



Montesquieu's "Spirit of the Law"

Author(s): ERWIN H. PRICE

Source: *The Mississippi Quarterly*, October, 1953, Vol. 7, No. 1 (October, 1953), pp. 50-61

Published by: The Johns Hopkins University Press

Stable URL: <https://www.jstor.org/stable/26473301>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



The Johns Hopkins University Press is collaborating with JSTOR to digitize, preserve and extend access to *The Mississippi Quarterly*

JSTOR

Montesquieu's "Spirit of the Law"

by
ERWIN H. PRICE¹

Two men who came from the same area in France have profoundly influenced the history of thought at an interval of two centuries. It is superfluous to point out that in many ways the contemporary world, in spite of its astounding progress, has not yet caught up with the best minds of the eighteenth century. In the city of Bordeaux the eighteenth century still lives and is everywhere obvious. One marvels at its modernity. Without the architecture of the buildings which line it the visitor would hardly believe that the beautiful *Allées de tourney*, were designed, laid out and created by the famous *intendant* of Louis XV. In the public library one still may read the minutes of the Academy of Bordeaux, of which Montesquieu was a member, a provincial academy interested in experimentation and the scientific research of the day. The physicist Mairan, the economist Melun, faced each other in the building overlooking the river which Monsieur Jean Jacques Belin part provided. Voltaire and Maupertuis, the mathematician, were honorary members. Near the long *rue Judaique* is situated the eighteenth century house of the *President Hénault*, judge and life-long friend of Montesquieu. The adjacent garden belonged to the house of the author of the Spirit of the Laws. A reputable American historian, crossing the *Place des Quinconces* at night, during a blackout, stumbled on to a statue at one side of the square. Shielding his flashlight with his hand he read the name Montesquieu at the base of the statue. He wrote me a letter about this experience. I answered him immediately with some satisfaction. You should have crossed to the other side of the Square, I wrote, there is a statue of Montaigne on that side. Here across the *Place des Quinconces* they face each other in the busy city, Montesquieu and Montaigne, who belong to Bordeaux in a stronger sense than Rabelais to Meudon.

Montesquieu is best considered as a mouthpiece and a member of the *noblesse de robe* though there is evidence of his family's antiquity and its connections with the older *noblesse d' épée*. He retained all his life certain small prejudices, a kind of manorial dignity, that belong essentially to the *grand seigneur*. He was born Charles de Secondat at the château of la Brede, some twenty kilometers from Bordeaux, with the title of Baron de la Brede. His correspondence shows that one of his life-long ambitions, unrealized however, was to erect la Brede into a marquise. The chateau stands today much as it was in Montesquieu's day, a huge blank-walled structure, with moat and drawbridge, two massive towers and several smaller ones and a beautiful wooded park penetrated by driveways or allees. The agricultural land about it has all been disposed of excepting some four hundred acres exploited, much as in Montesquieu's lifetime, by the culture of vineyards. Montesquieu was a *mondain*; he knew the smart elegance of life at Versailles and he frequented the salons of Madame de Trenchin

1. Dr. Price is professor of modern languages and head of the department at Mississippi State College. The above paper was read before the campus reading club last spring.

and Madame de Lambert. But he loved la Brède and he had the same passion for the land that characterized Jefferson and the American agriculturists. This noble of the old regime worked in the vineyards himself, pruning the vines and setting stakes. The same kind of stakes are piled against the walls of barns and outbuilding at la Brède today. When his uncle, the Président de Montesquieu, retired from the bench of the Parlement de Bordeaux he made over his charge to his young nephew who then became Charles de Secondat, baron de la Brède and President de Montesquieu.

It is characteristic of the great président that he soon divested himself of his charge by selling it to another. One can not read the Spirit of the Laws without realizing the vast extent of his legal knowledge. When he generalizes, as he does frequently and skillfully, he usually refers to Rome or France. From the Codes of Justinian, through the Theodosian Code, the *droit coutumier*, the various compilations of the latter, to the civil and administrative law of the contemporary French monarchy he is everywhere on familiar ground. Not many men of his day understood, as thoroughly as he did, the perplexing legal system of feudalism. Montesquieu must also rank along with his contemporary La Bruyère as one of the world's great moralists. The Persian Letters alone are direct evidence that he knew thoroughly the society of his day. His interest in customs and manners of foreign peoples was keen. Much of it was nourished by the travel accounts of the seventeenth and eighteenth century, by the writings of Tavernier about the Orient, by the Jesuit Relations and similar, sometimes unreliable works. It must be recalled however that he travelled extensively in eastern Europe, that he lived for a considerable period in England and that he was a singularly enlightened and observant traveler abroad. To these two elements the law and the mores, he joined, for the purposes of the Spirit of the Laws, a third, already old in the history of thought, consecrated in Aristotle, revived by Jean Bodin in *La République*—climate and geographic environment. During most of his career, while he was writing the Persian Letters and his famous History of Rome, he was busy making notes for this crowning work of his life which was published in 1749, six years before its author, groping in the semi-darkness of his impaired vision, died in a sojourn at Paris.

The *Esprit des lois* has been freely criticized by scores of writers for its lack of coherence, its profound and confusing disorder, for its lack of a central plan, etc. These critics Montesquieu answered by saying simply: I wrote my book, not theirs. Some of the criticism is justified; at least it has the appearance of justification, until one realizes what the best lawyers know, that the law is a seamless garment and that it is never possible to know where to begin in treating it. The Spirit of the Laws is not a reference work.

It is a Bible, the Bible of the lawyer, the legislator, the jurist, an all-encompassing guide which ought to be read and pondered by every man who essays to make laws for his own people. No law-student in France will dare ignore it. It is even yet cited occasionally from the bench in all English-speaking countries. How shall we enter an area with scores of gates, anyone of which appears to be the main entrance?

Let us dodge that question and keep in mind that, whatever portal we use, error may be avoided by remembering that Montesquieu is a sublime generalizer, a theorist in the strict sense of the word, an idealist but an idealist who offers no blue-print for Utopia. He sold his charge as President on the Parlement de Bordeaux because he was little concerned about the case of John Doe versus Richard Roe or the survival interests of Count X in the manor of Blackacre. Voltaire and many later critics forget this obvious fact when they belabor him for not being able to make proximate and literal contributions to freedom and human welfare. In fact he made such contributions but he made them for permanent application by way of the discovery and realization of principles which are immortal in justice. The title of his book was in full *de l'Esprit des lois*, that is, concerning the *spirit* of the laws.

Soberly and a bit facetiously he ponders the question whether or not there were ropports of justice existing in the universe before there were persons to whom rights could attach. As well ask whether there was murder before there were murderers and victims to be murdered. By these seemingly trivial meditations Montesquieu was putting his readers on notice that his book was a theoretical work. It does not fail to elicit from Voltaire the protesting cry: *C'est de la métaphysique!* Nothing but metaphysics, and metaphysics was the pet aversion of the great mocker.

Because of this same tendency Montesquieu's critics, many of them, thoroughly misunderstood him when he came forth with the three separate motivating principles of the three specific forms of government which he had identified. The motivating principle of the despotism is fear, that of the monarchy is honor, that of the republic is virtue. Not only were these principles attacked as invalid in themselves but it was assumed that each of them was conspicuously absent in every other governmental form excepting the one in which it served as the guide and motivation. The author retorts that the fact that a certain spring releases the action of a watch does not prevent the presence of other screws, pivots and small mechanisms in the instrument. Honor in other words may motivate monarchy but it is at the same time no doubt present in the republic. And the principle of virtue, in Montesquieu's use of the term, is often conspicuous in the conduct and philosophy of the finest men in the kingdom of France.

This explanation did not satisfy the petulant ecclesiastics, the fussy abbés and other carping critics who berated Montesquieu for banning virtue from the monarchy of Louis XV. Their truculent sallies were eighteenth century examples of what has been called the valor of ignorance. They are inspired by a total misconception of the term *vertue* as Montesquieu used it. If one breaks down the Latin word *virtus* it will be found even in its general meaning to derive from the expression *vis* which was strength, related semantically to piety or altruism perhaps only as it inspired courage in their defense. In the vocabulary of Montesquieu the *vertue* serving as the motivating principle of the republic was the public-spirited courage of the good citizen which, in small matters as in great concerns, sacrificed self to the fatherland and embraced hardship for the commonweal. So starkly does this idea stand out in the *Esprit des lois* that the author has declared that in a republic the services of governing officials should be voluntary and, in so far as possible, un-compensated. It is surprising to find, for instance, the great Faguet, in the first quarter of the Twentieth Century soberly assuring his students that the *virtue* of Montesquieu can only be understood as *virtue* in the accepted sense of the term, when Montesquieu not only definitely qualified and limited its meaning but declared time and again that it did not embrace the good in relation to piety or the churchly conception.

For similar reasons the same clique attacked the principle, *honneur*, in the monarchy by assuring everyone that they knew of remarkable examples of honor in Switzerland or the Dutch Confederation, a fact which no one denies. Of course here the feelings of the small republics could be much more easily and safely ignored than the tender sensibilities of the French monarchists under Louis the well-beloved. Voltaire and his cohorts called attention over and over to the use of wreaths to crown the brows of victors and conquerors in Republican Rome to show the extent to which honor was a serious motif in the republican government. But this too is begging the question. When Montesquieu spoke of honor in the monarchy he outlined a hierarchy of power based on privilege and preference, in which some men stood above others, enjoying substantial advantages and shouldering important responsibilities. The government obtained from them services which they performed well and willingly in order to protect their present status or to aspire to a higher one. Their great obligation was personally to live up to their station, even to vindicate their dignity by the sword, though the author of the Spirit of the Laws definitely condemns dueling. It is clear that when Montesquieu discusses the qualities of monarchy he definitely has his eye on the French monarchy. So little is this honor inspiring monarchy a moral quality, that the author clearly implies that in certain delicate political situations the motivating principle admits, even recommends a Machiavellian duplicity as a matter of policy. He did not of course imply

here some gentle form of bribery necessarily, nor the devious procurement of mink coats or electrical refrigerators.

Montesquieu's picture of the despotism is frightening, barbarous and repugnant for he condemns the system even as he describes it. Here a despot rules, fearful often for his own life, unable to entrust delegated powers to another, obliged to whip, goad and torture his subjects into obedience. The motivating principle here is fear. The ultimate for despotism is slavery, a system which Montesquieu was among the first to condemn. Let us pause here to recall that in the early eighteenth century, when the spread of commerce was first introducing the potential for luxurious and salutary living and only the man-power for releasing this opulence seemed lacking, Andrew Fletcher in England and many others, solemnly recommended returning the already wretched working class to slavery. Montesquieu, having seen certain mechanisms in use for mining in Austria, correctly prophesied that the machine would ultimately free mankind from the moral temptation of human bondage. Both slavery and despotism are likely to flourish, he says, in hot climates where the only stimulus against indolence is the lash.

Because the United States of America has made significant use in certain particulars of Montesquieu's wisdom the idea is sometimes advanced that he favored the republican form of government. In no sense did he hold a brief for the republic. As a matter of fact he did not particularly prefer any one form of government absolutely over another. All his reasoning here is relative. Indeed all his thinking in the *Esprit des lois* is relativist. He considers the climate, the geography, the mores of hundreds of peoples in hundreds of countries, often deciding what form of government seems best for a given society in view of these varying elements. And by this process he will reach that absolute, standing out so to speak, in the welter of differing societies in the world, which may be the very spirit of the laws, applicable to all societies, once it is found, in the sense that justice, in varying garbs, but always justice in whatever garb, is the primary social obligation of mankind. As for the republic he thinks that such a government befits a small poor country; one thinks immediately of Switzerland in the eighteenth century. For France—there is no question about it—he thinks that monarchy is best, not absolute monarchy, but monarchy in the older French sense, tempered by definite limitations on the king.

It is hardly necessary to recall here the primary features of the governments recommended by Montesquieu: the separation of the departments, the executive, the judiciary and the legislative and the theory of checks and balances which serve as protection against oppression. These are also devices for assuring the survival of the

government itself. Montesquieu was much impressed by the theory of the cycles, a theory featured by Aristotle, revived by the Italian Catholic historian, Vico, who influenced Montesquieu a great deal and which appear in a modified form in Dante's wheel of fortune. According to this belief notions go through regular patterns of grandeur and decadence which plunge societies finally into chaos and anarchy. In order to avoid or at least to retard this catastrophe the longest time possible the perfection of the organs of the state is necessary. It is moreover indispensable to keep policies always true to the motivating principle. For this purpose Montesquieu made definite recommendations which have become famous in constitutional history.

Montesquieu's adversary, Voltaire, agreed with him in a frank admiration for the English contemporary political system, that consecrated trinity of power which made an effective use of checks and balances, the separation of the departments, under a king puissant in good works but powerless to do evil. It is my opinion that no contemporary European government, not even the British, clearly and completely met the ideals of Montesquieu. It is no doubt correct to say that the latter came the nearest to meeting these ideals. For such a system a central arbitrate power is necessary in order to smooth out the clash between the different authorities and to keep the policies of the state true to its fundamental principle. In a way and up to a certain point the law Lords of the upper house probably exercised this function. Montesquieu approved of such an institution. Voltaire approved of it also in scores of places in his works but he saw that arbitrating power distinctly in the House of Commons. Voltaire seems to be correct in this view for it has been customary for time out of memory to tell young law-students that the English House of Commons was the most powerful body on earth, that it could do everything excepting make a man out of a woman.

In France the bodies which exercised of right these powers of correction and resistance were the Parlements; according to Montesquieu they were the celebrated *puissances intermédiaires* who could check the King on one side, the people on the other, in the interest of keeping the French monarch consistent with its constitution. The Parlements were in part judicial bodies which tried certain kinds of important cases and gave expression to the law of France. But they had also what was known as the *droit de rémontrance*, the right of remonstrance, of which they availed themselves when a royal decree appeared unjust or inconsistent with the constitution. Required to register the royal decrees, they could refuse and offer remonstrances. If the King still insisted on his decree he was forced to make a personal appearance before parlement and definitely direct or order the greffier to register the act. This ceremony was known as the *lit de justice*

or bed of justice. The right of remonstrance, on the face of it subject to the king's personal intervention, appears an insignificant power. As a matter of fact it was not; the King needed definite courage on occasion to face the judges of the parlement. In the days of the later Bourbons, especially of Louis XIV, when the popularity of the King brought him support from the people, the right of remonstrance did pale into a kind of desuetude. The King was frequently strong enough to banish a whole parlement to the provinces for failure to register or other calculated resistance. The controversy over this right was in fact very much a public question about the time of the publication of the *Esprit des lois*. Montesquieu lauds the *parlements*, composed of these very *nobles de robe* of whom he himself, having been a judge of the Bordeaux parlement, was a conspicuous example. Here in the parlement was a body of men, not only learned in the law, effective as judges and in other ways useful to the monarchy but persons of rank whose noblesse depended on the erudition and their usefulness to the state. He honors the *noblesse d'épée* but he thinks of these younger nobles in the parlement as the backbone of the monarchy, using extravagant terms to qualify them, speaking on occasion of their functions as plac- in them "dans la gloire", in glory.

When decrees were registered the official copies were deposited in the *greffe* of the *parlement* so that the judges might have continuous reference to them. New laws or new royal decrees could be compared with the precedents and if they were inconsistent therewith or with practices forming the constitution of the French monarchy, remonstrances would be dressed against them. Thus the judges of the parlements could strive to keep the government true to the motivating principle of monarchy as such and faithful to the traditions of the French monarchy. The parlements then are the celebrated *puissances intermédiaires* which regulate all political action and check the various authorities against each other. In England the House of Commons or the Law Lords might exercise this function. However the distinguishing quality of the French monarchy was this right of remonstrance vested in the parlement. It distinguished the French monarchy from other monarchies as wings differentiate a bird from a beast. It was part of the fundamental law of France. These functions of the parlement make it at least loosely analagous to the later United States Supreme Court. And the right of remonstrance grew up, partly by usurpation, partly by interpretation, in much the same way that the right of the U. S. Supreme Court to nullify laws as unconstitutional came into being in this country.

There is another side to this picture. Voltaire will have none of it. He definitely declares, and I think history justifies him, that

the right of remonstrance in the parlements is not really the distinguishing feature of the French monarchy nor a part of the real fundamental law. The States general, with its three orders, nobles, clergy and bourgeoisie, was the important body, representing as it did, the sovereignty which abides in the people. Under a popular monarch, like Louis XIV in his earlier reign, the King and the people become united as the fountain head of law. Voltaire shows that from the assembly of the nobles in Capetian times a judicial body was formed which heard cases concerning the rights of nobles, certain other law cases of importance to the nation and acted generally as a court of last resort. Later this body usurped the right of remonstrance, which was declared to be in the eighteenth century, what some have described the nullification of unconstitutional laws to be in the United States, an unwarranted interference by a court in the function of legislation.

Montesquieu attempts, in support of the parlements powers of remonstrance and its privileged position in the monarchy, to document the whole theory historically. Entering into the question of the origin of the nobility he shows that the French nobles were the descendants of the dominant race—the Franks who invaded Gaul with fire and sword, reducing the native population to quasi-slavery and becoming their feudal overlords. It is a matter of record that Baron de la Brede himself took pride in his Germanic ancestry. When he refers to this matter in the *Pensées*, one of his minor works, Voltaire exclaims: Eh bien! Is it indeed quite clear that you descend from the Franks? Might you not have one ancestor who was a poor little ordinary Gaul? Montesquieu was of course not the last man to gloat over his ancestors as belonging to "the superior race." We have the contemporary example in those who pride themselves on Anglo-Saxon ancestry. To them we may ask the same question: Just what *is* the difference between an Anglo-Saxon and a Turk or an Armenian? The Anglo-Saxons have laid claim to primacy in many political devices to which their title is not too clear. Don Sancho King of Aragon long before the time of King John issued the *Fuero jusgo* to Castille, a document which contained many of the important provisions in the later Magna Carta. And the Dutch burgers anticipated even Jean Jacques Rousseau's compact theory of government, on which the right of revolution is based, long before such a doctrine appeared in either England or France. This seems an important point to make. If it shows anything it means that democracy is a political condition natural to mankind.

The author of the *Spirit of the Laws* was right in his theory of the origins of the French nobility. Voltaire seized upon the Abbe Dubos' work on the Establishment of the French monarchy to prove that the power of the King was supreme, that the nobles were usurpers, that the Frankish invasion was a gentle process of amalgamation between

Frank and Gaul in which the Franks replaced the Romans, by way of understandings, treaties and alliances. Responsible historians, Lavisse, Carré, Jullien and Carcassunn, in his book, *Montesquieu and the French Constitution*, have disavowed this fantastic thesis. The abbees book gave Voltaire a chance to attack Montesquieu, to reassert the primacy of the King in the French monarchy and to couple the latter with an institution, which he considered to be the real fundamental law of France, the *Estates General*. There is strong basis of fact for this view; the Estates General is one of those pristine legislative bodies which arise spontaneously in the bosom of the people and demonstrate again and again the natural human appeal of democracy. If it had not been called since the days of Philip the Fair when the French Revolution broke out, the possibility of calling it was soberly considered many times, even in the Reign of Louis XIV during the misfortunes of the Spanish Succession. The controversy over the Abbé Dubos' monarchist theories is reflected in many pages of text in the *Esprit des lois*.

One of the greatest errors into which Montesquieu fell may have resulted from a personal prejudice that is understandable, if not defensible. Voltaire berates him mercilessly for approving of the sale of judicial posts, *la vénalité des charges*. The Baron de la Brède could and did sell his own charge as *président à mortier* on the Bordeaux parlement to another. The man who became a judge literally bought his job by paying into the royal treasury the price established for the office. He was then entitled to a return on his capital and in addition a payment, known as *les épices*, made to the judge by the litigants in a law case, as compensation for his work. The same system as all will remember, affected councillors, officials, officers in the army and navy and even many minor functionaries. Thus the administration of justice became a vested interest in the hands of a class. It is the class to which for instance the Colberts, the Matignons, the d'Uxelles, the de Croissis and many other families belong. An American citizen could not find enough words and strong enough to criticize such a palpable seed-bed of corruption in a government. And yet it must be remembered that France did not have in the day of Montesquieu an enlightened electorate as today. Great numbers of people could not read or sign their names. It seemed necessary to make the appeal to secure the competent men. And in spite of Rabelais' picture of Judge Bridle-goose and the furred law-cats, Beaumarchais' Judge Brideoison just before the Revolution, the French judiciary of the eighteenth century boasted many jurist of solid learning, complete honesty and thorough efficiency. It is important to recall that Montesquieu himself really belonged to the profession. If he sanctioned a policy of venality regarding the offices of the judiciary we may be sure that he did it with the idea of strengthening the agency whose functions

included the important task of keeping the government true to the constitution. We may be glad that the zeal of the American fathers for the same purpose did not lead them into an error, rather universally condemned even in Montesquieu's day.

The position of the *Esprit des lois* on the notorious subject of the question, torture as a means of securing testimony and confessions in criminal procedure, is one of its claims to fame. The book also went on record against such juridical follies as religious persecution and the punishment of witch-craft. In this regard it must be admitted that Montesquieu owed much of the philosophy to the Italian Beccaria whose well-known work on crimes and penalties opened the way at a very early date for the modern trends in prison reform. The impact of these foreign principles on the makers of the American Constitution was without a doubt noteworthy in the extreme. I have seen a copy of a book printed by Dent in London, 1727, containing enlightening extracts in English from Beccaria's crimes and Penalties and from Voltaire's writings on the same subject. On the flyleaf of this buckram bound volume is the signature of Oliver Ellsworth of Connecticut. We are all conscious of the fact that this matter is far from being today a dead issue. The decadence of the Nazis and the Fascisti furnished harrendous examples of this shameful folly, a few short years ago. And every police unit in the United States ought to be obliged to read Montesquieu and Beccaria.

It has been often stated that Montesquieu was the only foreign philosopher to be cited on the floor of the U. S. Constitutional Convention. We should not be surprised to learn that John Locke was probably often cited there. However the effect of the Spirit of the Laws on the American Constitution has been thoroughly documented. In Chapter III Book IX of the *Esprit des lois* appears a brief outline of a republican federation of cities in Lycia, of which Strabo gives an account in his history. A note of Laboulaye in the definitive edition of the *Esprit des lois* reads as follows: Notes on this federation of Lycia, which are a simple outline of Montesquieu's chapter, have been found in the papers of George Washington. Not less curious is the fact that among these confederations ancient or modern, it is the constitution of Lycia which most resembles that of the United States of America. And there are still persons in the world who believe that ideas have no influence and that only guns are effective in world progress and world decadence!

Laboulaye's note was made in 1875. Since then a bevy of scholars have worked on the relations of Montesquieu to the American political system—Chinard Bonno of California, the late Georges Ascoli, Paul Spurlin of Michigan, Charles Beyer of Syracuse and many others.

We have long lists of the book orders placed abroad by Jefferson, Madison, Adams and many other eighteenth century figures in American History. The works of Montesquieu were on standing order in London and Paris. In many cases the notes made for instance, by Madison and Jefferson, on Montesquieu are still in existence. If there are Americans today who are too provincial and chauvinistic to interest themselves in the political thought of Europe they are not following the example of their more illustrious forebears. America's potential for progress is incalculable. Where England and France were born in feudalism, the United States was conceived in a period of upsurging liberty. America is richer than all the others politically. She is the child of the eighteenth century.

It is time now to refer to the general method of Montesquieu in the Spirit of the Laws. No man ever wrote generalizations more safely, more poignantly or in a style more subtly economical and penetrating than this illustrious son of the Bordelais. The very skill with which he does it is intuitive, as elusive as star-dust and as clear as day. He builds his lucid outline—with honor inspiring monarchy, virtue the republic, fear the despotism, etc.—into a shining framework into which he fits the nations, the peoples, the principalities of earth with a precision as astounding as it is almost unconsciously Cartesian. And he will quietly mock his reader a little, as he writes, become facetious, interpose a chapter dedicated to the graces or the muses, so that he may not lose his reputation as a *bel-esprit*, in order to keep his standing as a *mondain*. And he is consciously an empiricist investigator. He experiments with a mutton-tongue; he, the French Cartesian, makes researches in the vein of Francis Bacon. He gathers data assiduously from books, from observation, from novel, about climates, geography and races. And in assembling all this information, varied and many faceted, the different nations, races and peoples still fit in the grand Cartesian inspired outline. It is a remarkable confirmation; how could his results be otherwise than true? He accepts the viewpoint of John Locke. He even reports a poor savage natural man, supposedly discovered in the forests of Germany, who is so helpless, so pusillanimous, so much a victim of his climate and environment, that he flees half-clad from the contact with civilized men. No wonder Jean Jacques Rousseau wrote: Montesquieu is the man who understands me best.

The parts of the puzzle all fit well together until there came a moment when the author sat non-plussed and interdicted before the Cartesian framework. Generalization is a dangerous pastime; it is risky business. There was one piece which would not go in. It was China. China is a formidable adversary, as generals and philosophers learn often to their sorrow. The government of China is a despotism

of which the principle is fear. He has given a despicable picture of despotism, a form of government in which no laws exist but the will of the despot. However his researches about the celestial kingdom prove that there are powerful laws inspired by Chinese mores under which the subject lives as well as under the will of the despot. It is a situation which Montesquieu admits as a paradox—a fine and admirable China, along with a brutal, beastly, despotic China. And despite the clash of two methods which is not a little illuminating, perhaps we can admit the paradox along with Montesquieu and declare that in the human situation such paradoxes are not infrequent.

Such difficulties do not too much disturb the author of the *Esprit des lois*. He has the reflective calm and the sprightly ease of the thinker who is not an extremist. The greatest help he gives to mankind is to advise strict attachment to no one governmental form. Of all the civic systems he studies he likes the aristocracy best because it is a mixed form of which the motivating principle is moderation. And there you have the crux of it. It is Aristotle's golden mean, the *juste-milieu* of Molière, the calm restraint of the true epicurean. Behind the figure of Montesquieu, on the screen of past centuries, stands a luminous, human silhouette. It is not a ghost, not an apparition, for it is a voice that lives and speaks still today, as does that of the great *président*. The words spoken are *que sais-je*, what do I know? They are part of the vocabulary of French common sense which lives in the golden shadow of Michel de Montaigne.