

# interpretation

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# interpretation

Volume 11 number 3

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# Montesquieu's Perception of his Audience for the *Spirit of the Laws*

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Of what is Montesquieu trying to persuade his reader? A brief summary of the obvious lesson might be: the good life is one of activity and freedom, necessarily lived in particular governments, climates, and times. Those who have thought and written about Montesquieu have argued over which government he thought best, and whether governments, climates, or times were the most important determinants of whether people achieved that good life. If Montesquieu was a good writer, these lessons and arguments would be those he wanted his readers to have and pursue. If we are to move beyond or deeper than these lessons and arguments, we must revive Montesquieu's audience, the people to whom he was speaking and trying to persuade. This paper is primarily an attempt to describe the opinions and characters of Montesquieu's audience for the *Spirit of the Laws*. My contention is that Montesquieu thought of his readers as Christian and that he thought that Christianity entailed an opinion about what is virtuous and a habit of mind resulting from that opinion. As we shall see, the Christianity of Montesquieu's readers, in his opinion, presented both difficulties and possibilities for his writing about political life. Once we know the way he saw his audience and of what he was trying to persuade them, we are then able to see a pattern into which the pieces of the *Spirit of the Laws* can be fitted and to see a structure beneath his teachings that could lead us deeper into this thought.

This paper is not directly concerned with the question of the relation between religion and politics or of revelation and political philosophy. Although it is clear now, as it was to the church of his day, that Montesquieu's point of view was not conventional, we do not need to know his final view of the relation between Christianity and political life to question the effects of the Christian opinion he saw on the way he wrote about politics. Montesquieu's *Defense of the Spirit of the Laws* was based on the assertion that he was not writing a book of theology, but one about governments and laws. "One has seen in the first two parts (of the *Defense*) that all that results from so many bitter criticisms is that the author of the *Spirit of the Laws* has not constructed his work following the plans and views of his critics . . . the theologians."<sup>1</sup> Only if one

An earlier version of this paper was presented at the 1978 Annual Meeting of the American Political Science Association.

1. Caillois, II, 1160 (References to the *Spirit of the Laws* will be to book and chapter numbers in parentheses in the text. Other references to Montesquieu's work will be to the *Œuvres Complètes*, ed. Roger Caillois (Paris: Bibliothèque de la Pléiade, Éditions Gallimard, 2 vols., 1949 and

assumes that there can be no Christian consideration of political things or that a single regime follows from the belief in Christianity does Montesquieu's approach itself answer the question of his view of the relation between Christianity and political life. Rather, an effort to answer this last question must begin with the conclusions of this inquiry into Montesquieu's view of the effect of Christian opinion on his writing about politics.<sup>2</sup>

Books 24 and 25 in which religion is taken up explicitly are the evident places to begin an examination of the meaning to Montesquieu of Christian opinion. Paganism, Christianity, and Islam are mentioned. Paganism refers primarily to the religions of ancient Rome and Greece, but it also includes the religions of the American Indians and of African tribes, as well as Buddhism and Hinduism. Christianity is taken as a whole from its beginning, with no regard for its schisms and sects. If one were interested in finding out Montesquieu's position among those sects, one would compare his account of Christianity to theirs, but I am not concerned here with that question. Islam, or Mohammedanism as Montesquieu calls it and I shall from now on in this text, is also taken as a whole with no regard for internal divisions.

Montesquieu compares religions as to whether they are concerned with the heart, the spirit, or the intellect, and then as to the generality of that concern. The heart and the spirit are notions whose meaning is not evident to us. The heart is the home of the passions (14.1). People are subject to their passions. A person with no other component to his soul would even be unable to move toward the objects of his passions—the perfect subject of a despotism, or even perhaps a natural slave. Of the hottest climates, he writes, “the inclinations will all be passive there; laziness there will be happiness; most chastisements there will be easier to bear than action of the soul, and servitude more tolerable than the force of spirit necessary to guide one's conduct” (14.2). The passions, and the heart, are identified here with the force of the physical world, with an extreme climate. Other climates make possible, or even encourage, activity or the thing called spirit. The passions, then, are in this understanding indeed passive things that happen to people; but the spirit is distinguished by activity, by the possibility of purposeful action.

Spirit is more difficult for us to see clearly. Its customary translation is mind, because it carries with it an aspect of thought and intelligence. For example, Montesquieu wrote that, “Girls, who are led to pleasures and liberty only by marriage, whose spirit dares not think, whose heart dares not feel, whose eyes dare not see, whose ears dare not hear . . .” (23.9). The spirit thinks. Some other examples of this aspect of its meaning are to be found in remarks

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1951), referred to hereafter as Caillois. The translations of the *Spirit of the Laws* are from a draft of a translation being prepared by Anne Cohler and Basia Gulati for the University of Chicago Press.)

2. Cf. David Lowenthal “Montesquieu” in *History of Political Philosophy*, eds. Leo Strauss and Joseph Cropsey (Chicago: Rand McNally, 1963) and W. B. Allen, “Theory and Practice in the Founding of the Republic,” *Interpretation*, Vol. 4, No. 2 (Winter 1974), 79–97.

about whether or not the spirit is open to the meaning of certain words or opinions (4.3, 4.8, 11.2, 11.3, 11.6, 28.22). For example, “one must have in mind (spirit) what independence is and what liberty” (11.3). Then, there are examples of instances when what Montesquieu calls a spirit might elsewhere be called an opinion (3.3, 5.5, 5.6, 6.8, 9.3). For example, “Conquest is an acquisition: the spirit of acquisition carries with it the spirit of preservation and use not that of destruction” (10.3).

But, one might answer, Montesquieu's spirit seems to be grounded in physical existence, like the passions and virtually identical with them. A well-known example is his remark that “One must, then, regard the Greeks as a society of athletes and warriors. Now, these exercises so appropriate for making people tough and savage needed to be tempered by others that might soften the mores. Music, which enters the spirit through the organs of the body, was quite suitable. It is a mean between the exercises of the body that render men tough and the sciences of speculation that render them savage. One can not say that music inspired virtue; that would be inconceivable, but it hampered the effect of the ferocity of the institution and gave the soul a part in education that it would not have had” (4.8). How could music act on the spirit through the organs of the body? Exercises arouse only one kind of passion—roughness, anger, and cruelty—but “music arouses them all and can make the soul feel softness, pity, tenderness, and sweet pleasure” (4.8). Then, if music enters the spirit through the body, it does so by its capacity to arouse a great variety of passions. Only with more, and particularly the softer, passions aroused is there the possibility of tempering the passions aroused by the martial arts in a society which, as Montesquieu noted, regarded any work in commerce, agriculture, or the arts as destructive of their virtue. This was the only way available to them to temper their passions. As in Book 14, the connection between the spirit and physical effects on the body seems to be through the range of possibilities those effects produce, not in their direction or shape.

I shall begin here by identifying the relation between the passions and the spirit asked by Christianity and clarifying those of whom it is asked. The Christian opinion about virtue can be put in the form of a statement of a relation between the spirit and passions asked of some group of people. The Christian habit of mind tends to put any view of virtue into this same form. For example, if Christianity asserts that everyone ought to control all of his passions in order to worship a spiritual god, the view that drunkenness is a bad thing would take the form of the opinion that no one ought to drink anything alcoholic and that there ought to be a law to this effect for the sake of a good public life. Second, we shall look at some similarities and differences between that opinion about virtue and those views Montesquieu identifies with despotisms and republics. Third, we shall be able to identify some of the difficulties Montesquieu sees in such an opinion—and watch him try to sort his way through those difficulties in his discussion of usury and treason. Fourth, and, in conclusion, then we

shall be in a position to suggest that the form of his book and the manner of his writing was a response to his understanding of the way this opinion and habit of mind affect political life and thought and to indicate the direction an inquiry based on this understanding might take.

### CHRISTIAN OPINION

Religion, according to Montesquieu, speaks to the heart, just as human law speaks to the spirit (24.7). Christianity is different from paganism because it is a religion that “envelops all the passions; that is no more jealous of acts than of desires and thoughts” (24.13). Christianity is the religion most subject to the injunction that it ought to give counsels rather than precepts, advice to individuals rather than laws for groups, as its rules are “not for the good, but for the better; not for what is good, but for what is perfect;” and “perfection does not concern the universality of men or of things” (24.7). Christian virtue, then, is the perfect control of the passions. But, Christianity is a religion with a general worship and without particular dogmas (24.25–26) which can spread across the world. It thinks of itself as a universal religion and asks its perfection of everyone (19.18). Montesquieu’s warning that perfection is not concerned with the universality of men is particularly apt for Christians who intend for their religion to speak to everyone and for whom perfection of the passions is an end.<sup>3</sup>

This perfection of the heart is for the sake of devotion to God. Religions which are abstract in their dogmas and general in their demands can be distinguished, according to Montesquieu, between those which present us with a supreme spiritual being to worship and those which are intellectual (25.2). Christianity is a religion whose adherents worship a spiritual god, and Mohammedanism is an intellectual religion. Attachment is easier, but not as strong, to the religions whose dogmas and demands are particular. In these two abstract general religions, people become attached by different particular things. For Christianity, some paganism is needed, some tangible things through which people can move toward their god. Montesquieu’s example is the decision to call Mary, “Mother of God.” In an intellectual religion, “the idea of a choice made by the Divinity, of a distinction between those who profess a religion and those who do not profess it, attaches us greatly to the religion” (25.2). Mohammedanism also attaches its adherents by demanding of them practices which make religion a part of their everyday lives.

The description of the Christian god as spiritual cannot but remind us of Montesquieu’s assertion that political life was of the spirit and religious life of the heart. His account of the Stoics indicates a connection between the spirit and the heart which would make the spirit characteristic both of Christianity

3. By objecting that Montesquieu saw all the precepts of the Gospel as counsels, Montesquieu says his critics fell into this error and saw them all as precepts. Caillois, II, 1140.

and of political life. The Stoics' control of their passions had as its end encouraging men devoted to their duties in society. "While the Stoics considered wealth, human greatness, suffering, sorrows, and pleasures to be vain things, they occupied themselves only in working for men's happiness, in exercising the duties of society; it seemed that they regarded the sacred spirit which they believed to be in themselves as a kind of favorable providence watching over mankind" (24.10). The Stoics' control of their passions made room for their sacred spirit. This control led to their concern for others. Similarly, the greater control of Christians could make room for the worship of a spiritual god and for a universal community of believers. Spirit points beyond the individual, to other men or to God. This is in contrast to virtue which is a peculiarly individual thing—it asks of each person that he control his passions.

Christianity is, first, a counsel to everyone to perfect the control of their passions. There is a tension between the generality of the demand and the individuality of its accomplishment. Christianity asks of all individuals that they control themselves altogether. Self-control is achieved by each individual, and God expects perfect self-control of everyone. From such an opinion about virtue follows the danger of our demanding perfect self-control of everyone and the danger of abandoning God and asking no self-control of anyone while assuming survival due to the hard rule of a person or of some general rule of nature. Second, Christianity proposes that we worship a spiritual god, that we have something of that spirit within us, and that we do share something with others. It is the first of these aspects of Christianity which poses the great danger for political life and the rhetorical difficulty for a writer about politics. The second may well suggest a way out of that difficulty.

Montesquieu's Christian audience assumed that a teaching about virtue was directed to everyone and that its content was an exhortation to each individual to control passions altogether. This opinion posed Montesquieu's rhetorical difficulty. This difficulty can be illustrated by the relation Montesquieu saw between Christianity and some political things. My examples will be Christianity's similarity to despotisms and to republics and the peculiar difficulties it has posed in regard to usury and treason.

## DESPOTISMS AND REPUBLICS

The similarity between religious rule, even of Christianity, and despotic rule is brought to our attention in a number of ways. Even while asserting that Christian rule, in contrast to Mohammedanism is not despotic, Montesquieu claims this is so because of Christianity's softness, not because of its structure (24.3). We owe to that softness a certain political right and right of nations "which results in victory's leaving to the vanquished people these great things: life, liberty, laws, goods, and always religion, when one does not

blind oneself" (24.3). As Montesquieu does mention soft despotisms (14.5), the softness of Christianity does not preclude its having some similarity to despotism.

One of Montesquieu's earliest examples of despotic rule is of a pope who "imbued with his inadequacy . . . Finally, he agreed and gave up all affairs to his nephew," saying "I would never have believed that it could be so easy" (2.5). He acted like the lazy, ignorant, voluptuous despots. The importance of eunuchs in despotisms (15.19) reminds the reader of the clergy of the Catholic church. That similarity is made clear in the book on population (23.28–29). The suggestion is that the rule of the Church and rule in a despotism are in some respect analogous. Despotisms act by differentiating only between the ruler, or his agents (whose reappointment is at the despot's discretion), and the rest of the population, among whom significant distinctions cannot be drawn. They are all slaves, civil, domestic, or political, as one can see in Books 15, 16, and 17. Christianity, as we have seen, is similar in that it is a rule imposed indiscriminately upon everyone. But, religion in a despotism is the principle source of any stability, a kind of deposit for what law there is (2.4). It can make some permanent laws as "the laws of religion are part of a higher precept because they apply to the prince as well as to the subjects. But, it is not the same for natural right; the prince is not assumed to be a man" (3.10). Religions, then, are distinguished from despotisms because they give laws to the prince as well as the subjects. The last distinction in a despotism is obliterated. Religion, like despotism, uses fear as a motive (24.12). In despotisms religion is reduced to acquainting "the spirit with a few very simple religious principles" (4.3).

Montesquieu's descriptions of the laws of Justinian illustrate this similarity. Those laws were both despotic and Christian. At the end of Book 27, he puts them at the end of the development of Roman inheritance law which moved from an arrangement based upon a familial division of land established by political law to one based on family feeling and then to one that was altogether individualized. "Finally, Emperor Justinian removed the slightest trace of the old right on inheritances; he established three orders of heirs: descendants, ascendants, and collateral, without any distinction between men and women, between relatives on the women's side and relatives on the men's side, and he abrogated all those about it that remained" (27.1). Roman laws moved from the principles of political law to those of religion. An example of this is the law which permitted divorce when either the husband or wife entered a religious order (26.9). This was based upon Christian principles alone, paying no attention to the protection of families. Montesquieu remarked of the Establishments of Saint Louis that "there was an internal vice in this compilation: it formed a combined code, in which French jurisprudence had been mixed with Roman law: things were brought together that never were related and were often contradictory" (28.38). The Roman law of Justinian treated the population for

which it legislated as if it were made of unconnected individuals. This is characteristic of both Christianity and despotism.

According to Montesquieu, Justinian “believed he followed nature itself by setting aside what he called the encumbrances of the old jurisprudence” (27.1). The worst despotisms feel no need to make any general rules. They act upon individuals through fear. Religion asserts the similarity of those individuals and a common rule for their actions. It could act to produce some regularity in the passions. Christianity can do this because it is concerned with the individual control of the passions. As one moves from the worst despotism to the highest Christian community, one continues to speak of ways of controlling the passions of individuals.

The highest Christian virtue has certain similarities to republic virtue. “As religion requires unsullied hands so that one can make offerings to the gods, the laws wanted frugal mores so that one could give to one’s country” (5.3). Or, as he writes later, while explaining that luxury and public incontinence go together, “If you leave the impulses of the heart at liberty, how can you hamper the weaknesses of the spirit?” (7.14). Each monk or citizen is individually subject to a rule which controls his passions, his heart, in order for him to come to love the group of which he is a member and to strengthen his spirit. The differences are in the circumstances in which this occurs. Monks have withdrawn from a society to which they give the example of their virtue and from which they accumulate the goods of the pious (25.5). Each citizen is the head of a family, including servants, and the family farms its parcel (5.5). Everyone in a Christian land is potentially a member of a religious order, but citizenship belongs to a designated portion of the population in a republic.

The account of virtue as control of the passions reduces differences between Athens, Sparta, and republican Rome to the question of the amount of self-control required to maintain the rule of these citizenries. Rousseau built his view of political virtue on the model of Montesquieu’s virtuous republics,<sup>4</sup> even to the extent of considering an analogy to universal Christian virtue<sup>5</sup> and arguing that such virtue is properly all there is to politics.<sup>6</sup> If virtue is self-control, it is the same everywhere and it varies only in amounts so that it can be judged by a single standard. Rousseau objected to Montesquieu’s not having moved in this direction.<sup>7</sup> Admiration of republican virtue on the analogy of Christian, even monastic, virtue has not necessarily led to the conclusion that we ought to emulate it. Many readers of Montesquieu have turned from the virtue of ancient republics, although perhaps with an inner resolution to keep their

4. Leo Strauss, “On the intention of Rousseau,” *Social Research*, Vol. 14, No. 4 (December 1947), 458–460.

5. Jean-Jacques Rousseau, *Œuvres Complètes*, ed. Bernard Gagnebin and Marcel Raymond (Paris: Bibliothèque de la Pléiade, Editions Gallimard, 1959– ), Vol. III, 281–289.

6. Rousseau, *Œuvres Complètes*, III, 368–372 (*Social Contract*, II, 1–3).

7. Rousseau, *Œuvres Complètes*, IV, 836–837.

passions under control.<sup>8</sup> In so doing, they have also turned away from Christian virtue and have turned toward a consideration of the variety of human purposes, toward a comparative politics based upon differences in kind rather than in degree.<sup>9</sup> Variety could be found in the ends for which self-control is practiced. Montesquieu has suggested a difference between religious and political ends. But, if that distinction can be made, one is led to wonder whether the ends are different enough among republics, or regimes, to differentiate the citizens as different kinds of people. There are many spirits or characters, including the religious, in Montesquieu, but one virtue in varying degrees.

Republics are similar to despotisms insofar as they punish individually, harshly, and not according to a rule (6.3). The difference is that in one case the opinion is that people's passions will always have to be controlled externally, and in the other they will come to control themselves. The small size peculiar to republics (8.16), made even smaller by the portion of men within the country who are citizens, makes that self-control possible. If Christianity makes it impossible to differentiate a small citizenry, then the internalization of virtue of a small republic would also become impossible. Republican government would then tend to use the external, despotic modes of punishment used in ordinary despotisms to control the worst passions in their effort to achieve republican virtue. This would be an easy direction for republican governments, unless virtue loses some of its allure.

Christianity, according to Montesquieu, does make ancient republics impossible. It does so because it demands that everyone act virtuously and worship God. This means that there can be no distinction between the free citizenry and the rest of the population, between the free and the slave. "Plutarch tells us in the life of Numa that there was neither master nor slave in the time of Saturn. In our climates, Christianity has brought back that age" (15.7). Of Negro slavery he wrote, "It is impossible for us to assume that those people are men, because, if we assumed they were men, one would begin to believe that we ourselves were not Christians" (15.5). We cannot have slaves, recognize in them any humanity, and believe we are Christians. Montesquieu speaks, as we have noticed, of a new international right which prohibits taking slaves in war (10.3 and 24.8). He speaks of this as characteristic of the conflicts during the dissolution of the Roman empire and the establishment of feudal monarchies—the time of the spread of Christianity (30.15).<sup>10</sup> The consequence was that for a

8. For contemporary examples of this movement see:

Naneri O. Keohane, "Virtuous Republics and Glorious Monarchies: Two Models in Montesquieu's Political Thought," *Political Studies*, Vol. XX, No. 4 (December 1973), 383–396.

Thomas L. Pangle, *Montesquieu's Philosophy of Liberalism* (Chicago: University of Chicago Press, 1973).

Mark Hulling, *Montesquieu and the Old Regime* (Berkeley: University of California Press, 1976).

9. Aristotle, *Politics* II (1261a).

10. Cf. Marc Bloch, *Feudal Society*, trans. S. A. Mahyon (Chicago: University of Chicago Press, 1974), Vol. I, 260–261).

time laws were personal rather than territorial (28.2–4). The combination of personal subordination and inherited fiefs that characterize feudalism developed from this beginning (31.25).<sup>11</sup> Of Gothic government Montesquieu wrote, “It was at first mixed with aristocracy and monarchy. Its drawback was that the common people were slaves: it was a good government that had within itself the capacity to become better. Giving letters of emancipation became the custom. . . .” (11.8).

Women who go to the same church and receive the same sacraments as men must have some public life. “The Christian religion, by the establishment of charity, by a public worship, and by the participation in the same sacraments, seems to require that everything be united” (19.18). Christianity tends to dissolve the distinctions within a people, making the whole population equally available for political rule. The distinctions between peoples are less clear as their citizenries become more Christian and less singular. Since Christianity became prevalent, republican rule became rule over all of a people whose size is indeterminate.

Christianity shares both with despotisms and republics a concern for the control of an individual's passions. There is a certain arbitrariness in the rule in both of them. The clearest difference is in the applicability of that rule—to the citizens or to everyone. Christianity shares with republics the view that virtue is the control of one's passions, leading to love of the community and some expression of spirit. It differs altogether from republics on the question of its applicability, extending the expectation of virtue to everyone and to all passions. This extension is said by Montesquieu to have had the political effect of ending slavery, of making it difficult, if not impossible, to keep some of the people altogether private. The availability of everyone for Christian virtue has implied the same for political virtue. Great violence can result from setting that standard too high and inactivity or weak spirits from setting it too low. In either case, one can see the possibility for a kind of despotism. Montesquieu's treatment of usury and treason shows his response to the danger of alternation between violence and weakness.

## USURY AND TREASON

In considering lending with interest Montesquieu shows the dangers he sees in the Christian appropriation of an opinion of the ancient republics.<sup>12</sup> “Once the philosophy of Aristotle had been carried to the West it was very pleasing to the discerning spirits who, in times of ignorance, are those who make a show of their knowledge. Some scholastics were infatuated with it and took from this

11. Cf. F. L. Ganshof, *Feudalism* (New York: Harper and Row, 1964), for a modern study of feudal relations which is congruent with Montesquieu's.

12. Cf. Caillois, II, 1185, where the objection to usury in the Gospels is said to be a consequence of the importance of charity.

philosopher many explanations about lending with interest, whereas its source was so natural in the Gospel; they condemned it indiscriminately and in every case" (2I.20).<sup>13</sup>

Aristotle calls usury the most unnatural of all the modes of acquisition.<sup>14</sup> He does not say that a city ought never permit it. Rather, he suggests that it is the last means that a householder ought to use to provide for his family. That householder, as one learns in Book I of the *Politics*, heads a household made of his wife, his children, their servants, and their slaves. It is a largely self-sufficient economic unit. It becomes less so in a group of households or a tribe<sup>15</sup>—and by extension even less so in the city. The argument is that because the household has as its end providing for the livelihood of its members, it should act to acquire the resources essential to that livelihood inside and outside the household. Such a household does not appropriately engage in retail trade which has as its end making an unlimited amount of money or in lending at interest which uses money to acquire money with no end and is yet another step removed from acquiring goods for the household's use.

In Montesquieu's view this understanding of the place of trade and lending at interest is based upon the notion that the acquisition of the variety of goods necessary for life takes place within the household. But, that is no longer possible because those producers are no longer entirely private, entirely within a family. The number of independent families has increased markedly, making trade and interest more prevalent (23.15). That the citizens of an ancient republic ought not engage in forms of acquisition which did not have as their end procuring goods for the household was transformed by the scholastics into a general rule that all lending at interest was to be condemned. Montesquieu's objection to the Christian use of the ancients is that an injunction to some to act very well is transformed into a general rule for everyone.<sup>16</sup> This happens in a situation where that same impulse to universalize a rule has led to there being no clear group to which a more limited general rule might apply.

Montesquieu is reluctant to speak of virtue in modern politics and unwilling to condemn trade and usury. That reluctance and unwillingness seems to be a result of his perception of the difficulties for political life that are the consequence of the Christian belief that the same virtue can be asked of everyone everywhere and from the universalizing tendency in theory and practice which results from that belief. If Montesquieu perceived that universalizing was difficult for political life, he must have thought that political life was in some important

13. Caillois, I, 1470 (Pensée 1939). "I was astonished when reading the *Politics* of Aristotle, I found all the principles of the theologians on usury, word for word. I thought they had put them there. I have spoken of it in the *Spirit of the Laws*. But these gentlemen do not like for me to discover their sources: they do not know themselves, as one does not know the source of the Nile. They have protested strongly against this."

14. Aristotle, *Politics* I (1258b).

15. Aristotle, *Politics* I (1257a).

16. Caillois, II, 227–228 (Avertissement de l'Auteur).

respect particular or singular (4.4–8). It must have as its end some purposes which are not easily comparable to each other, which are not on the same scale.

In Book 12 on the liberty of the citizen, Montesquieu moves from a discussion of heresy to one of treason in the context of considering problems raised for the safety of citizens by punishments for particular crimes. The context of the discussion is Montesquieu's inquiry in Books 9 through 13 into the modern liberal regime, assuming its Christianity. Montesquieu suggests in this context that the problems raised for that regime by treason are due to the similarities between treason and heresy. That similarity could make of treason an issue which could collapse the institution that had been constructed to reduce the availability of individuals to direct, despotic rule in order to protect the peculiarity of political life.

Montesquieu moves from heresy to magic to homosexuality to treason. Heresy is a crime against God which human rulers have tried to punish. The problem with such punishment is that there is a disproportion between the infinity of God and the weakness, ignorance, and caprice of human nature (12.4). Governments must take those weaknesses, that ignorance, and that caprice into account in their expectations of people, but God does not have to do so. Two consequences follow from this difference. First, as men cannot measure up to the divine standard, there would be no end to the punishment. No man would ever be good enough not to merit punishment. Human rulers do not have God's mercy. Second, no external signs are sufficient for anyone to know the truth about the extent to which people come close to the demands made upon them by God. This is so because the demands made by God go beyond any behavior to the smallest movement of a passion within the soul. For governments to try to punish heresies would be for them to embark upon endless terror.

In regard to magic, people are open to the accusation that they have denied God and turned to magic, however impeccable their external behavior (12.5). Similarly, homosexuality is unseen and therefore subject to conjecture or to accusations by the jealous, or by children and servants. Magic and homosexuality are similar to heresy because they cannot be established by examining the public behavior of people. The impulse occurs to keep looking behind the public behavior for some evidence of illicit actions. By linking these crimes to heresy, Montesquieu suggests that it is their similarity to heresy which leads to a continuous search for some evidence of unseen wrongdoing. Any judgment by rulers about things which are similar in structure to Christianity in regard to the importance of things seen and unseen, especially if their content rings of Christian precepts, is open to an infinite search for wrongdoing.

In respect to heresy, magic, and homosexuality, Montesquieu can also argue that punishment is inappropriate because governments do not properly concern themselves with such matters. This is not possible in respect to treason. Montesquieu says that it is necessary to be calm and moderate about treason, to define it carefully in respect to actions rather than thoughts or writings, and for

the trial to maintain dignity and decorum. It is particularly in treason that only actions, not thoughts or writings, must be taken into account.

Treason is a crime against the regime itself which is punished by the rulers, the expression of the regime at that time. This is no less true for a judge in a court in a modern republic than it is in an ancient republic where judging and legislating are done by the same people. But, it cannot be said of those who acquire an office by inheritance or election that they are the regime, as one could of the democrats or aristocrats of the ancient republics. There is a distance between the modern office holder and the law which defines his office. The question of who is living up to the standard established by the law is always open. That inevitable distance is difficult to distinguish from its greatest example, treason, particularly if there is much suspicion and secrecy. Christianity, which pushes us to ask perfection of everyone in living up to a standard, makes it peculiarly important that treason be prosecuted for actions and with great care.

The similarity between political and religious virtue makes it difficult to prosecute for treason. That Christianity demands an unending effort to control one's passions, the perfection of the heart whose end is the appropriate dedication to God, implies the same for political life. Montesquieu differentiates the kinds of virtue in order to keep the demand for perfection whose end is God out of political life.<sup>17</sup> In sum, because of the Christian tendency to universalize any rule, Montesquieu objected to laws against usury. His consideration of the difficulties of prosecuting for treason was shaped by the similarity understood by Christians between political and religious virtue. Christianity, then, required that Montesquieu be extremely careful not to advocate or even mention any principles which might mistakenly be applied, or to appeal to an attractive political virtue.

## CONCLUSION

The *Spirit of the Laws* is a very difficult book to read. Its many small chapters seem to be the pieces of a puzzle whose overall design remains unclear to the reader. Or, perhaps each chapter is a card in a deck, one of whose orders is put before us. Montesquieu invites us to look for the order in the book, writing, "If one wants to seek for the author's design, one can find it only in the design of the work."<sup>18</sup> We are asked to search for an order in what appears to be great disorder. We are asked to look for the author's principles in a work which seems to bury us in a consideration of the reasons for the differences between every regime known in his time. Montesquieu seems to promise us a great, universal design for understanding all regimes, and yet readers find themselves immersed in and fascinated by some specific governments or problems. Montesquieu's fame comes from the impressiveness of his effort and the wisdom of

17. Caillois, II, 1152 (*Défense*).

18. Caillois, II, 229 (Preface).

some of his sections. His classification of governments, explanation of the balance of power, understanding of criminal law, and history of the development of feudal law in France have all been read very carefully. People have argued over the relative importance of the considerations of climate, government, commerce, and history. They have sought a recognizable argument for natural right.

My suggestion is that Montesquieu expected just this response from his readers. His first concern was to get the reader to see the variety of regimes. He used the impulse to ask for generalizations, for universals to get the reader started on his project. Montesquieu does not confront his Christian audience with the difficulties its opinions and habits of thought make for political life. Rather, he attracts that audience with his agreements with it and then moves it away from the dangers he sees. He takes for his subject matter all regimes. "This work has for its object the laws, the customs, and the different usages of all the peoples of the earth. One can say that the subject is immense as it embraces all the institutions received by men . . ." <sup>19</sup> But, he does not follow that universal concern with universal rules. Rather, the general considerations he suggests do not act in concert and lead to a variety of regimes. That variety produces further contemplation and the possibility of recognizing a more complex underlying pattern. He agrees with his audience that virtue is control of the passions and puts virtue as a political principle in those ancient republics made impossible by Christian universality. The dangerous tendency of Christians to universalize any demand for virtue leads Montesquieu to insist upon our looking at circumstances, at the peculiarities of time, place, and regime, and to avoid the virtue of the citizenry as a way of comparing the excellence of regimes, not necessarily his relativism or his adherence to some lower standard for political life. <sup>20</sup>

If this teaching is one of prudence rather than relativism, then where is the anchor, the center of his thought and of human nature? We have seen that the spirit, in contrast to virtue and the passions, suggests in Montesquieu a way to connect the activity of a people with a common end, whether with each other or in God. If this was Montesquieu's central concern, then he could be expected to have organized his book around it. Let us look briefly back over the *Spirit of the Laws* and see if its division into parts is illuminated by this suggestion. <sup>21</sup> If

19. Caillois, II, 1137 (*Défense*).

20. If this is so, then Montesquieu's attention to the nonpolitical circumstances is not clear evidence for his standing as a sociologist, as has been argued by:

Émile Durkheim, *Montesquieu and Rousseau: Forerunners of Sociology* (Ann Arbor, Michigan: University of Michigan Press, 1965);

Raymond Aron, "Montesquieu" in *Main Currents of Sociological Thought* (New York: Basic Books, Inc., 1965), Vol. I, 13–56;

Henry J. Merry, *Montesquieu's System of Natural Government* (West Lafayette, Indiana: Purdue University Studies, 1970) is a more recent book in this tradition.

21. Cf. "Introduction" of Montesquieu, *De l'Esprit des Loix*, texte établi et présenté par Jean Brethe de La Gressaye (Paris: Société les Belles Lettres, 1950), 1–li.

so, then this discussion of Montesquieu's rhetoric through his perception of his audience suggests another perspective on the *Spirit of the Laws*.

Part One (Books 1–8), after the introduction in Book 1, takes up three regimes, republican, monarchical, and despotic. They are compared in regard to their nature (or source of power), principle (or motive force), education, laws of the legislator, judicial process, use of wealth, and size. The book on size exemplifies the differences stressed throughout in the small size and singularity or peculiarity of republics, the indeterminate enormousness of despotisms, and the middle-sized, moderate monarchies. These middle-sized regimes turn out in Part Two (Books 9–13) to have a structure which permits them to range from monarchies to republics which are as different from the old republics as the monarchies are from any rule by one man considered by Aristotle (11.9). The differences between the two sets of regimes are emphasized by the books on international right and taxation. A pattern emerges in which ancient republics and both modern republics and monarchies are compared to despotisms. The reader is led to consider the ground for the distinction between the two sets of regimes and their respective relations to despotism.

Only with Part Three (Books 14–19) is the reader offered an explanation for the preferability of one government over another, among either the ancients or the moderns. Climates are distinguished between those which do and those which do not require activity for survival. Despotisms and slavery are identified with the formlessness of endless passions. Even survival is impossible without some action, without the action required to impose a despotism or slavery. Terrain offers a model for shaping men by natural circumstances. Singular, highly valued, peculiar ways of life are developed in small societies before Christianity. Book 19 brings modern France, Spain and England back to mind by comparing the differences in the implications for those peoples and for ancient peoples of vanity and pride.

Part Four (Books 20–23) does not present commerce as something new, but it does present it as something which has become differently arranged. Like population, it seems to require indirect rather than direct management in modern countries. The ground has been laid for the discussion of religion in Part Five (Books 24–26). Christianity is distinguished from other religions on the grounds of the teaching we have discussed. This teaching about the heart and spirit begs for a comparison with that in Part Three. The institution Montesquieu picks for his comparison is the family. In Book 26, he sorts out a division of influence between modern governments and Christianity in family life.

Part Six (Books 27–31) is a detailed exploration of "an event that happened once in the world and which will perhaps never happen again" (30.1). Montesquieu says this of the development of feudalism, but it could be applied to the whole group of changes that created the modern monarchy. The decline of the singular Roman law, as it became universal, the slow growth of a civil law among the Barbarians, the principles of writing laws for such peoples, the

growth of feudalism, and the revolutions of the French monarchy make up the concluding part.

From this brief description, one can begin to see an emerging pattern of concern with the change from ancient to modern governments, from direct to indirect government, from pagan, or natural, to Christian spirits. In describing the organization of this book in this way, we have seen the possibility arise of a distinction between ancient and modern spirits. The question we set aside at the beginning of this paper, the question of Montesquieu's own belief, arises again here. Now, we are led to put the question of Montesquieu's intent in this way: Did Montesquieu turn toward the spirit as a way of moving Christian opinion toward another, even an ancient, view of the human soul and its relation to political life, or did he see a way of combining a higher view of politics than the Thomistic control of the passions with Christianity? The first step in answering this question would be to work out a comparison between the natural and Christian spirit. This would require going back to Books 14, 18, 23, 24, 25, and 26. Such a comparison would suggest the familial and political forms which follow from each spirit. The Montesquieu who emerges from this approach is a thinker of awesome impartiality who was trying to understand the possibilities for human excellence while facing the implications of modernity.