas" (XXIV, 19). Reminding man of his inferiority to his Creator and his inherent limitations, Christianity conditions its believers for political freedom. By directing man's passions toward—not just the best life in the hereafter—but also a better life in this world, Christianity enables its adherents to see political life for what it is.

Christianity awakens man to the reality that politics cannot guarantee human fulfillment. It cannot ensure the best life as the ancients would have it, nor can it provide for a cost-free life of preservation and pleasure as the moderns demand of it—at least, not without sacrificing liberty. Under Montesquieu's formulation, politics can provide security defined as something more than mere preservation of life. In fact, through a

tremendous amount of human effort, it can grant a good life in which man possesses some measure of control over and agency in his own destiny. This life is not one of perfection, nor is it free of longing or pain, but it is essentially the best human beings can realistically hope to pursue. And, that pursuit, for Montesquieu, is never quite finished. This is ultimately what Montesquieu means by self-government, and remains the purpose of politics in his estimation. The task of politics is constructing and maintaining a society—through reflection and choice—in which citizens can be at the same time both free and good given their nature and their environment. By making liberty possible in spite of all that is stacked against it, politics works—at its best—to prepare man for using his liberty and to grant him the space to use it. Coupled with moderate law, the commercialism and religious practices of the English republic are the means chosen by its citizenry, whether they fully grasp it or not, to do this without at the same time violating that freedom. The ancients sought excellence without recognizing the need for every individual to be secure, while the moderns denied man's greatness depended on anything other than his self and his satisfaction. Montesquieu offers a radical alternative in which human beings are defined essentially by their natural and constructed or chosen limitations; liberty seems to be that realm between these boundaries in which man is capable of both security and greatness.

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