
❧ The Propriety of Liberty ❧

PERSONS, PASSIONS AND JUDGEMENT
IN MODERN POLITICAL THOUGHT

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their peers and before their maker. Such an 'overcoming' of self had clear precedent in English culture with Milton, even though Locke's modification of such ideas seems to have come just as much through his engagement with Pierre Nicole and the French neo-Augustinian revival of the mid-seventeenth century.²¹² It also puts Locke at the centre of important new ways of thinking about a radically disengaged self, at once subjectivist but exceptionally self-reflexive.²¹³ Indeed, this conception of a free agent, characterized by self-proprietty and an idea of being one's own man, actually resembles central claims of Leveller politics despite Locke's apparent rejection of such politics. Freedom as independence remained as central to his vision as it did to theirs, as did the combination of theology and common law upon which both rest.²¹⁴

To conclude, freedom for Locke is about governing conduct. Through self-government, we overcome the malign qualities of natural self-interest, and redirect our hedonism towards civil peace. On his account, free agents are those who act responsibly and appropriately towards their position as persons in a political society, the standards of which are set by the demands of justice and law. Thus understood, Locke's contemporary legacy is best sought elsewhere than in theories of self-ownership or Christian equality, and instead in theories of agency and answerability that understand the reactive and emotional roots of our responses to injustice as forms of resentment.²¹⁵ His reflections on the 'psychic impact of human socialization' in terms of the harm resulting from injustice to reputation and credit are just as provocative as those assayed by his successors.²¹⁶ In any case, Locke presents us with a theory of liberty that is worried about both the nature of personhood and the cultivation of the self towards personhood, as well as being bound up with the idea that personhood requires a public, rather than a private, sense of obligation to others under justice.²¹⁷ These were certainly issues with a lengthy post-Lockean afterlife, and it is to Montesquieu, one of the most illustrious proponents of liberty as doing what one should want to do, that my discussion now turns.²¹⁸

²¹² Scott 2003, pp. 320f, 342f.

²¹³ Taylor 1996, esp. pp. 161ff, 169–72, 241ff; cf. Macintyre 1994, p. 217.

²¹⁴ Skinner 2006, esp. pp. 163ff; Cromartie 2006, pp. 278f.

²¹⁵ See Strawson 1968, esp. pp. 84ff, 96; cf. Jay-Wallace 1994, esp. pp. 55f, 62ff, 66f, 69, 208.

²¹⁶ Cf. Dunn 1990, p. 34.

²¹⁷ Coleman 2004, esp. pp. 128f, 136.

²¹⁸ See Frankfurt 2006a, pp. 25, 31, 33, 36f; cf. Mill 1969e, CW, vol. 10, pp. 259, 256; Moreau 2005, esp. pp. 296ff, 301.

Passionate Liberty and Commercial Selfhood: Montesquieu's Political Theory of Moderation

Charles-Louis de Secondat, Baron de la Brède et de Montesquieu, is central to many histories of modern liberalism. His analysis of the causes, contexts and consequences of human action, however, takes him far beyond conventional liberal claims of freedom as the absence of interference or silence of the laws. Instead, rather like John Locke, Montesquieu considered the propriety or quality of action to be central to its derivation as free. Because of this, he discussed political liberty as a form of regulated conduct, and free agency more generally as appropriate and self-directed regulation of the passions. To act freely we must be aware of, and attempt to balance, the competing passions that move us to act within spheres of action that are nevertheless constrained by numerous forces beyond our direct control. Such constraints, or indeed structures, include the various types of laws that govern action (divine, political and natural), alongside more obviously human relations that spring from physical, intellectual, and passionate causes.

Given this requirement of balance and the reality of multiple and conflicting demands upon us, any form of constitutional engineering must navigate around a problem: although there are immutable natural and physical laws, this fact has no direct analogue in the political or social sphere. For although there are laws, contingency and uncertainty, failures of understanding and interpretation, and a complexity that stands little chance of rational explanation, defines political and social life. There can therefore be no idea of political or individual perfection, because 'perfection does not concern men or things universally'. There are only approximations to it, and then only in particular contexts when cultivated by a wise and prudent legislator.¹ As what might be termed 'composite creatures', we have passions that, for Montesquieu, may be more or less reasoned, but our reasoning capacity is limited, just as Pascal and the Jansenists had suggested.² In fact, Montesquieu continues the relative

¹ Montesquieu 1989, 5. 24. 7, p. 464; 1964, p. 700: 'car la perfection ne regarde pas l'universalité des hommes ni des choses'.

² Pascal 1966, no. 110, p. 58; see too Krailsheimer 1962, chs. 6–7; Krause 2006, pp. 215f.

dethroning of reason in political analysis outlined by writers like Nicole and indeed Locke. When discussing our subjection to these multiple forces, he was quite clear that reason alone 'never produces great effects on the spirits of men'.³ Passions and their potentially chaotic character needed to be governed, moulded, and regulated for great effects to be produced. But only after beginning with these theoretical premises and their associated intuitions, did Montesquieu turn towards history to support his claims.⁴

In his greatest work, *De L'Esprit des Lois*, first published in 1748, one finds an attempt to reconcile two sets of claims. One is that free actions, which is to say actions that are self-directed and chosen rather than already determined by some other factor, are motivated by passions of the soul. Another is that the framework within which this self-directed agency takes place is inevitably constrained by factors such as climate, laws, religion, politics and so on. In combination, such freedom and determinism constitutes the general 'spirit' of a society, and only its contextual specificity allows us to make general judgements. For example, although he suggested that 'vanity is as good a spring for a government as arrogance is a dangerous one', Montesquieu thought that definite national traits underscored such general conceptions. He could therefore contrast the alleged laziness of the Spaniard with the industriousness of the Frenchman, while concluding that it should be 'unnecessary to say that moral qualities have different effects according to the other qualities united with them'. Roman arrogance, 'joined to a vast ambition, to the greatness of ideas, etc.', had produced results well enough known to render simple-minded social theorems redundant.⁵ This chapter aims to take seriously the account of moderation and liberty as responsible and regulated agency offered by Montesquieu, and to investigate how he came to develop such a position. Montesquieu presents a synthetic natural jurisprudence to assess the importance of justice and natural law; uses historical constitutional theory to draw lessons from both the ancient world and the French monarchy for contemporary purposes; and presents an account of human agency as rooted in the passions of the soul, but only properly free if adequately regulated. How such passions motivate particular forms of politics, and how various regimes might extend political liberty whilst maintaining order and decorum, is filtered through Montesquieu's understanding of the legislator. If successful, legislation can combine moderation and freedom in support of natural human de-

³ Montesquieu 1989, 3. 19. 27, p. 327; 1964, p. 648: 'Cette nation, toujours échauffée, pourrait plus aisément être conduite par ses passions que par la raison, qui ne produit jamais de grands effets sur l'esprit des hommes'. Cf. Shklar 1987, pp. 103, 106, 109.

⁴ Desgraves 1995, p. 72.

⁵ Montesquieu 1989, 3. 19. 9, pp. 312f; 1964, pp. 642f.

sires and the requirements of a modern commercial society. But success is rare in politics, and the argument suggests that political liberty is a form of conduct appropriately regulated both by individuals and by citizens. To put the point another way, this is why political liberty appears to be a form of propriety once more, precisely because it requires moderation and regulation. In order to show how all this fits together, my discussion takes each topic in turn, beginning with Montesquieu's analysis of justice.

JUSTICE

Montesquieu opened *De L'Esprit des Lois* with the general claim that the 'laws of nature' clearly 'derive from the constitution of our being'.⁶ In fact, the very first sentence declared that when 'taken in the broadest meaning', laws 'are the necessary relations deriving from the nature of things; and in this sense, all beings [whether divine or secular, human or animal] have their laws'.⁷ These laws provide the framing context within which justice can be discussed, and claims of justice will have to find a way of appropriately balancing the demands and values of these different spheres. The problem is not wholly dissimilar to more recent claims about justice and complex equality.⁸ For Montesquieu, in fact, this problem interestingly included a scalar conception of taxation and liberty. The more liberty one has, the heavier taxation can be, whereas the fiscal trade-off for living under despotism is that one pays lower taxes.⁹ But even here there is to be found a natural balance or appropriate relation between things, a contention that mirrors the earlier and celebrated account of justice expressed in his *Lettres persanes* of 1721. Assuming God exists and is just, it follows that

Justice is a relation of suitability [*Convenance*] which one actually finds between two things: this relation is always the same, whichever being considers it, whether God, an Angel, or finally a Man.

It is true that men don't always see these relations: often even those which they do see, they turn away from [*s'éloignent*]; & their own interest is always that which they see best. Justice raises its voice; but finds it hard to make itself heard amongst the tumult of the passions.¹⁰

⁶ Montesquieu 1989, I. 1. 2, p. 6; 1964, p. 531; cf. Montesquieu 1989, 5. 26. 6, pp. 498f; 1964, p. 712.

⁷ Montesquieu 1989, I. 1. 1, p. 3; 1964, p. 530.

⁸ Walzer 1994, esp. pp. 18ff.

⁹ Montesquieu 1989, 2. 13. 12, p. 221; 1964, pp. 610f.

¹⁰ Montesquieu 2004, Letter 81, p. 359: 'La Justice est un rapport de Convenance, qui se trouve réellement entre deux choses: ce rapport est toujours le même, quelque Etre qui le

Much scholarly ink has been spilt in trying to determine exact sources and influences of this claim.¹¹ For my purposes, the interconnection between justice and the passions is crucial. It suggests that justice writ large pertains to a general relationship between things, whatever their nature, independent of human law. Justice under human law, or justice writ small, however, must have its foundations in 'the existence and the sociability of reasonable beings'.¹² When justice is put in these terms, Montesquieu seems to be developing a much broader tradition of natural jurisprudence, out of which he synthesizes at least three positions about justice and natural law. First, he is very close to something like the notorious clause in Grotius's *De Jure Belli et Pacis*, which observed that rational agency, natural law and natural sociability would still have force 'even were we to suppose' (*etiamsi daremus*) that God did not exist.¹³ Although the assumption of divine existence presupposed for Montesquieu claims about God's perfection and justness, he nevertheless has Usbek say that even if there were no God, we 'must always love Justice; that is to say to make an effort to resemble this being, of whom we have such a wonderful idea'.¹⁴ His self-proclaimed novelty was to take such natural jurisprudential arguments and to apply them to the realm of civil or positive laws. Thus it was that he saw his text as a creation without a mother, and as creating a 'modern' theory of natural law.¹⁵

Montesquieu's theory of law and justice as a *rapport de convenance* certainly connotes a relationship grounded in thin theories of sociability and rational action. A second point of synthesis, however, stems from the search for what is *proprium* to human relationships. Montesquieu, like Locke before him, seems to cultivate the Ciceronian account of *oikeiōsis*, which was also important to both Grotius and Pufendorf.¹⁶ As some in-

considere, soit que ce soit Dieu, soit que ce soit un Ange, ou enfin que ce soit un homme. Il est vrai que les hommes ne voyent pas toujours ces rapports: souvent même lors qu'ils les voyent, ils s'en éloignent; & leur intérêt est toujours ce qu'ils voyent le mieux. La Justice élève sa voix; mais elle a peine à se faire entendre dans le tumulte des passions'.

¹¹ Macdonald 2003, pp. 112ff.

¹² Montesquieu 1955f, esp. pp. 159, 161f: 'la Justice n'est pas dépendante des lois humaines, qu'elle fondée sur l'existence & la sociabilité des êtres raisonnables'.

¹³ Grotius 2005a, vol. 3, p. 1748; cf. Grotius 2005, vol. 1, § XI, p. 89. Grotius's discussions of *mare liberum* and *mare clausum* were equally well known to Montesquieu. See BN N. A. F. 12837, fo. 3^r (= Montesquieu, *Collectio Juris*, vol. 1); Lewis 1995, esp. pp. 307, 314.

¹⁴ Montesquieu 2004, Letter 81, p. 360: 'Ainsi quand il n'y auroit pas de Dieu, nous devrions toujours aimer la Justice; c'est à dire faire nos efforts pour ressembler à cet Etre, dont nous avons une si belle idée'. Cf. Montesquieu 2004, Letter 81, p. 359, for the claim that if God were not perfect in his justness, he 'would be the worst and most imperfect of beings [le plus mauvais & le plus imparfait de tous les Etres]'.

¹⁵ Courtney 2001, esp. pp. 45f; cf. Ehrard 1963, vol. 2, p. 498; Tuck 1990, pp. 99–22; Montesquieu 1964, p. 874 (*Pensées*, no. 191).

¹⁶ Grotius 2005, vol. 1, esp. pp. 80f; cf. Tuck 2005, p. xxix n. 34; 1999, pp. 172–76.

terpreters of Cicero have noted, the relational conception of the virtues in *De Officiis* might indeed be best understood in French as either *convenance* or *convenables*, and it would be unsurprising if this interpretation was not precisely what Montesquieu had in mind. The language was well known.¹⁷ Indeed, an important transmitter or filter for these ideas was the work of Jean Barbeyrac, and in particular his classic preface to the translation of Pufendorf's *De Jure Naturae*. With the scepticism and Epicureanism of Pierre Bayle as his target, Barbeyrac illustrated how 'a great philosopher', namely Locke, had related morality and freedom of action. Locke had shown, he wrote, that morality was related to agency to the degree that one could try to attain certainty in the course of choosing between different courses of action, based on comparing 'carefully certain Relations, which we conceive between *human Actions* and a certain Rule'.¹⁸ Moral determinations could be properly assessed through our conventional experience of natural law as persons, where claims of right or justice underpin property, that is to say, under moderate government.¹⁹ This view connected neatly with Montesquieu's use of extant French legal thought, and in some ways his major work seems to be a direct attempt to update *Les Lois civiles dans leur ordre naturel*, published between 1689 and 1694, by the Jansenist Jean Domat. Domat's eleventh chapter considered directly the nature and the 'spirit' of laws, famously dividing the variety of laws into either immutable and natural, or arbitrary and artificial.²⁰ The purpose of legal study as Domat (and equally Montesquieu) defined it, was therefore 'nothing else but the Art of discerning Justice and Equity'.²¹ Given the Jansenist connections, it is unsurprising that Domat had also developed the provocative argument that the 'social ethic' underpinning his age, that of the *honnête homme*, was at root a mask for human corruption.²² And though Montesquieu did not quite go that far, as later sections will show, his similar awareness of honour as both natural and simultaneously artificial was important.

Nevertheless, the claim about justice and moderation also illustrated the important Platonic and neo-Platonic debts he owed to Gravina, Malebranche, Leibniz and Shaftesbury in particular. These constitute the third

¹⁷ Milton-Valente 1956, esp. pp. 171, 188f; Sonenscher 2008, pp. 214f.

¹⁸ Barbeyrac 1749, p. 3 and n. 9; see the discussion in Hochstrasser 1993, esp. pp. 294ff, 298ff, 303–4 n. 58; Desgraves 1995, p. 71.

¹⁹ Hochstrasser 1993, pp. 307f; 2000, pp. 21ff; cf. Saunders 2003, esp. pp. 479f, 483–85.

²⁰ See Domat 1722, vol. 1, ch. 11, 'Of the Nature and Spirit of Laws', pp. xxvii–xliv; discussion in Keohane 1980, pp. 303–6.

²¹ Domat 1722, p. xlv; Sonenscher 2007, pp. 154ff; cf. Domat 1965, pp. 85f; Goyard-Fabre 1993, esp. pp. 71ff, 75f, 78ff, 82f; Keohane 1980, pp. 416f, 305; see Lewis 1995, pp. 309f, for Montesquieu's use of Domat.

²² Viner 1972, p. 56; Parrish 2005, esp. pp. 220f, 225–30.

element of his conceptual synthesis. Montesquieu based his terms 'Political State' and 'Civil State' most explicitly on Gravina's authority, where the former is the union of 'all individual strengths', whilst the latter is the 'union of these wills'.²³ He did so less for Gravina's Platonism, however, than for his rejection of unitary and indivisible sovereignty, in favour of a conception of political unity where the general will is the expression of the civil law.²⁴ This seems to have done more work for Montesquieu than the cognate account of general and particular wills he could find in Hobbes's *De Cive*, which seems in fact to have paved the way for Rousseau's later discussion.²⁵ There, Hobbes had focused on the subjection by each man of 'his will to the will of a single other [*alterius unius*], to the will, that is, of one Man [*Hominis*] or of one Assembly [*Concilium*], in such a way that whatever one wills on matters essential to the common peace may be taken as the will of all and each [*omnes et singuli*]'.²⁶ Such a union results in the civil person of the commonwealth or state being formed, since 'the will of each citizen is comprehended in the will of the commonwealth in all matters'. This makes the individual will 'free whenever it so wishes', for it is 'not obligated by the civil laws; for the civil laws are the laws of a commonwealth, and if it were obligated by them, it would be obligated to itself' and no commonwealth can be 'obligated to a citizen'.²⁷ This was compatible with Montesquieu's defence of honour, though the absolute and unitary sovereignty of the Hobbesian commonwealth had to be rejected.

More obviously Platonic was Malebranche's claim that ideas of just and unjust, of truth and falsity, were all equally the same whether considered by God, man, or the angels, because justice is a relationship of mathematical proportion.²⁸ Montesquieu added that if God exists, for whom we must once again assume a benign and beneficent universal will, then there are divine origins to the human passions, which although they

²³ Montesquieu 1989, I. 1. 3, p. 8; 1964, p. 532, emphasis in original; cf. Locke 1988, I. ix, §§ 98–99, p. 213; Goyard-Fabre 1993, pp. 92, 95f; Montesquieu 1964, pp. 876, 938 (*Pensées*, nos. 209, 598).

²⁴ Montesquieu 1989, I. 1. 3, p. 8; 1964, pp. 531f, citing Gian Vincenzo Gravina, *Origine Romani juris*, 1739, bk. 2, ch. 18, p. 160, and bk. 3, ch. 7, p. 360n. This text by Gravina is not in the catalogue of Montesquieu's library, though it does contain Montesquieu's copy of Gravina, *Della Ragion poetica*, 1716. See Desgraves 1954, no. 2407, p. 148. For a biographical note concerning Gravina, see Wokler and Goldie 2006, p. 740. See also Volpilhac-Auger 2001, p. 119. For Gravina's Platonic-inspired rejection of Locke and the *Lochisti*, see Israel 2006, pp. 522–26; also Stapelbrook 2008.

²⁵ Rousseau 2003, bk. 1, ch. 7, pp. 51–53; bk. 4, ch. 1, pp. 121f.

²⁶ Hobbes 1998, ch. 5, §§ 6, 9, pp. 72f. Emphasis in original.

²⁷ Hobbes 1998, ch. 5, § 14, p. 84. Emphasis in original.

²⁸ Malebranche 1962–84, vol. 11, part 1, ch. 1, p. 19, quoted in Montesquieu 2004, p. 359 n. 2.

are common to persons in general, can equally be understood as 'particular causes'. In so arguing, Montesquieu was part of a well-explored linguistic and conceptual transformation of the divine into the civic, even though he rather tempered the mathematical exactitude of Malebranche in favour of the rough proportionality in justice suggested by others like Aristotle.²⁹ Similarly, in terms of its phrasing, the analysis recalls Locke's old intellectual sparring partner in matters Hobbesian, the third Earl of Shaftesbury.³⁰

It has long been known that Montesquieu drew from contemporary travel literature, as had Locke and Shaftesbury, precisely to undermine claims of moral universalism. We also know that he incorporated something of Shaftesbury's neo-Stoic form of innate moral sense, to argue for the possibility of an appropriate balance between virtue and the passions.³¹ Montesquieu's awareness of and proximity to Shaftesbury's ideas would be buttressed with a wide variety of concerns, some of which could have been clarified still further during his stay in England from 1729 to 1731. For example, this visit allowed him to develop in private a view of England as the exemplar of a liberty greater than that of Venice or Holland.³² At this time he was extremely close to the Whig circle of Bolingbroke and the secretive Club d'Entresol, and could engage with the debates between writers like Lévesque de Pouilly (friend of Bolingbroke, theorist of moral sentiments and apparent plagiarist) and Nicolas Fréret.³³ More generally, though, Shaftesbury's language—a 'thousand other Springs, which are counter to *Self-Interest*, have as considerable a part in the Movements of this Machine'—is highly suggestive of the various *ressorts* to which Montesquieu alludes when discussing the passions and actions of the human 'machine'.³⁴ Added to this view was an idea of suitability that Montesquieu seems to take almost directly from Leibniz's *Théodicée*.³⁵ There, through a critique of Hobbes's account

²⁹ Riley 1986, pp. 111, 113f; Nelson 2004, esp. pp. 169–76.

³⁰ See Klein 1994.

³¹ Crisafulli 1943, esp. pp. 372ff, 376–80, 382ff, 386f.

³² Montesquieu 1964, pp. 331–34 ('Notes sur l'Angleterre'); 1964, pp. 326–31, esp. p. 330 ('Hollande'). For the general connections, see Shackleton 1988, esp. p. 14; Keohane 1980, pp. 376–91. Cf. Montesquieu 1964, pp. 1035ff (*Pensées*, no. 1805); and for Dutch readings of Montesquieu, see Israel 2006, pp. 359f; Velema 1997, pp. 44–63.

³³ On Pouilly's alleged plagiarism, Nadel 1967, esp. pp. 439f, 441ff; more broadly Ras-kolnikoff 1992, pp. 148ff, 152ff, 419–46, 712; also Pocock 1999, pp. 156f, 226ff; Ehrard 1963, vol. 2, pp. 555f. Cf. Fréret 1758; while Golden 1951, remains the standard Anglo-phone account of Pouilly. On the Club d'Entresol, see Childs 2000.

³⁴ Shaftesbury 2001, vol. 1, part 3, § 3, p. 72; also Viner 1972, p. 70.

³⁵ Desgraves 1954, no. 405, p. 32; no. 1532, p. 112, shows the editions owned in Montesquieu's library catalogue; discussion in Mason 1975, pp. 21, 22 n. 45, 24, 28, 178ff; Crisafulli 1937, esp. pp. 774f, 777.

of freedom and the will, Leibniz described a 'kind of justice which has for its goal neither improvement nor example, nor even redress of the evil. This justice has its foundation only in the fitness of things, which demands a certain satisfaction for the expiation of an evil action'. This punitive and 'avenging justice', which he claimed that 'the Socinians, Hobbes and some others do not admit', was certainly recognized by Montesquieu.³⁶

Leibniz's account of the relationship between justice and causality offered to 'defend Aristotle against the cavil of Grotius' (and presumably Hobbes too), by arguing that 'Justice (particular) is a virtue serving the mean in the affections of one man toward another, the affections of enjoying or harming, or those of good will and hate. The role of the mean is to gratify another (or myself) as long as this does not harm a third person (or another)'.³⁷ Montesquieu could have said much the same without distorting his own theory, even though as a young man he found Leibniz's critique of European politics and republicanism less than satisfactory.³⁸ He was more sympathetic, one imagines, to Leibniz's Platonist metaphysics. This was structured around an account of cosmic harmony and the equivocal character of causation, and led him to the proposition that justice is the 'charity of the wise', a universal relationship as well as a virtue that structures social interaction.³⁹ Whilst on its own Leibniz's work could not do everything Montesquieu wanted, in combination and synthesis with the other elements of his work already outlined it created a vast and complex lens through which to see particular problems of justice.⁴⁰ It structured the answers to a variety of questions that intrigued him, ranging from probability and contingency, chronology and evidence (in politics and morals as well as natural science), through to the nature of classical history.

Montesquieu continued to suggest that just as there are physical and invariable laws that determine matter and motion, so too are there invariable laws that govern the 'intelligent world'. And although agency as self-determined action could play a part on this stage, once again it is important to note that the intelligent world is 'far from being as well governed'

³⁶ Leibniz 1952, § 73, p. 161.

³⁷ Leibniz 1969, pp. 75f; cf. Goyard-Fabre 1993, pp. 86–89, 91.

³⁸ Montesquieu, Letter no. 352, to Baron von Stein, October 17, 1729, in Montesquieu 1998a, pp. 406–9.

³⁹ Mercer 2001, pp. 174, 175 n. 5, 176, 178, cf. pp. 209, 361; see also Leibniz 1969, pp. 74f: 'It is very improbable that the term cause expresses an unequivocal concept to cover efficient, material, formal, and final causes'. On Leibniz's political thought more generally, see Riley 1999, esp. pp. 30ff, 37f; Leibniz 1988, esp. pp. 47ff; Leibniz 1988a, esp. p. 71; Leibniz 1988b, esp. p. 171; Hunter 2004, esp. pp. 681–89.

⁴⁰ Nelson 2004, esp. pp. 146–54.

as the natural or physical world. This upholds his rather deflationary account of the importance of reason (as rational calculation) in human affairs.⁴¹ The intelligent world, he wrote, 'does not follow its laws consistently' even though such rules or laws are a 'consistently established relation'. This is because 'every diversity is *uniformity*, every change is *constancy*'.⁴² As a physical being, man is 'governed by invariable laws like other bodies'. As an intelligent being he is 'limited' by his 'nature', often makes poor use of his reason, and is fallible because he consistently makes bad use of the 'thousand passions' to which he is subject.⁴³ And in a rhetorical move that subverted standard accounts of the relationship between character and virtue, Montesquieu suggested that the 'man of spirit', that is to say, an individual who is moved by passions, is universal. Given the variety of factors that affect a person's character, however, the 'man of spirit' who is also a man of 'character' is extremely rare.⁴⁴ Universalism and particularism here combine to show how complicated moral and political judgements are, and how infinite their variety can be, as infinite in fact as our individual responses to questions of beauty or aesthetics. All judgements are based in our passions and desires, and the variety of our judgements is once again an illustration of the 'weakness of the human condition [*foiblesse de la condition humaine*]'.⁴⁵ Because Montesquieu's analysis once more implies an account of inclinations and judgements rooted in our soul, it suggests a rather aesthetic appreciation of politics.⁴⁶ That claim rings true in his assessment of Plato, alongside Shaftesbury, Malebranche and Montaigne as the four greatest poets rather than political thinkers.⁴⁷

What unites all of these thinkers into Montesquieu's synthesis, however, is the requirement of moderation in the face of worldly uncertainty and confusion, constancy (a central theme of early-modern politics derived from Tacitean commentary) amidst the turbulence of the passions, and recognition of the complex relations between the worlds of nature

⁴¹ Montesquieu 1989, I. 1. 1, pp. 3f; Montesquieu 1998, p. 7: 'Mais il s'en faut bien que le Monde intelligent soit aussi bien gouverné que le Monde physique'.

⁴² Montesquieu 1989, I. 1. 1, p. 4; Montesquieu 1998 (Version imprimée), p. 6: 'Ces règles sont un rapport constamment établi . . . chaque diversité est *uniformité*, chaque changement est *constance*'. Emphasis in original.

⁴³ Montesquieu 1989, I. 1. 1, p. 5; Montesquieu 1998 (Version imprimée), pp. 8f: 'L'homme, comme Etre physique, est, ainsi que les autres Corps, gouverné par des Loix invariables. Comme Etre intelligent, il viole sans-cesse les Loix que Dieu a établies, & change celles qu'il établit lui-même . . . il devient sujet à mille passions'.

⁴⁴ Montesquieu 1955i p. 419. For discussion and translation, see Richter 1976, pp. 132–38; Montesquieu 1976, pp. 139–62.

⁴⁵ BN, N. A. F. 717 [*Autographes XV–XIX^e Siècles*] fo. 29^r.

⁴⁶ Thomas 2005, esp. pp. 75, 77f; also Shackleton 1988c, esp. p. 104.

⁴⁷ Montesquieu 1964, p. 1073 (*Pensées*, no. 2095); cf. Casabianca 2008.

and politics.⁴⁸ Out of this heady concoction of what one might think of as philosophical worldliness, Montesquieu tried to render his account of comparative constitutionalism scientific, in two ways: first, by developing a particular form of constitutional theory, an amalgam memorably designated by Sheldon Wolin as 'a variant of organizational theory and political methodology';⁴⁹ second, by promulgating a science of laws, or legal pluralism, that 'struck a mortal blow' against absolutism in France generally, and unitary accounts of political sovereignty in particular.⁵⁰ Such an account has political force, but also highlights the problems of both political and moral judgement under conditions of uncertainty.⁵¹ It is at least probable that Montesquieu wished to update the classical theory of justice as correct proportion in light of his thinking about liberty as security on the one hand, and, on the other, the idea of commercial justice as upholding a 'just price' under conditions of economic uncertainty.⁵² If he could do so, he would show that wealth and luxury prompt passions that might conflict with justice, and that economic ambition can foster the commodification of 'moral reasoning'.⁵³ At the level of the polity, luxury is an index measuring inequality, and at the level of the individual a soul corrupted by luxury will eventually turn against those laws that constrain it. This could be dangerous for both republics and monarchies, though the solutions provided by each are different.⁵⁴ Both require individual self-proprietty, but where the one sought austerity and virtue, the other gloried in self-interest and honour. Because the former was thought by Montesquieu to be inapplicable to the modern age, it meant that he first had to draw a series of appropriate lessons from classical visions of politics, so as to avoid their earlier mistakes.

LESSONS IN CLASSICS: POLITICS, FRIENDSHIP AND DESPOTISM

Montesquieu's youthful *Dissertation sur la politique des Romains dans la religion* was read to the Academy of Bordeaux on June 18, 1716.⁵⁵ Although he ultimately rejects Machiavelli's attempts to promote Rome as a political model as both impossible and undesirable for modern com-

⁴⁸ On the rise of Tacitean commentary, see Momigliano 1949, pp. 190–92; 1947, esp. pp. 97f, 100; also Volpillac-Augier 1985, esp. pp. 129ff.

⁴⁹ Wolin 2004, p. 351, on 'constitutional theory'.

⁵⁰ Keohane 1980, pp. 394, 406, on Montesquieu's 'constitutionalism'.

⁵¹ Keohane 1980, p. 394; Wootton 2008, pp. 21–53.

⁵² Spector 2005, pp. 217–42, pp. 222, 235f; cf. Montesquieu 1955g, p. 214.

⁵³ Kingston 1996, p. 211.

⁵⁴ Montesquieu 1989, I. 7. 2, p. 98; 1964, p. 565. See too Spector 2006, p. 138.

⁵⁵ Shackleton 1988d, esp. pp. 120f; Oake 1953, p. 548.

mercial society, Montesquieu's focus on the importance of religion to the development of Roman law and society offered another synthesis, this time of Machiavellian prudence and contemporary social and political thought.⁵⁶ It was then filtered through the lens of a comparison between Greece and Rome as imperial powers.⁵⁷ Thinking the Romans more 'tolerant' of other religions than the Greeks (using the treatment of Socrates as an example) but harsher in their educational requirements, Montesquieu first assessed the practical utility of Roman religion. In so doing his presentation mirrored the language of contemporary translations of Machiavelli, and the opening line suggested that neither fear, nor piety, but 'necessity' was the basis of religion in general, but Roman religion particularly.⁵⁸ Indeed, just as Machiavelli talked of the founding of a great city and then empire as a matter of great *fortuna*, which *virtù* could only try to maintain, Montesquieu had long thought the founding of Rome was based on the luck of having a Numa in the right place at the right time.⁵⁹ Like most of Montesquieu's work, his use of such ideas had both an historical and a contemporary purpose. First, it suggested parity between climate, religion, laws and maxims of government, moeurs and manners as explanatory variables 'mutually related to one another', and which together determine the 'general spirit' or character of a state.⁶⁰ Equally, however, just as Machiavelli proceeded by subverting his classical authorities, so too did Montesquieu use the developing and unmasking language of Tacitean political writing to overturn conventional contemporary thoughts about political prudence. This was clearest in his analysis of universal monarchy, which in turn buttressed a still further analysis of Rome.⁶¹

During 1734, Montesquieu had composed his *Considérations sur les causes de la grandeur des Romains et de leur Décadence* for publication in Holland. This was nearly seventeen years after his initial paper on Rome to the Bordeaux Academy, and he conceived of it as a separate

⁵⁶ Myers 1995, p. 47; Bayle 1702, esp. p. 1959, note E.

⁵⁷ Montesquieu 1955a, pp. 45, 48; Montesquieu 1964c, p. 41. For Montesquieu's account of Greek imperialism, see Volpillac-Augier 2002, pp. 49–60, on the folly of conquest; see too Muller 2002, p. 64ff.

⁵⁸ Montesquieu 1964c, p. 39: 'Ce ne fut ni la crainte ni la piété qui établit la religion chez les Romains; mais la nécessité où sont toutes les sociétés d'en avoir une'. Shackleton 1988d, pp. 120f, notes the similarities with Testard's contemporary translations of Machiavelli.

⁵⁹ Machiavelli 1989, bk. 1, chs. 1–3, 9, pp. 192–202, 217–20; Montesquieu 1964c, p. 48.

⁶⁰ See Oake 1953, pp. 553f, 557, 549, who notes that for Montesquieu religion is a 'social force which has parity with others'. Quotations from Montesquieu 1964, p. 948 (*Pensées*, no. 645); cf. Montesquieu 1989, 3. 19. 4, p. 310; 1964, p. 641.

⁶¹ Soll 2005, esp. pp. 95ff, 120, and more broadly pp. 59ff; cf. Robertson 1993, esp. pp. 353, 372.

publication.⁶² However, it actually followed another essay from 1727 that had been bundled together with papers on the debts and riches of Spain, and which focused on the idea of a universal monarchy in Europe. These *Réflexions sur la monarchie universelle en Europe* were initially planned to form the concluding part of the *Considérations*, making clear their contemporary import through a joint critique of both historical Rome and contemporary imperial politics.⁶³ If the French were proposing to advance a universal monarchy, they would have to engage in still further stockpiling of public debt; taxation would therefore fail to be 'just and proportional' (*juste & proportionnelle*), and its support would require the sort of 'fictional wealth' (*richesses de fiction*) that the Spanish (and the English) had gathered up but which distorted political realities.⁶⁴ Many thought Louis was following this sort of Spanish model.⁶⁵

Fictional wealth went along with universal monarchy, and an attack on one was simultaneously an attack on the other. In developing searing criticisms of recent Spanish imperial practice, Montesquieu was therefore also attacking contemporary French politics under the 'grand prince'. The Spanish were corrupted by luxury, as could be seen in their plundering of the Americas and their debasing of 'natural' by 'artificial' credit. Indeed he had long thought the French could and should manage their (rather smaller) empire much more effectively.⁶⁶ But the French king had 'lost the heart of his subjects' through the prosecution of 'a vain war' that was a direct result of 'intolerable taxes'.⁶⁷ The recent Wars of the Spanish Succession had clarified this loss of allegiance, and had highlighted the failure to tackle those real (rather than fictitious) problems facing a prince, which stemmed from the 'immutability of his condition' (*immutabilité de sa condition*).⁶⁸ Instead of appreciating this need to govern, Europe had been ravaged by a general 'rage for conquest'.⁶⁹ The begin-

⁶² Montesquieu 2000, vol. 2, pp. 89–98; also in Montesquieu 1964e, pp. 435–85. See too Montesquieu, Letter to Lady Hervey, September 28, 1733, and Père Castel, Letter to Montesquieu, April 23, 1734, both in Montesquieu 1955j, pp. 954ff, 962f. See Kingston 1996, pp. 51ff, on Montesquieu and the Academy.

⁶³ Spector 2006, p. 403.

⁶⁴ Montesquieu 1955, esp. p. 25; cf. BN Mss. Fr. 7767, for the wide selection of responses to the question of what to do about the French debt. See too Montesquieu 1989, 3. 19. 27, p. 327; 1964, p. 648.

⁶⁵ Spector 2006, p. 444.

⁶⁶ Montesquieu 1955e, pp. 142ff, 147ff; cf. Rahe 2005, p. 70 n. 82.

⁶⁷ Montesquieu 1964, p. 937 (*Pensées*, no. 596): 'Le Roi avait perdu le Coeur de ses sujets par les tributs intolérables dont il avait chargés, soutien nécessaire d'une guerre vaine'.

⁶⁸ Montesquieu 2000a, §§ 6–7, 9–10, 16–19, 23–24, pp. 345f, 348f, 355, 358, 360, 362.

⁶⁹ Montesquieu 1734; 1734a. The phrasing belongs to Tobias Smollet, who appears to have translated a version of Montesquieu's text. See Montesquieu 1752; discussion in Miller 2004, esp. pp. 175ff.

ning of Montesquieu's thinking about moderation, which would dampen such rage, is to be found in these early texts. It is therefore unsurprising to find him beginning by focusing on the problems faced by Europe as the heir of the Roman Empire.⁷⁰ Rome was motivated by a passion for conquest through military honour and glory, and that singular focus (which might well be an exaggeration but which was Montesquieu's view of the general Roman spirit) exemplified why it could not be a model for any society with an awareness of multiple causes and myriad passions, all of which might make some claim to legitimacy. It was 'morally impermissible' (*moralement impossible*) to follow Rome in the modern world, where new modes of warfare based upon the equality of men and states had triumphed over earlier models of aggressive territorial expansion. Indeed, 'today victories confer only sterile laurels' (*lauriers stériles*) as well as being politically and financially problematic.⁷¹

Similar problems applied to an excessive valorisation of the Greeks. As a nation of warriors and athletes, they too were moved by a singular species of passion, rooted in severity and anger. Modern European societies, subject to contradictory fortunes, to movements of spirits and to a 'variety of passions' that 'continually change circumstances', were clearly unlike Greece and Rome. Yet these monarchies were disadvantaged compared to republics governed by 'views of the public good', because their own turmoil reflected internal favouritism and ambition.⁷² Paradoxically, that which was designed to oil the wheels of the monarchical machine was becoming corrupted, both in terms of the pursuit of universal monarchy and in terms of a general decline in respect for the monarch upon which such authority rested. But although one should reject the Roman model, the contrast between monarchies and republics still had contemporary purchase, because both were threatened by luxury.⁷³ So while Montesquieu rejected Machiavelli's celebration of republican frugality and empires for increase as inapplicable to commercial society, he recognized the truth of the claim about the nature of republics in general and republican virtue in particular.⁷⁴ His own analysis suggested 'that in

⁷⁰ Montesquieu 2000a, pp. 5, 322. See too Montesquieu 1964, pp. 192–97; Rahe 2005, esp. pp. 59f, 67 n. 70; Kuhfluß 1987, pp. 281, 287f.

⁷¹ Montesquieu 2000a, § 1, pp. 339–40.

⁷² Montesquieu 2000a, §§ 2–3, pp. 341, 343f: 'l'inconstance de la fortune, la mobilité des esprits, la variété des passions, le changement continuel des circonstances, la différence des causes font naître mille obstacles'. Therefore, 'Les Monarchies ont sur-tout ce desavantage qu'on s'y gouverne tantôt par les vuës du Bien public, tantôt par des vuës particulieres, & qu'on y suit tour à tour les interest des Favoris, des Ministres & des Rois'.

⁷³ Spector 2006, p. 138; in general see Montesquieu 1989, 2. 11. 6, p. 166; 1964, p. 590; cf. Montesquieu 1989, I. 5. 7, pp. 50f; 1964, p. 547. Cf. Machiavelli 1989, bk. 3, ch. 33, pp. 502f.

⁷⁴ Montesquieu 1989, I. 5. 3, pp. 43f; 1964, p. 545; cf. Pocock 2003a, esp. pp. 484,

republics where wealth is equally divided, there can be no luxury', so that 'the less luxury there is in a republic, the more perfect it is'.⁷⁵ Luxury was 'always proportionate to the inequality of fortunes', and it was dangerous precisely because it fed on natural ambitions and desires; the close proximity of people to one another in towns and cities makes them 'more vain', and 'the more they feel arisen within them the desire to call attention to themselves by small things'. Luxury 'produces this expectation' and lays a path to ruin.⁷⁶ Under monarchy, such problems had also to be watched carefully, but a well-ordered monarchy could use this natural vanity and harness it towards a social ethic of honour, which was both economically advantageous and politically moderate.

Montesquieu's analysis was of a piece with his broader contrast between commercial and military investment, and indeed between the 'political polarity of monarchic instability versus democratic stasis'.⁷⁷ As well as being a deluded attempt to ape either Rome or the Spanish, a desire for universal monarchy resembles the illegitimate engrafting onto European political culture of a despotic rule more familiar to the great empires of Asia. For Europe was 'nothing more than one nation composed of many'.⁷⁸ Such unity in multiplicity once more showed it to be unlike Rome, even if the attractions of imperium were obvious.⁷⁹ And there is something about the grip of the *imperium Romanum* that rendered Montesquieu's attack upon its most recent manifestation as *monarchia universalis* particularly interesting. He remained in thrall to the Romans intellectually whilst rejecting the contemporary relevance of their politics. Ideas of a universal monarchy that drew on them simply presented a 'contradictory compound', backwards looking and bound up with European interstate rivalry. In fact, after the collapse of the Holy Roman Empire, the idea of universal monarchy quickly became a negative form of political association, open to criticism from radicals and moderates alike.⁸⁰

In its place, Montesquieu's post-Machiavellian political economy rejected the positive correlation between warfare and trade in contempo-

488–92; also Montesquieu 1989, I. 5. 4, p. 44; 1964, p. 545; Montesquieu 1989, 4. 20. 3, p. 339; 1964, p. 651; cf. Machiavelli 1989, bk. 1, chs. 16–18, 25, 29, 30, 36, pp. 235–44, 252f, 257–61, 272–75; bk. 3, chs. 24–25, pp. 485–88.

⁷⁵ Montesquieu 1989, I. 7. 2, p. 98; 1964, p. 565.

⁷⁶ See Montesquieu 1989, I. 7. 1, pp. 96f; 1964, pp. 564f; cf. Montesquieu 1989, I. 5. 8, p. 53; 1964, pp. 548f.

⁷⁷ Mason 1996, esp. pp. 63f, 69f, 72f.

⁷⁸ Montesquieu 2000a, §§ 8, 18, pp. 348, 360; cf. Montesquieu 1964, p. 918 (*Pensées*, nos. 555, 562); Rahe 2005, esp. pp. 65f and n. 64.

⁷⁹ Rahe 2005, pp. 62f and n. 58; see too Shklar 1987, pp. 64f.

⁸⁰ Bosbach 1986, esp. pp. 123f; cf. Bosbach 1998, esp. pp. 90ff, 95ff; Robertson 1995, pp. 3–36.

rary Europe. That could only foster bankruptcy, decline, or even both, and none were in the interests of a Bordeaux wine seller.⁸¹ In this at least, his was clearly a traditional vision of Enlightenment as progress.⁸² Yet on such grounds, Montesquieu suggested that only in 'free nations' could citizens maintain their liberty, because they are prouder (*superbes*) than those who can 'more easily be vain'.⁸³ There are echoes of Machiavelli here, but it is equally important to note the direction in which Montesquieu pushes the argument, and its implications for his account of monarchy. By reworking early Greek discussions of liberty as requiring something like a combination of equality in property and the rule of the wise, into a modern-sounding compound of economic redistribution under conditions of inequality and rule by elites, he was part of the gradual transformation of the language of republicanism for modern political theory. In turn, this development required an account of the separability of commerce from nobility. For the moderns, 'commerce is the profession of equal people' so that when nobles become merchants, the decline of a republic is imminent. Indeed, Montesquieu clearly thought it 'is against the spirit of commerce for the nobility to engage in it in a monarchy', just as it is 'against the spirit of monarchy for the nobility to engage in commerce'. Thus, the 'usage that permitted commerce to the nobility in England is one of the things that most contributed to weakening monarchical government there'.⁸⁴ Against the mercantilism of French monarchical policy, Montesquieu seemed to be suggesting that 'the spring of interest is exclusively the spirit of constraint', so that constraining behaviour for the better pursuit of interest requires moderation or propriety, not overbearing political speculation and aggrandizement.⁸⁵

All of this rendered Montesquieu's critique of universal monarchy doubly intriguing. He first suggested that defeat by the Spanish at the Battle of Blenheim was a blessing in disguise for the French, for if Louis been victorious, the infrastructure required to support and supplement his newfound position as sole European monarch would have been unsustainable. Better now to be *primus inter pares*. Second, there is a schol-

⁸¹ Montesquieu 2000a, § 1, p. 340. See also Hont 2005, esp. chs. 2, 4; Mason 1996, pp. 73ff, 81ff; Montesquieu 1955h, pp. 263–73; Larrère 1997, pp. 103–16; cf. PRO 30/24/47/35, Locke's papers on viticulture, which were collected in Locke 1720. See also Lough 1953a, pp. 54, 58f. Richard Ashcraft made much of this for a decoding of Locke's politics, but see the criticisms in Goldie 1992, esp. pp. 563f; P. Milton 2000, esp. pp. 651f, 656f, 664ff.

⁸² Mason 1996, esp. pp. 66ff; Ehrard 1973, vol. 2, p. 493.

⁸³ Montesquieu 1989, 3. 19. 27, p. 332; 1964, p. 650: 'Les nations libres sont superbes, les autres peuvent plus aisément être vaines'.

⁸⁴ Montesquieu 1989, 4. 20. 21, p. 350; 1964, p. 655.

⁸⁵ Spector 2006, pp. 204, 206 n. 1, 207; quotation on p. 396: 'le ressort d'intérêt est exclusif de l'esprit de contrainte'.

arly curiosity here. The *Réflexions* and *Considérations* were considered for publication together in 1734, the draft chapter on England from *De l'Esprit des lois* also stems from around 1734, and both the *Considérations* and the draft chapter are in the hand of the same amanuensis. If we consider the two works together, numerous political analogies become clearer. The comparison between a commercial English government and a rapacious Rome, on the one hand, and between the moderate monarchy of France and a Spanish empire for increase, on the other, provide a compelling lens through which to view the political dynamite of Montesquieu's analysis.⁸⁶ Because of its explosive character Montesquieu unsurprisingly chose not to publish the two texts together, and he revised his account of the Romans in light of fears about censorship. But the texts demand to be read in combination, and were clearly considered as meditations on the character of expansionism both ancient and modern, with appropriately critical lessons to be drawn from them.⁸⁷ Small wonder that the English were so keen to translate his work (which in fact built on English sources for the account of Roman agrarian laws, for example), while in France Montesquieu had to seriously tone it down.⁸⁸

Indeed, Montesquieu's analysis of Rome and religion was pointedly delivered as a broadside against contemporary French historical scholarship. The celebrated Bishop Bossuet, who had argued for the providential character of human history via the divine right of kings, outlined a universal history that was anathema to Montesquieu. For although Montesquieu would willingly talk of general causes such as passions, he would insist on contextually specific instances, always assuming that events could have turned out otherwise.⁸⁹ His analysis was also a rejection of the claims of Father Huet, bishop of Avranches, over the comparative utility of understanding ancient history. Huet had written of the *Histoire du commerce et de la navigation des Anciens* in 1716, suggesting that Roman expertise in navigation underscored expansion through a commitment to commerce.⁹⁰ Montesquieu rejected the religious and naval narrative in favour of his analysis of Rome as a land-based empire. Moreover, even though Huet's general scepticism was both important and not unconvincing, his defence of Rome (and its impact on actual politicians) was something Montesquieu railed against.⁹¹

⁸⁶ See Montesquieu 2000a, §§ 16–17, pp. 358f; Rahe 2005, pp. 64f, 80ff.

⁸⁷ See Montesquieu 1964, p. 860 (*Pensées*, no. 80).

⁸⁸ Nelson 2004, esp. pp. 138 n. 46, 141–45, 159–63.

⁸⁹ Bossuet 1990, p. xxviii; cf. Shklar 1987, pp. 52f, 55.

⁹⁰ Huet 1727, p. 120.

⁹¹ Popkin 1955, esp. 67–70; cf. Popkin 1979, pp. 65–93; Spector 2006, esp. pp. 411, 413ff, 418; see too Volpilhac-Augier 2001, esp. pp. 261–64, for Montesquieu's desire to

In rejecting both Bossuet and Huet, Montesquieu had more sympathy for Fénelon, even if he was ambiguous about the nature of the *quiétisme* implied by true devotion to the love of Christ, or *pur amour*.⁹² And while Fénelon did not go as far as the Jansenists, and Montesquieu in turn did not go as far as Fénelon over questions of religion and grace, the implication that action be either interested or disinterested not only chimed well with contemporary debates about self-interest and selfhood more generally.⁹³ It also had clear implications for understanding the history of commerce.⁹⁴ Because of it, some in England even modified Fénelon in dreadful doggerel for the purposes of defending English liberties over 'partial' Rome.⁹⁵ In his own discussion of the Troglodytes, however, Montesquieu had firmly rejected a Fénelonian utopia, where the people 'are entirely free from pride, vanity, deceit, and all desire of extending their territories', as surely as he had rejected Hobbesian sovereignty. In its place, Montesquieu proposed retelling a history of progress from savagery to civility through the growth of private property and monarchy.⁹⁶ Only once this history was understood could a reformed Fénelonian Salentum be presented as an allegory for the rule of James II, and this narrative could draw the moral of his story out effectively. It implied that with an appropriate moderation of property relations and constitutional engineering, trade between enemies (France and England) could lead to prosperity and peace.⁹⁷ Property was therefore only one element in a stadial history, which focused on problems of honour and monarchy.⁹⁸

Yet the major cited source on which Montesquieu drew for his early account in the essay on Roman religion was Cicero, in particular *De Divinatione*. From it Montesquieu cited well-known justifications for the close interconnection between religious sentiment and patriotic attach-

incorporate the discussion of Rome into his '*livre du commerce*'. Cf. Whatmore 2009, esp. pp. 56f, 62–65.

⁹² See Montesquieu 1964, p. 988 (*Pensées*, no. 1080); Riley 1986, pp. 63f, 68f, 75 n. 26, 76; Sonenscher 2008, pp. 231–48. Fénelon's defence of 'free quietism', against Bossuet, is visible in his Letters to Bossuet of March 8, 1695, and December 7, 1695, in Fénelon 1976, vol. 4, pp. 15f, 47f.

⁹³ C. J. Coleman 2005, esp. pp. 304f, 312–15.

⁹⁴ Force 2004, pp. 183–200; Holmes 1995, esp. pp. 42–68.

⁹⁵ Duke of D— 1709, p. 3, written 'in allusion to the Archbishop of Cambray's *Telemachus*'.

⁹⁶ Fénelon 1994, pp. 113, 110: 'Do they [richer nations] enjoy greater liberty, tranquillity, and contentment? On the contrary, they must be jealous of one another ... since they are enslaved by so many false necessities'. For the context, see Hont 2006, esp. pp. 404ff; Sher 1994, pp. 371–74. On progress, see also Montesquieu 1989, I. 3. 4, p. 25; 1964, pp. 537f; cf. Montesquieu, *Lettres persanes*, Letter 106, in Montesquieu 1964, pp. 117f.

⁹⁷ Sonenscher 2007, p. 117; 2008, pp. 207ff.

⁹⁸ See Hont 2005, pp. 183f; Meek 1976, pp. 31–33, 131ff, 171ff; Spector 2006, pp. 67ff.

ment to the city. To bolster his argument, he retold stories of Crassus, Lucullus, Tarquin and others in terms of their consultation of the oracles in the hope of extracting religious premonitions of military success, in order to show that a new (*nouvel*) feature of Roman politics was the occasional punishing of generals who failed to follow religious protocol. This was done with the aim of showing the people that failure, lost battles, captured cities (*villes prises*) were not due to the effects of a 'bad constitution of the state, or to the feebleness of the republic, but to the impiety of a citizen, against whom the gods had become irritated'.⁹⁹ Montesquieu (like Augustine had before him) appreciated that such myths were designed to counter the bad judgement of the citizens, as much as to keep them politically in the dark, and that they were beneficial to the state.¹⁰⁰

The appeal to Cicero was not only conventional, given the staple diet of early-modern Ciceronian style Stoicism in European moral and political thought. It also reflected a more personal and youthful admiration, and Montesquieu's cognate search for an appropriate balance between the useful and the good, the *utile* and the *honestum*, can be seen in his 'Discourse sur Cicéron'.¹⁰¹ Dated variously between 1709 and 1717, this paper shows a compelling debt to Cicero's style and rhetoric as well as to his example. The Stoic subordination of the passions to reason and virtue seems to have illustrated an ideal to be followed, though as I have tried to suggest already, Montesquieu's relationship to this aspect of the Stoic tradition was quite complex, and his suspicion of the applicability of virtue to politics extremely deep. Refuting the charge that Cicero was effectively 'feeble and timid' (*faible et timide*), Montesquieu averred that he was in fact a 'great man' who 'always subordinated all of his passions, his fear and his courage, to wisdom and reason'.¹⁰² Importantly, this subordination of the passions was learned through the practical nature of true friendship, and Montesquieu clearly alluded to Cicero's wider discourses as evidence.¹⁰³ In his own treatise on friendship, Cicero had

⁹⁹ Montesquieu 1964c, p. 41: 'On voulait faire voir au peuple que les mauvais succès, les villes prises, les batailles perdues, n'étaient point l'effet d'une mauvaise constitution de l'État, ou de la faiblesse de la République, mais de l'impiété d'un citoyen, contre lequel les dieux étaient irrités'.

¹⁰⁰ Montesquieu 1964c, p. 41: 'Varron avait découvert par là tout le secret des politiques et des ministres d'État', citing (in French translation) Augustine, *The City of God*, bk. 4, ch. 31. See also Oake 1953, pp. 553f.

¹⁰¹ Moore, 'Utility and Humanity', esp. p. 385.

¹⁰² Montesquieu 1964b, pp. 34–36, p. 35: 'Ce grand homme subordonna toujours toutes ses passions, sa crainte et son courage, à la sagesse et à la raison'; cf. Montesquieu 2002, p. 735.

¹⁰³ Montesquieu 1964b, p. 35: 'Tantôt il nous dévoile les charmes de l'amitié et nous en fait sentir tous les délices; tantôt il nous fait voir les avantages d'un âge que la raison éclaire, et qui nous sauve de la violence des passions'; Montesquieu 2002, p. 734.

presented a dialogue with Laelius over the legacy of their mutual friend, Scipio. After rehearsing various standard presentations of the topic, Cicero concluded that 'the first law of friendship' (*prima lex amicitiae*) is to 'ask of friends only what is honourable', and to 'do for friends only what is honourable'.¹⁰⁴

The true foundation of friendship is in virtue and honour, not utility or vanity. Thus, as Peter Brunt has noted, Cicero (and Augustine in part after him) clearly thought it was right, indeed a duty, to 'subordinate' claims of friendship to the needs of the state.¹⁰⁵ Developing this line of argument, Montesquieu claims that particular duties or obligations always yield to moral universals such as an attachment to the state.¹⁰⁶ Thus understood, political life might look like an extended form of friendship. In any event, according to Cicero nature has provided for the fact that like will be friends with like, so that the good are always friends with the good.¹⁰⁷ His definitive answer stands in contrast to the more ambiguous Platonic dialogues on the subject.¹⁰⁸ Relationships between friends are based on openness, honesty, and truth.¹⁰⁹

Misguided ambition is presented as one of those traits inimical to friendship so understood. At the same time, however, Montesquieu recognized ambition as a natural human trait rooted in the very source of human agency, namely the soul. Therefore he tried to separate out in his discussion the political effects of ambition and despotism from their natural role in human motivation. The excessively ambitious and the despotic seem to avoid even the veneer of moderation necessary to both friendship and to political freedom. Conversely, the ideal of the citizen as frank speaker and friend, or *Parrhasiastes*, was updated to make it relevant for Montesquieu.¹¹⁰ Frank speech is important for the modern man of honour, but this is not because of an interest in truth or even sincerity. Instead, the modern *Parrhasiastes* shines in social situations, appearing daring and manly, an emblem of vigour (and one presumes virility). Montesquieu's occasional connection of virtuous and free action with sincere action, for example, equally recognized that sincerity was often misdirected by self-interest.¹¹¹ He therefore examines a form of selfhood that is genuinely rooted in natural sentiments, but which is made appro-

¹⁰⁴ Cicero 1996, 13, pp. 154ff; 44, p. 189.

¹⁰⁵ Brunt 1988, p. 40; cf. Brunt 1988a, esp. pp. 464f; Augustine 1979, pp. 79f, 83, 88.

¹⁰⁶ Riley 1986, pp. 142f, 148f.

¹⁰⁷ Cicero 1996, 5–6, esp. pp. 127, 130f; 14, p. 163.

¹⁰⁸ Plato 1997a, 210c–d, 213, 213b–c, 215a–b, 220e.

¹⁰⁹ Cicero 1996, 24–25, pp. 197–203.

¹¹⁰ On *parrhasia*, see Monoson 2000, esp. pp. 54–57; updated by Montesquieu 1989, I. 4, 2, pp. 32f; 1964, p. 541, into the monarchical virtue of the *bonnête homme*.

¹¹¹ Montesquieu 1955c, pp. 63, 65.

priate to the needs of commercial society under a moderate monarchy. Much as Locke had suggested before him, for Montesquieu this vision of the citizen was educative and exemplary. His analysis in fact of the place of education under different regimes serves as a forcible reminder of this connection between politics, persuasion and emotion.¹¹²

Ambition then served a twin role in the analysis. If unchecked in their ambition, individuals are unlikely to be true friends or trustworthy citizens. In both cases, unchecked ambition can distort judgement and promote hypocrisy, making it a central issue for politics.¹¹³ In distorting judgement, the ambitious might scorn others and laugh at them, thus exemplifying the 'suddaine glory' that threatens civil peace by bursting the boundaries of decorum or magnanimity.¹¹⁴ Indeed, though Montesquieu thought that 'humour is the passion of the spirit', a gift from God just like food and *amour-propre*, it had always to be appropriate, even (or especially) in the case of parody, a tool Montesquieu wielded frequently and well.¹¹⁵ Because passionate selfhood was unavoidable, its excesses had to be tempered if moderation was to be achieved. This could best be done under a moderate government that promotes political liberty. Political liberty requires 'human ingenuity in contriving a balance between the political ambitions of various interests'. It therefore becomes, in fact, the 'moral criterion by which any political system is to be judged'.¹¹⁶ Other forms of rule that fail to defend it were implicitly de-legitimized, in an argument that had an immediate take-up in translation and then a lengthy intellectual afterlife.¹¹⁷ However, although this view might seem to depend upon hypocrisy, and present self-proprietty simply either as a mask or as a front for something like possessive individualism, Montesquieu did not think that it did; and even if it were true, it is not clear that he

¹¹² Aristotle 1984, bk. 3, 4, 1276^{b1} (on virtue and the constitution); III, 4, 1276^{b1}, 1277a1, 1277b1, bk. 6, 1140a, 1142b–1143a (on practical wisdom and deliberation); cf. Monoson 2000, pp. 56, 60f, 174f.

¹¹³ Thompson 2005, pp. 210–14.

¹¹⁴ Hobbes 1991, ch. 6, p. 43; discussion in Skinner 2002f, esp. pp. 147ff, 151ff, 172, 175f.

¹¹⁵ Montesquieu 1964, p. 993 (*Pensées*, no. 1165): 'Je disais: "L'humeur est la passion de l'esprit."' Cf. Montesquieu 1964, p. 987 (*Pensées*, no. 1036): 'M. Nicole dit très bien que Dieu a donné l'amour-propre à l'homme comme il a donné le goût aux mets'. See in general Wade 1977 vol. 1, p. 437.

¹¹⁶ Hampson 1968, p. 116.

¹¹⁷ Adair 1998; cf. Pettit 2001, esp. ch. 7; on Nugent's translation, see Montesquieu, Letter to Thomas Nugent, Paris, October 18, 1750, in Montesquieu 1955j, p. 1333; also Shackleton 1978, pp. 248–59. Cf. Montesquieu 1750; Montesquieu 1750a; cf. BL Add Mss. 40, 759, vol. 4, esp. fos. 154, 156^r, and Montesquieu 1989, pp. 214ff, for different translations. Discussion in Sher 1994, esp. pp. 370f; Howard 1959, pp. 44–46; Courtney 2009, esp. pp. 31f, 43.

would have minded. For although many have castigated hypocrisy, this ordinary vice is one that writers from the early modern period recognize as absolutely fundamental to societies where moral or political virtue is a concern secondary to propriety. Its veneer promotes peaceful exchange, and the radical truth-telling frank speaker is transformed into the peaceable citizen who is moderately sociable, free to pursue honour and self-interest, but willing (or forced) to respect the rights of others under the law.¹¹⁸

These issues attracted Montesquieu's attention because they had contemporary relevance to his analysis of despotism and tyranny. The principle of fear upon which despotism is based is stationary or static, and for Montesquieu this meant that it was contrary to nature. Despotism cannot cope with diversity, and to the extent that the ancient world could not deal with diversity and faction in its search for political unity, it had to be rejected.¹¹⁹ Equally, under conditions of *stasis* and uncertainty, political argument could easily become immoderate and radical. The transformation of the political language of virtuous moderation into despicable unmanliness under such conditions, recounted in Thucydides' discussion of Corcyra, was a classical example. Montesquieu needed to steer a path between both extremes.¹²⁰ On the one hand, his vision of despotism was contemporary, a term of abuse for the last years of the reign of Louis XIV that had also been investigated by Bayle.¹²¹ Its high political import was obvious. Yet not only could the term both explain and justify the oppression of foreign peoples, it also embodied a linguistic attack upon tyranny that related back to classical arguments from both Plato and Aristotle.¹²² In advancing the term *despotisme* Montesquieu was promoting a significant evolution in political language, which allowed him to run together these meanings whilst also rejecting a simple-minded application of classical political theory to contemporary political realities. It permitted a separation of tyranny and despotism, whilst recognizing the threat posed by monarchs as well as merchants.¹²³

Thus although notions of despotism or tyranny formed part of a classically Polybian cyclical schema, Montesquieu did not account for tyranny in constitutional terms alone. Tyranny could refer either to the 'violence of the government' (as in Polybius's degenerate democracy) or to 'opinion, which is felt when those who govern establish structures that run

¹¹⁸ Shklar 1984, esp. p. 77; Runciman 2008, pp. 12ff, 37–41, 202f.

¹¹⁹ Berent 1998, pp. 331–61; Manicas 1982, pp. 673–88; Ehrard 1963, vol. 2, pp. 497f.

¹²⁰ Thucydides 1972, III. 82; cf. Fuks 1971, pp. 48–55.

¹²¹ Desgraves 1954, no. 1538, p. 113.

¹²² Venturi 1963, esp. pp. 134f, 138; cf. Kassem 1960, pp. 97, 104, 108, on the Aristotelian, as well as Platonic, debts of Montesquieu.

¹²³ Koebner 1951, esp. pp. 300ff; Boesche 1990, esp. pp. 741ff, 753–57.

counter to a nation's way of thinking'.¹²⁴ Despotism, by contrast, creates uniformity and promotes inequality, and because it is the only regime in Montesquieu's typology based solely on the passions, it produced a tragic irony. Its prevalence meant that Montesquieu's preferred and 'moderate' regime was an exceedingly rare 'masterpiece of legislation that chance rarely produces and prudence is rarely allowed to produce. By contrast, a despotic government leaps to view, so to speak. It is uniform throughout, because only passions are needed to establish it, and everyone is good enough for that'.¹²⁵ His allegiance to Aristotelian argument is important in understanding this difference too. Aristotle had seen despotic rule as outside the properly political realm, in its attempt to transform politics into something akin to household management. Despotism pursued a process of de-politicization because it gave free rein to the passions. For although the passions are the source of agency, they need to be controlled for moderate politics and hence political liberty to flourish.

The tyrant, in Aristotle's account, rules like the head of a household rather than the head of a state. Montesquieu's tyrant literally transforms the public realm into an *oikos*, turning citizens into slaves and making government the expression of an arbitrary power. It all 'comes down to reconciling political and civil government with domestic government, the officers of the state with those of the seraglio [*sérail*]'.¹²⁶ The subversive implications were not lost on critics of the French monarchy, and in its re-making of the state as a seraglio, the tyrannical ruler or the despotic society was both morally corrupt and politically sick. The language, of course, recalls the celebrated attack on princely self-absorption well known from Fénelon's *Télémaque*, as well as the powerful parody of a bankrupt and venal courtly system in the *Lettres Persanes*, which reiterated views about Louis XIV the 'grand magicien' that were too licentious for the censors in Rome.¹²⁷ The conclusion to that book, with Roxanne's revolt, her claims of independence from Usbek and for a society of many lovers, as well as her poisoning of the eunuchs, illustrates a radical (and erotically charged) response to despotism. And that once again ties Montesquieu back to

¹²⁴ Polybius 1922–27, bk. 6, pp. 287ff; Montesquieu 1989, 3. 19. 3, p. 309; 1964, p. 641. See too Millar 2002, esp. pp. 28–36.

¹²⁵ Montesquieu 1989, I. 5. 14, p. 63; 1964, p. 553.

¹²⁶ Montesquieu 1989, I. 5. 14, p. 60; 1964, p. 551; see Krause 2001, esp. pp. 240ff, 255ff.

¹²⁷ Montesquieu, *Lettres persanes*, Letter 24, in Montesquieu 1964, pp. 74–75; cf. Montesquieu 1964, pp. 936f (*Pensées*, nos. 595–96). See also Riley 1986, pp. 148, 153, for the argument that bad legislators in the *Lettres Persanes* are similar to Malebranche's pagan deities. For a reproduction of the text that placed Montesquieu's book on the Index in 1762 see Macé 2005, pp. 57ff, see also p. 49 n. 3.

the ideas of Bayle and Epicureanism.¹²⁸ Equally, his claim that society could be despotic, but that legal tyranny or slavery could ensue under the auspices of a nominally 'free' or democratic government, would go on to have significant impact. This was so particularly in terms of the idea of 'self-recognition' in British political thought, and, somewhat ironically, English propaganda aiming to 'raise the resentment' against the French, could also use it successfully.¹²⁹

Crucially, however, for the comparative utility of Montesquieu's typology, this was not just a French symptom.¹³⁰ Rather it illustrated the constant 'flux and reflux of empire and liberty'.¹³¹ Thus, although Montesquieu's case for making moral judgements about politics stemmed from the 'legitimate desires' of human beings for security, society and knowledge, connecting despotism and current policy was designed to show the inapplicability of ancient heroic politics to modern, commercial societies. That was an outdated form of 'superhuman transcendence'.¹³² Building on his earlier analysis, Montesquieu even claimed that the Roman Empire was the 'head of a body formed by all the people of the world', in the perfect image of a globalized Leviathan.¹³³ Its fall, at least on this reading, was the result of both corruption and luxury. Even philosophy did not escape, and when the Stoics had advanced *amour-propre* to such a degree that suicide could be justified as the true 'love of our being' (*l'amour de notre être*), the die was well and truly cast.¹³⁴ While the Stoics might make good laws, good rules and perhaps good citizens, and even if the ideal Stoic polity was theoretically conceivable, Montesquieu knew its citizens 'would be an unamiable lot', completely out of place in the modern world. This is due to the fact that the 'inherent disharmony' between man and nature makes perfection impossible, and only balance and equanimity can provide (temporary) satisfaction in the face of this misalignment. While he appreciated the Stoic vision, indeed numbering the destruction of Zeno's sect as 'among the misfortunes of human kind', Montesquieu found such virtue inapplicable to modern politics. What he surely wanted to show people was the sort of austere example that virtue

¹²⁸ Gilbert 1994, p. 58; Hundert and Nelles 1989, esp. pp. 236–42; Schaub 1995; Spector 1997; Mosher 2007, pp. 109ff.

¹²⁹ Gunn 1983, esp. pp. 15ff., 35, 38–40, 239; [Anon.] 1756, p. 1.

¹³⁰ Fénelon 1994, esp. pp. 332f.

¹³¹ Montesquieu 1964, p. 1011 (*Pensées*, no. 1475): 'Voilà, comme il y a toujours en flux et reflux d'empire et de liberté'.

¹³² Krause 2006, pp. 222f; Starobinski 1953, pp. 54, 28.

¹³³ Montesquieu 2000, ch. 6, p. 140: 'Ainsi Rome n'étoit pas proprement une Monarchie, ou une République, mais la Tête du Corps formé par tous les Peuples du monde'.

¹³⁴ Montesquieu 2000, chs. 11–12, pp. 160, 162f, 181.

required for the making of good men, citizens and emperors, in order not only to prove the power of the example, but also to show how great was the distance between the ancients and the moderns.¹³⁵ Certainly, modern commercial society could not proceed according to such criteria, for the 'world of that time was not like our world today', and modern forms of policy and commerce make the grand schemes of the ancients ever more difficult to envisage.¹³⁶ Only in England, it seemed, was an appropriate combination of physical, moral, political and intellectual motivation buttressed by a political form germane to the maintenance of commercial liberty, and even English liberty was a contradictory compound. And in any case, the self-same political liberty seen in England had to stem, as I now hope to show, from his much broader account of the fundamental causes and consequences of human action in the passions of the soul. This vision underpinned his entire synthesis, and if the political consequences of natural ambition could result in despotism, he had first to show how this ambition lay at the root of human agency itself, in order then to harness it for different ends.

THE PASSIONS OF THE SOUL AND THE ACTIONS OF THE MACHINE

Although Montesquieu did not pursue a direct and extensive dialogue with Descartes, comparing their accounts of the passions of the soul brings Montesquieu's conception of agency into sharper focus.¹³⁷ In his work, there is an intimate connection between ambition and the soul as the source of self-directed agency, for the soul directs our passions towards actions we freely choose. In this way Montesquieu opens up a space for thinking about human freedom, in a world governed by a multiplicity of laws, which locates him in wider debates about the passions.¹³⁸ Put simply, the soul is the source of Montesquieu's challenge to determinism. Our happiness and the passions of the soul are intertwined. For example, he noted pithily that there are, in general, two sorts of 'unfortunate people [*gens malheureux*]', those who have some 'failure of the soul, which they can do nothing about [*defaillance de l'âme, qui fait rien ne la remue*]', and those who simply 'want what they can't have [*desire ... tout ce qu'ils ne peuvent pas avoir*]'. This second sort of person is destined to be unhappy, being afraid of death but equally scared of life,

¹³⁵ Shklar 1979, esp. p. 317, provides this memorable assessment of the 'unamiable lot'. See Montesquieu 1989, 5. 24. 10, pp. 465f; 1964, p. 700; though compare the earlier, more cynical criticisms of Stoicism in Montesquieu 1955c, esp. p. 61.

¹³⁶ Montesquieu 2000, pp. 263f; discussion in Rahe 2005, pp. 75f.

¹³⁷ Montesquieu 1955d, p. 112.

¹³⁸ Cf. Sonenscher 2008, p. 228.

while the first is obviously limited. The question for Montesquieu, then, was how to understand the relationship between the passions of the soul and the promotion of happiness.¹³⁹

Happiness requires the capacity to act freely, and is therefore a property of responsible agents. In fact, 'human actions are the subject of needs', needs which we can 'submit to conventional laws'. Similarly, our 'machine' (a Lockean-sounding combination of perceptions, passions and sentiments) 'accustoms our soul to think in a certain way'.¹⁴⁰ With such language, Montesquieu seemed to be developing the classic but highly critical analysis of Descartes's treatise, *Les passions de l'âme*, conceived of in dialogue with Princess Elizabeth and ultimately published in 1645–46.¹⁴¹ In that work, Descartes had presented a fierce and complex attack on traditional accounts of the soul by the 'ancient' metaphysicians. The force of this Cartesian claim is that the soul is action in the body, yet simultaneously separate from it. The body is moved by 'animal spirits', which are a combination of heat and motion in the form of blood pushed around the system from the heart, and which are therefore nothing but miniature 'material bodies'.

Within the text, from a basic list of six fundamental primitive passions (admiration, love and hate, desire, joy and sadness), an indefinite number of further passions branch out, all of which bring equal benefit to the soul.¹⁴² Actions are understood as desires or volitions, which could be focused in either the soul or the body, while the passions are 'those kinds of perception or forms of knowledge which are found in us, because it is often not our soul which makes them what they are' but our body instead.¹⁴³ Our perceptions, then, can be caused either by the soul or by the body, and if they are caused *either* by external objects acting on the body, *or* by internal appetites of the body that mostly depend upon the nerves, then they are properly passions of the soul. Descartes was emphatic that passions of the soul are to be understood as 'the perceptions, feelings [*sentimens*], or emotions of the soul which we relate specifically to it, and which are caused, maintained, and fortified by some movement of the spirits'.¹⁴⁴ Their force was engineered quite precisely in the tiny pineal gland, located at a midpoint between the brain and the heart, which, 'diversely moved by the soul, or by such other cause', then 'thrusts the

¹³⁹ Montesquieu 1964, pp. 915f (*Pensées*, no. 549): 'Le propriétaire de cette âme est toujours dans la langueur ... il n'aime pas la vie, mais il craint la mort'.

¹⁴⁰ Montesquieu 1964, p. 938 (*Pensées*, no. 597): 'Les actions humaines sont le sujet des devoirs ... qui nous soumettent éternellement aux lois d'habitude'.

¹⁴¹ On the background to the treatise, see Gaukroger 1997, p. 387.

¹⁴² Levi 1964, pp. 274ff.

¹⁴³ Descartes 1967, vol. 2, art. 17, p. 340.

¹⁴⁴ Descartes 1967, vol. 2, art. 27, p. 344; Descartes 1955, art. 27, p. 86.

spirits which surround it towards the pores of the brain, which conduct them by the nerves into the muscles, by which means it causes them to move the limbs'.¹⁴⁵

Different people feel different passions in different ways, and through experience they learn conventional and appropriate responses that stay with them throughout their lives.¹⁴⁶ 'Our capacity to discriminate' between various feelings is literally 'marked on the body'. This means, for instance, that 'we do not need to make a judgement in order to feel that a situation is frightening; we simply experience it as frightening', a capacity that is both rational and central to our self-interest.¹⁴⁷ It also means, of course, that our judgement about the worth of an object will structure our response to it, which is to say again that our intellectual passions are judgements of value that we cultivate over time. From this it follows that intellectual passions concern judgements about our knowledge of the worth of particular objects; indeed, the usefulness of ethical or moral theory is that it teaches us how experience can come to regulate desire.¹⁴⁸ The movements of these animal spirits can 'represent to the soul the objects which stimulate the senses, or the impressions occurring in the brain', in which case they 'have no influence on the will'. Or they 'cause the passions or the bodily movements which accompany the passions', and therefore directly influence the will.¹⁴⁹ In conclusion, this implies that 'as long as our soul always has the means of happiness within itself, anything external is powerless to harm it'.¹⁵⁰

Even more pertinent for the development of Montesquieu's account of liberty, however, was Descartes's rhetorical rejection of the classical language of the divided soul split between reason and desire.¹⁵¹ Instead, the conflicts we feel when reflecting on the passions of the soul are conflicts between soul and body, and not between parts of the soul. The usefulness of the passions is that 'they incite and dispose their soul to desire those things for which they prepare their body'.¹⁵² With these points made, although the passions of the soul are presented as mostly 'passive per-

¹⁴⁵ Descartes 1967, vol. 2, art. 34, p. 347.

¹⁴⁶ Gaukroger 1997, p. 402; Levi 1964, p. 270; James 1997, p. 98f.

¹⁴⁷ James 1997, pp. 103ff, 107; on joy in Descartes, see James 1997, p. 97; Gaukroger 1997, pp. 403f.

¹⁴⁸ Levi 1964, pp. 280ff.

¹⁴⁹ Descartes 1967, vol. 2, art. 47, p. 353; see too James 1997, p. 101.

¹⁵⁰ Gaukroger 1997, p. 404. As Levi 1964, p. 272, puts it: 'one is master of one's passions in so far as one can successfully halt the flow of spirits which sustains them, and in so far as one can resist consenting to those actions which are solicited from the soul by the body in passion. In order to be master of one's passions one requires, therefore, strength of soul'.

¹⁵¹ Descartes 1967, vol. 2, art. 47, pp. 352ff; see too James 1997, p. 258.

¹⁵² Descartes 1967, vol. 2, art. 40, pp. 349f.

ceptions of bodily motions', this reciprocal unity of body and soul is the key.¹⁵³ It means there is a cognate relationship between the passions and bodily health.¹⁵⁴ For Descartes, passions are 'good in their nature and we have nothing to avoid but their evil uses or their excesses', so that when we feel moved by them, we should 'abstain from pronouncing any judgement on the spot' until we are becalmed.¹⁵⁵ Such suspension of judgement requires recognition of the fact that an ethic of generosity (*générosité*) underpins the idea that one only acts well to the extent that one does not will what one should not.¹⁵⁶ Indeed, in the third part of his treatise, this discussion of generosity (a seemingly Christian virtue) was offered as both a cure for the 'disturbances of the passions' and the key to all the other virtues. *Générosité* ties our free will to the capacity to choose well, thereby tending to promote virtuous action, or at least actions that it is in our power to control as the only basis for calling them voluntary or free. By so doing, we might achieve a 'general remedy for all the disorders of the passions'.¹⁵⁷ Here, 'the utility of all the passions consists alone in their fortifying and perpetuating in the soul thoughts which it is good it should preserve, and which without that might easily be effaced from it'.¹⁵⁸ The soul is a result of providential design.¹⁵⁹

In similar sounding terms, Montesquieu suggested that one could 'accustom one's soul to examine things as they are', and that the passions of the soul are neither equivalent nor reducible to those of the body. Man was not something to be worked on 'like the tool of an artisan', nor could everything be reduced to the power of the soul even if liberty and action were unthinkable without it. Instead, 'man is equally composed of the two substances' of body and soul, and each in 'flux and reflux' acts on the substantial union.¹⁶⁰ A relational unity is once again the key. Like the intelligent world more generally, body and soul have their own rules

¹⁵³ James 1997, pp. 87ff, 94, 106f.

¹⁵⁴ See Levi 1964, pp. 260-63; Shapin 2000, pp. 131-54.

¹⁵⁵ Descartes 1967, vol. 2, art. 211, pp. 425f.

¹⁵⁶ Gaukroger 1997, p. 404.

¹⁵⁷ Descartes 1967, vol. 2, arts. 156, 161, pp. 402f, 406; cf. Rodis-Lewis 1998, pp. 186f; Levi 1964, pp. 282ff.

¹⁵⁸ Descartes 1967, vol. 2, art. 74, p. 364.

¹⁵⁹ Menn 1997, esp. pp. 17f, 29f; see Williams 1978, pp. 167ff, 145-54; 2006a, pp. 236f; Levi 1964, p. 282.

¹⁶⁰ Montesquieu 1964, p. 874 (*Pensées*, no. 183): 'Lorsque les médecins et les auteurs moraux traitent des passions, ils ne parlent jamais la même langue: les moraux trop sur le compte de l'âme; les autres, trop sur celui des corps; les uns regardent plus l'homme comme un esprit; les autres, plus comme la machine d'un artisan. Mais l'homme est également composé des deux substances, qui chacune comme par un flux et reflux, exercent et souffrent l'empire'.

of conduct and engagement.¹⁶¹ The general 'machine', or unified body and soul, embraces connections between moral, physical and intellectual relations that are part and parcel of the fabric of human existence. And the closest Montesquieu gets to any form of determinism about this machine is to say that 'goodness and badness consist in a certain disposition of organs, favourable or unfavourable'. It is simply accidental that one person is rich and another poor, one person ambitious and another indolent.¹⁶² Our understanding of vice and virtue, however, is determined by how such 'dispositions' depend upon the 'mechanism' of our body and soul.¹⁶³ Specifically, 'just as human virtues and vices are ordinarily the effect of the passions, and the passions an effect of a certain state of the machine', Montesquieu himself 'speak[s] of the material of the passions, and not of the forms, which is to talk of the satisfaction felt by the soul in following the movements of its machine'.¹⁶⁴ He noted that 'nearly all the virtues are a particular relation of one specific man with another', using ideas of friendship, patriotism and pity to illustrate this regularity. Most importantly for my own story, he also noted that 'justice is a general relation', and therefore that those apparent 'virtues that destroy this general relation are not really virtues'.¹⁶⁵ In a claim that would have central ramifications for writers like Smith and Mill, Montesquieu noted that, as a word, 'justice is often extremely equivocal'.¹⁶⁶ That lack of specificity simply mirrors the idea that what constitutes the 'majority of contradictions of man is the fact that physical and moral reasons are not always in agreement'.¹⁶⁷ He also claimed that the foundation of justice was a feeling

¹⁶¹ Montesquieu 1964, p. 985 (*Pensées*, no. 996): 'Or, on peut accoutumer son âme à examiner les choses telles qu'elles sont'. Cf. Montesquieu 1989, I. 1. 1, pp. 3f; Montesquieu 1998, p. 7: 'Mais il s'en faut bien que le Monde intelligent soit aussi bien gouverné que le Monde physique'.

¹⁶² Montesquieu 1964, pp. 915f (*Pensées*, no. 594): 'Le bonheur ou le malheur consistent dans une certaine disposition d'organes, favorable ou défavorable'.

¹⁶³ Montesquieu 1964, p. 938 (*Pensées*, no. 597): 'C'est ici que la physique pourrait trouver place dans la morale, en nous faisant voir combine les dispositions par les vices et les vertus humaines dépendent du mécanisme'.

¹⁶⁴ Montesquieu 1964, p. 874 (*Pensées*, no. 183): 'Comme les vices et les vertus humaines sont ordinairement l'effet des passions, et les passions l'effet d'un certain état de la machine – je parle du matériel des passions, et non pas du formel, c'est-à-dire de cette complaisance l'âme sent à suivre les mouvements de sa machine'.

¹⁶⁵ Montesquieu 1964, p. 996 (*Pensées*, no. 1214): 'Presque toutes les vertus sont un rapport particulières d'un certain homme à un autre; par exemple: l'amitié, l'amour de la patrie, la pitié, sont des rapports particulières. Mais la justice est un rapport général. Or, toutes les vertus qui détruiraient ce rapport général ne sont pas des vertus'.

¹⁶⁶ Montesquieu 1964, p. 948 (*Pensées*, no. 641): 'Le mot de justice est souvent très équivoque'. Emphasis in original.

¹⁶⁷ Montesquieu 1964, pp. 995f (*Pensées*, no. 1208): 'Ce qui fait la plupart des contradic-

of resentment against injustice, or rather a desire for 'vengeance' against those who have offended us, and not always a claim rooted in 'reason'.¹⁶⁸

Two major implications flow from this argument, one of which has already been noted, namely that perfectionism is irrelevant to the political life of human beings. Instead, something like moderation or propriety is required for happiness, justice and tranquil civic life, for it is an artifice that reason can only explain after the fact. One cannot hope to fully quit the world for the contemplative life, nor can one reasonably expect to dominate others, because both are ultimately despotic solutions to the problem of selfhood. A second and related claim is that it is impossible to understand these relations between physical, moral and intellectual causes if one does not use both history and philosophy to illuminate particular contexts; a wry aside concerning the philosophy of Thales, for instance, illustrates his point.¹⁶⁹ History, for Montesquieu, is the best expression we have of human reason and human freedom acting in time, but those expressions receive their clearest distillation in philosophy. Thus, a better guide to understanding the 'laws and morals of the Greeks' is found in Plato's 'two Republics' and Aristotle's *Politics*. To think that one could find this understanding in the historians would, he said, be 'as if we wanted to find our own in reading about the wars of Louis XIV'.¹⁷⁰ Once more, theory drives the historical explanation, whilst history (as action in time and place) is simultaneously granted autonomy. Such an approach mapped onto his study of the passions, and might be illustrated in his projected, though never completed, history of the idea of jealousy, as distinct from claims about jealousy of trade.¹⁷¹ The idea was taken up by some later authors in explicitly Montesquieuan fashion, but to a large extent it still remains an unwritten, possibly an unwritable, history.¹⁷² Its most famous claims appear as clichés today, where jealousy is 'necessary in hot countries; liberty in cold climates', a claim to which he

tions de l'homme, c'est que la raison physique et la raison morale ne sont presque jamais d'accord'.

¹⁶⁸ Montesquieu 1964, p. 990 (*Pensées*, no. 1102): 'Le but naturel de la vengeance est de réduire un homme à ce sentiment de désirer de ne nous avoir point offensé'.

¹⁶⁹ Montesquieu 1964, p. 1009 (*Pensées*, no. 1463): 'quand un philosophe nous dit que le principe des choses est l'eau, nous voyons bien que nous n'avons qu'un mot, et que nous ignorons le sens'.

¹⁷⁰ Montesquieu 1964, p. 1007 (*Pensées*, no. 1452): 'Il faut réfléchir sur la Politique d'Aristote et sur les deux République de Platon, si l'on veut avoir une juste idée des lois et des mœurs des Grecs. Les chercher dans leur historiens, c'est comme si nous voulions trouver les nôtres en lisant les guerres de Louis XIV'.

¹⁷¹ See Sonenscher 2007, ch. 2; Hont 2005, esp. pp. 267–324; Hont 2007, esp. pp. 261–64, 278; cf. Joseph Addison [?] 1729, pp. 292–96.

¹⁷² Mills 1772, esp. pp. 122f, 126f, 181f; see also Hont 2007a, esp. p. 393 n. 11.

appended a mixture of reasons from physical and sexual maturity to the differential strength of reason. It also bolstered his explanation of why despotism and servility begin with the drowsiness (and jealousy) found in hot climates.¹⁷³ For although Montesquieu left only fragmentary notes about how this history might be written, in them he once again justified its interest by claiming that that 'it is not always reason and nature that governs men, but often pure chance'.¹⁷⁴ Only history could show this fact, and though he failed to complete his project, in his myriad illustrations of the passionate causes and consequences of free human action, Montesquieu brought out the implications of his approach for what one might call the politics of soulcraft.

MODERATION AND SOULCRAFT: THE ACTION OF PASSIONATE SELFHOOD

In my account of liberty as propriety, free agency requires two things: First, that one be able to control the passions that motivate action in order to deliberate effectively, and second that one identify with and be responsible for such passionately or affectively grounded actions, because one can be judged according to conventional standards of justice. In order to act with political liberty, the passionate self has to be able to pursue its ends freely, but to desire those ends that are of common benefit. This requires moderation, or propriety. Indeed, because freedom on this account derives principally from persons and their capacities, not just from choices and options, political liberty accords with self-regulation, moral responsibility and appropriate action under the law. For most writers of the early-modern period, the obvious starting point for such arguments was to be found in discussions of the nature of the soul, and Montesquieu was (again like Descartes) no exception. The soul, he reiterated, is a 'combination' of ideas that is separately moved by moral and physical causes, and which 'suffers when it is not occupied', feeling as if something has 'menaced' its very existence.¹⁷⁵ This occupation is the pursuit of agency for our happiness, but in order that this free agency might be made to

¹⁷³ Montesquieu 1964, p. 989 (*Pensées*, no. 1087): 'La jalousie me semble nécessaire dans les pays chauds; la liberté, dans les climats froids'. Cf. Montesquieu 1989, 3. 14. 13, p. 243; 1964, p. 617: 'Servitude always begins with drowsiness'.

¹⁷⁴ Montesquieu 1964, p. 920 (*Pensées*, no. 579): 'On verra dans l'Histoire de la Jalousie que ce n'est pas toujours la Nature et la Raison qui gouvernent les hommes, mais le pur hazard'.

¹⁷⁵ Montesquieu 1964, p. 916 (*Pensées*, no. 551): 'Notre âme est une suite d'idées. Elle souffre quand elle n'est pas occupée, comme si cette suite était interrompue, et qu'on menaçait son existence'. See also Starobinski 1953, p. 32.

accord with political liberty, its ends have to be either forcibly checked or carefully manipulated. For that reason, political liberty is neither democracy nor free choice. It is, instead, doing what one should want to do, the hallmark of which is moderation.

The language is again revealing when this thought is applied to the soul. Like Descartes, Montesquieu considered it important that to be happy the soul 'needs to have an object, because it is a means of giving life to our action'. It 'becomes more important according to the nature of the object' which 'further occupies our soul'.¹⁷⁶ Both in his *Pensées* and in his published works, Montesquieu presented the soul as a form of active, even creative energy and certainly as the source for what my own story thinks of as free agency.¹⁷⁷ In a striking formulation, he laid it down that the 'soul' of the economy matches the souls of the individuals in a particular regime, so that 'the economy of the state, which always follows the frugality of individuals, gives its economic commerce a soul, so to speak'.¹⁷⁸ His language, though qualified by the 'so to speak', is not accidental. Just as he synthesized various Platonic claims in his jurisprudence, the ultimate analogy between the individual soul and the soul of the state is also Platonic, and Montesquieu's soul can search for higher pleasures than those of the body alone. The implications had clear political import. For example, under a moderate government a slave would feel both internally and externally excluded from society. He could have no security, which is the very premise of liberty, and thus while 'his master's soul can expand ... his own soul is constantly constrained to sink'. The soul is 'debased without ceasing'.¹⁷⁹ Politics and soulcraft are closely intertwined in the pursuit of moderation or propriety.

These very specific recommendations were part of Montesquieu's attempt to move beyond the confines of overtly mechanistic explanations. Once again, and just as Locke had been, Montesquieu was uncomfortable with the deterministic (as well as political) implications of what was taken to be Spinozist or Hobbesian materialism. He seems instead to have adopted the Cartesian idea that perceptions (*sentimens*) of the mind are 'almost always a result of all the different movements which are produced in the diverse organs of our body'. On this reading, virtue and vice are 'the effect of the passions', and therefore themselves 'the effect of a certain state of the machine' (*les passions l'effet d'un certain état de la machine*). However, precisely because 'machine' here seemed to mean

¹⁷⁶ Montesquieu 1964, p. 916 (*Pensées*, no. 551 [1675]): 'Pour être heureux, il faut avoir un objet, parce-qu c'est le moyen de donner de la vie à nos actions. Elles deviennent même plus importantes selon la nature de l'objet, et par là, elles occupent plus notre âme'.

¹⁷⁷ Desgraves 1995, esp. pp. 65, 70.

¹⁷⁸ Montesquieu 1989, 4. 20. 11, p. 345; 1964, p. 653.

¹⁷⁹ Montesquieu 1989, 3. 15. 13, p. 256; 1964, p. 622; cf. Williams 2006, esp. 113ff.

body and soul in combination, his analysis ended up looking strongly materialistic. Indeed his critics argued that Montesquieu's assessment of the laws made the biblical Commandments little more than a particular *modalité* of a particular set of relations, and hence far too close to atheistic materialism.¹⁸⁰ That is why many thought him rather too close to Spinoza for his own good.¹⁸¹ In his replies, Montesquieu fought hard to rebut the politically loaded charge, polemically accusing Spinoza of falsely treating liberty, and effectively making human beings little more than insects, with no free will to speak of.¹⁸² But Spinoza had similarly claimed that 'the best commonwealth is one in which men live in harmony', that 'citizens are not born, but made', and that 'men's natural passions are the same everywhere' so that their effect on the commonwealth will be relative to the quality of the laws enacted. It is surely possible that Montesquieu's public refutation of the charge was purposefully sceptical (or even ironic).¹⁸³

This was, after all, the same Montesquieu who chose to celebrate contingency whilst noting transhistorical similarities in human nature. Accounting for the rise and fall of Rome, for example, he wrote that men have had 'at all times the same passions'. Therefore, although 'the occasions which produce great changes are different', clearly 'the causes are always the same'.¹⁸⁴ This central distillation forms the backdrop to the famous (but somewhat gnomic) claim that law is an exact relation between things. The particular character of those complex 'relations' (*rappports*) that make up the spirit of laws are mirrored in the particular relationship between body and soul, and together they structure the conditions required for purposeful human agency.¹⁸⁵ Liberty as self-directed and appropriate agency is the action of this 'machine' in history, and while the soul is partly independent of the body, it is somewhat like a faculty that helps to regulate passionate excess.¹⁸⁶ Alongside Descartes, Montesquieu thought the soul was clearly affected by its perception of natural, external objects, but that it also nevertheless acts as a mediator to our initial perceptions and the passions that they provoke. This allows us both to retain

¹⁸⁰ See Montesquieu 1964a, pp. 809ff, 814, 821; Goyard-Fabre 1993, p. 127; Oudin 1911, pp. 65, 69; Spector 2001, p. 39; Lynch 1977, pp. 487–500.

¹⁸¹ Montesquieu 1964, pp. 8744, 915f, 1035 (*Pensées*, nos. 183 [2035], 549 [30], 1798 [943]); see too Krause 2003, esp. pp. 239ff, 244ff, 250ff, an analysis to which I am indebted.

¹⁸² Montesquieu 1964, p. 942 (*Pensées*, no. 617): 'Ce même philosophe veut bien, en ma faveur, détruire en moi la liberté'.

¹⁸³ See Spinoza 1958, ch. V, § 2, p. 309; discussion in Balibar 1998, pp. 66f; cf. Israel 2006, pp. 279f, 288ff, 292f, and esp. 824–39. See also Bayle 1702a, pp. 2767–88, esp. 2770, 2786ff; Kristeller 1984, pp. 1–15; James 1993, esp. pp. 296–301, 306–10, 315.

¹⁸⁴ Montesquieu 2000, § 1, p. 91.

¹⁸⁵ See Oudin 1911, esp. pp. 64f, 67, 69, 74ff, 77, 128f, 134, 159.

¹⁸⁶ Brewer 2008, esp. pp. 82, 87.

some independency of judgement through the use of our limited reason, and to allow the soul time to redirect our passions towards those things that are good for us. Such reconciliation and redirection between reason, the passion and the good life was common.¹⁸⁷

According to Montesquieu, then, the soul is a faculty that allows us to compare phenomena and their effects upon us, beneficial or otherwise, even as we are continually stymied in our actions because of it. Developing medically inspired arguments about the movement of liquids and fibres around the body (in terms of the stimulation by external objects that give the soul sensations it can recall, though not reproduce), Montesquieu suggested that the soul 'in our body is like a spider in its web'.¹⁸⁸ Its capacity is greater when the threads or fibres connecting the organs and senses together are more tautly bound.¹⁸⁹ The naturalistic analogy underscores his reiterated claim that 'passions act with great effect upon us', and that life is really 'only a collection of passions, which are sometimes stronger, sometimes weaker'. Truly 'there is no doubt that the combination of these passions during the whole of a life, combining differently in each man, is responsible for the great variety of their minds [*esprits*]'. The passions, in what should be recognized as Montesquieu's guiding theme, are various and relational. Some give a 'spring [*ressort*] to the fibres' whilst others relax them; anger was but one Aristotelian-inspired example. Moreover, this language of springs, fibres and spirits relates obviously to Montesquieu's wider interest in natural science as much as it does to the problems of legislation.¹⁹⁰ Nevertheless, his understanding of the politics of soulcraft had still to show how liberty both requires and simultaneously promotes a moderate or appropriate balance between passionate selfhood and free action.

The passions had to be tamed for the benefit of social and political life because Montesquieu understood human nature in terms of a constant movement of the passions that could easily lead to conflict. Such movement embodied a struggle for power, glory and material gain, but it was also more than that. For although he agreed that the soul clearly does take 'delight in dominating other souls', and that if left alone the political consequences of such will to power were likely to end in tragedy, the solution lay not in the sovereign power of the Leviathan, as Hobbes had supposed, but rather in the moderation of behaviour between the individual and the

¹⁸⁷ James 2006, esp. pp. 205–10.

¹⁸⁸ Montesquieu 1964d, esp. pp. 486f, and the citation from p. 489: 'L'âme est, dans notre corps, comme une araignée dans sa toile'. For a translation, see Montesquieu 1976, pp. 141f, 144; see too Shklar 1979, p. 319.

¹⁸⁹ Descartes 1967, vol. 2, art. 30, p. 345.

¹⁹⁰ Montesquieu 1964d, p. 498; Montesquieu 1976, p. 145; for a discussion of Aristotle on anger see Harris 2001, esp. pp. 94–98.

state. This was premised on a rejection (and misunderstanding in fact) of Hobbes's analysis of the state of nature.¹⁹¹ Yet Montesquieu transposed a Hobbesian concern with self-interested individuals onto something approaching a comparative historical sociology of the passions, in order to explain why absolute sovereignty was never going to be the right solution all of the time. Context was key, and to promote the solutions he wanted would require something like an enlightened legislator, about which more is said in the following section. In general, though, the supreme difficulty was that 'by a misfortune attached to the human condition, great men who are moderate are rare; and, as it is always easier to follow one's strength than to check it, perhaps, in the class of superior people, it is easier to find extremely virtuous people than extremely wise men'.¹⁹² Too often great men give free rein to their own passions, which leads to despotism and tyranny.

Individuals have to learn how to redirect their passions to things that are useful and appropriate, in order to truly act at liberty according to Montesquieu's analysis. The language and his analogies are exercises in therapy.¹⁹³ In claiming to show how a moderate and balanced politics could be a palliative for the extremes of absolutism or despotism, his neo-Hippocratic vocabulary was clearly noticed by contemporaries.¹⁹⁴ Indeed, he contributed to the development of a language of politics that would remain profoundly important to later political and artistic developments through the French Revolution, including perhaps most explicitly the 1792 painting of *Hippocrates Refusing the Gifts of Artaxerxes*, by Anne-Louis Girodet.¹⁹⁵ Pursuing a form of self-therapy, one could also learn techniques through study and concentration, indicating that such redirection is effortful and difficult. For example, Nicole had claimed that work through scholarship and education was one way to cure oneself of the self-interested *ennui* of everyday life.¹⁹⁶ Montesquieu agreed, and found in study the 'sovereign remedy' to all the 'disgusts [*désgouts*] of life'.¹⁹⁷ From this idea of moderated selfhood, the political implications

¹⁹¹ Tuck 1999, pp. 185, 197–207; Waddicor 1970, pp. 167ff. Goyard-Fabre 1993, p. 101 condenses Montesquieu's well-known criticisms; Malcolm 2002, esp. pp. 436ff, 441ff, 449f.

¹⁹² Montesquieu 1989, 6. 28. 41, p. 595; 1964, p. 747; cf. Montesquieu 1964, p. 996 (*Pensées*, no. 1213): 'Il est bien moins rare d'avoir un esprit sublime qu'une âme grande'.

¹⁹³ Frierson 2002, esp. p. 321; Krause 2003, pp. 246ff; Peter 1972, pp. 138–70, and the splendid paper by Shklar 1979, esp. pp. 321f.

¹⁹⁴ See Peter 1972, pp. 138–70; Shklar 1979, esp. pp. 316ff. For an illustration of his thoughts on the scientific personality, see Montesquieu 1955b, esp. p. 52.

¹⁹⁵ Crow 2006, esp. pp. 140–44.

¹⁹⁶ Nicole 1671, part 2, § 23, p. 287; Nicole 1970c, § XII, esp. p. 429. For discussion, James 1972, pp. 109–12.

¹⁹⁷ Shklar 1979, p. 327; Montesquieu 1964, p. 853 (*Pensées*, no. 4): 'L'étude a été pour moi le souverain remède contre les dégouts de la vie, n'ayant jamais eu de chagrin qu'une heure de lecture ne m'ait ôté'.

of the analysis could be developed to suggest legislative cures for sickly polities. At the level of the individual and the state, it was the general craze for recognition that would have to be tempered or effectively manipulated, and it is here that Montesquieu most obviously reconnected with Pierre Nicole.

Nicole's updated Augustinianism, one should recall, argued that civil life was predicated upon self-interest, so that in the secular realm the ideal of charity and the reality of *amour-propre* were 'exceedingly similar in their effects even if they were different principles' (*conformité d'effets en des principes si différents*). The latter was found in particular when examining such apparently great and powerful passions for admiration, respect, confidence and love.¹⁹⁸ The paradoxical implications of such an argument were not lost on later writers like Mandeville, keen to assert the underlying vice behind apparent virtue. But in Nicole's hands, as Locke had already discovered, the 'best traits of mankind' (*l'honnêteté humaine*) were to be found in the 'suppression' (*suppression*) of such self-love, which was simply 'another love within our heart' (*un autre amour dans notre coeur*).¹⁹⁹ Yet this all just seemed to modify a more foundational problem that Pascal had already outlined, namely that the 'bias towards self is the beginning of all disorder, in war, politics, economics, in man's individual body'.²⁰⁰ When such self-concern became conventional and viewed as natural, as for example when the rich, through their ancestry and property, deemed themselves naturally to occupy an elevated social position, this outcome was only really a triumph of human artifice, much as Rousseau would later argue.²⁰¹ However, unlike Rousseau, Nicole suggested that this was the result of a natural (and not artificial) need. This was the need for recognition, mutual love and respect in the 'commerce of self-interest' (*commerce d'amour-propre*) that forms the basis of human civility (*civilité humaine*).²⁰² Recognition was not a problem in principle, but its effects in practice had to be closely monitored to avoid the evils of flattery and corruption instead of moderation and probity. Montesquieu concurred.²⁰³

The *honnête homme* of Nicole's Jansenism was a synthesis of numerous contemporary and Epicurean ideas of 'natural' man and his sociability, which coalesced around the problem of how to overcome the excesses

¹⁹⁸ Nicole 1970, pp. 179–206, esp. ch. 1, p. 179; ch. 3, p. 183. See too C. J. Coleman 2005, esp. pp. 304f, 306, 309f.

¹⁹⁹ Nicole 1970, ch. 1, p. 180; van Kley 1987, esp. pp. 72ff; Hulliung 1994, p. 19.

²⁰⁰ Pascal 1966, no. 421, p. 154; see too Keohane 1980, pp. 294f, 296ff; Kolakowski 1998, pp. 175–81.

²⁰¹ Pascal 1965, pp. 67ff; Rousseau 2003, bk. 4, ch. 8, p. 142.

²⁰² Nicole 1970b, ch. 1, p. 268.

²⁰³ James 1972, p. 139; Montesquieu 1955c, p. 68; Spector 2003, pp. 23–69.

of the passions through reason and self-legislation.²⁰⁴ As Domat had reiterated, it was a social ethic that masked fundamental human failings. Nicole nonetheless tempered the rigidity of the harshest Jansenist position about moral motivation (which stated that actions not grounded in cupidity are corrupt), offering instead the weaker thesis that the best people can do is try to motivate their will towards appropriate action in a combination of voluntarism and reason.²⁰⁵ Although God still owes us nothing on his account, the connection between our inner life (or conscience) and the manner in which we interact with people in the real world becomes paramount to governing conduct. In general, this seems to be an attempt to allow reason to triumph over the passions whilst keeping it subservient to faith, whilst recognizing that the very real needs of human beings are not simply expressions of their fallen status.²⁰⁶ Montesquieu took a similar approach, except in his case reason really does look rather more like a slave to the passions. He agreed with Nicole that it is only by knowing our own faults that we are able to overcome the natural vices to which we are all subject, and that this self-reform is the very foundation of justice and the needs (*devoirs*) of civility.²⁰⁷ He could therefore also agree with Nicole's conclusions, namely that 'appropriateness of conduct to capacities is the golden rule'.²⁰⁸ Agency requires propriety, and political liberty is designed to produce it even if it is unnatural. Furthermore, if this is what matters for the individual, it matters at least as much for the legislator. And how the skilful legislator might balance these various passions so as to produce and maintain political liberty under moderate government was the task Montesquieu set out to evaluate.

LEGISLATIVE PASSIONS AND CIVIL RELIGION

'If it is true', wrote Montesquieu, 'that the character of the spirit and the passions of the heart are extremely different in the various climates', then 'laws should be relative to the differences in these passions and to the

²⁰⁴ Keohane 1980, pp. 277f, 283, 286, 288f; Thweatt 1980, pp. 21, 24f, 28f, 31, 38; Levi 1964, ch. 8.

²⁰⁵ James 1972, esp. pp. 109, 113, 115; cf. Thweatt 1980, p. 71.

²⁰⁶ For the wider context, see Davies 1990, pp. 4, 22, 26f, 28f; Kolakowski 1998, esp. pp. 94ff.

²⁰⁷ Nicole 1970a, esp. ch. XIV, p. 237: 'La charité nous obligeant à compâtrir à la faiblesse de nos frères et à leur ôter tout sujet de tentation, nous oblige aussi à nous avons marques; mais ce n'est pas la charité seulement, c'est la justice même, et la loi éternelle qui le prescrit, comme il est facile de le faire voir, tant au regard des témoignages de gratitude qu'à l'égard des devoirs de civilité'; also ch. XI, p. 265.

²⁰⁸ James 1972, p. 121.

differences in these characters'.²⁰⁹ Even his apparently frivolous examples about sexuality and climate serve to illustrate that, for Montesquieu, wise legislators are needed to enact laws that reflect the needs rather than the vices promoted by particular climates.²¹⁰ That is what determines the 'degree of liberty the constitution can support'.²¹¹ One of the central aims of Montesquieu's text, which continues to reject the applicability of Machiavellianism to modern politics, is to prove that 'the spirit of moderation should be that of the legislator', because 'the political good, like the moral good, is always found between two limits'.²¹² In this effort, he was, he wrote, retreading ground that had been well prepared by some illustrious forebears, whom he couldn't 'even pretend to compare myself with [*je ne pretends pas me comparer à eux*]'. Those figures were Bossuet, Nicole and Pascal.²¹³ Accordingly, moderation in morals as well as in politics promotes propriety and decorum, and propriety in action is the hallmark of self-directed agency motivated by the passions. Equally, at the level of the legislator, moderation is the best guarantee of political liberty that can allow propriety to develop, which is why it is the medicine for feverish politics.

Moving beyond the therapeutic, Montesquieu's language most obviously recalls Aristotle's doctrine of the mean and of the rough proportionality of justice that requires moderate rule and practical wisdom.²¹⁴ The good legislator with the political skill (*politike*) needed to rule, as well as the practical wisdom (*phronesis*) necessary to rule well, can promote the good of the city as a whole.²¹⁵ Such Aristotelian sympathies form part of Montesquieu's criticism of Hobbes and Grotius, both of whom rejected the applicability of the mean to questions of morals and justice, even though he retained their account of thin sociability.²¹⁶ But his more important point remains general, and relates to mediocrity as

²⁰⁹ Montesquieu 1989, 3. 14. 1, p. 231; 1964, p. 613.

²¹⁰ Montesquieu 1989, 3. 14. 2, pp. 233f; 1964, pp. 613f.

²¹¹ Montesquieu 1989, 1. 1. 3, p. 25; 1964, p. 532, where terrain 'doivent se rapporter au degré de liberté que la constitution peut suffir'.

²¹² Montesquieu 1989, 6. 29. 1, p. 602; 1964, p. 749; cf. Montesquieu 1989, 1. 1. 4, p. 25 n. 9; 1964, p. 532.

²¹³ Montesquieu, Letter to Mgr de Fitz James, October 8, 1750, in Montesquieu 1955j, pp. 1327–29, p. 1328.

²¹⁴ Aristotle 1998, 1261a31–36, 1273b5–6, 1284a1–3; also Frank 2005, esp. pp. 97ff, 101, 103, 108.

²¹⁵ Aristotle 2000, 1141b24; cf. Frank 2005, p. 124.

²¹⁶ Hobbes 1998, ch. 3, § 32, pp. 55f; discussion in Skinner 1996, pp. 323f; Grotius 2005, vol. 1, § XLV, pp. 118ff; Grotius 2005a, vol. 3, p. 1749; cf. Grotius 2005, vol. 1, § VIII, pp. 85f: 'This sociability, which we have now described in general, or this Care of maintaining Society in a Manner conformable to the Light of human Understanding, is the Fountain of Right, properly so called'. Emphasis in original.

Aristotle had presented it, even as it upends Aristotle's suggestion that virtue is a natural tendency in the perfection of particular regimes. Although virtue is rule for excellence, and although that is the defining 'spring' of republics, according to Montesquieu, there is nothing natural about it. It is contrary to nature, as in fact all politics is, and that includes moderate government. To be an adequate spring for action, republican virtue must depend upon a strict overcoming of the natural ambition of the soul, whose energies must be redirected towards the *patrie*. Indeed, all types of free agency that exist under political liberty require this discipline, but his point is that such self-restraint or self-overcoming is never undertaken without pain. Furthermore, we all want to use our power to the fullest, and those in power are no different. This makes republics, and republican virtue, especially tense. Rather like Christian asceticism, virtue has its limits and requires self-sacrifice, but in so noting Montesquieu relies on Machiavelli's similar sort of claim.²¹⁷ In republics, to continue his metaphor, the springs are always tightly coiled because the necessary attachment of citizens to the fatherland is something that can only be cultivated artificially.²¹⁸

Politics can indeed try to promote policies of self-sacrifice or self-overcoming, but the best form of government is one where the unnatural character of such asceticism or virtue is not required, and which allows the political body to become a less tense, more self-correcting organism. For this process, a moderate politics based on laws, and which allows individuals to pursue self-interest and a desire for gain without worry, is the ideal solution. Moderate monarchy works best for achieving this self-direction, and in combination with commercial prosperity might just allow a chance for 'men of state' to concern themselves with doing 'good things'.²¹⁹ So although moderation is almost always as much a matter of luck rather than good judgement, under monarchy honour might at least promote it, because it is both favoured by the passions and favours them in turn.²²⁰ It is, so to speak, the best expression of divine workmanship that is possible on earth, because it accords with principles and desires implanted in us by a creator. Equally, because it sets our natural desires free, it does not require the arduous self-renunciation of virtue.

The extent to which either virtue or moderation might be cultivated politically, then, depends upon the passions of both the legislator and the citizen. 'Sometimes', Montesquieu writes, the passions of the citizen 'pass through and are colored [by the legislator]; sometimes they remain there

²¹⁷ Machiavelli 1989a, bk. 3, ch. 7, p. 1151; Pocock 2003a, p. 491.

²¹⁸ Rahe 2001, esp. pp. 73f; Carrithers 2001, esp. pp. 121f.

²¹⁹ Montesquieu 1964, p. 873 (*Pensées*, no. 193): 'C'est dans un siècle des lumières que les hommes d'État acquièrent le grand talent de faire à propos les choses bonnes'. Cf. Shackleton 1979, esp. pp. 310–13; Mass 1980, esp. pp. 41f, 46.

²²⁰ Montesquieu 1989, I. 4. 5, p. 36; 1964, p. 542.

and are incorporated'.²²¹ Given his general classification of governments into monarchies, republics, and despotisms, with their cognate *ésprits* of honour, virtue and fear, these characteristics are their 'nature', and the principles that make these political forms move are simply the 'human passions that make it act'.²²² This nature is a form of artifice engrafted upon passionate individuals. However, moderate monarchy looks to be the most promising candidate for political liberty in commercial society precisely because it is governed by laws and because power is checked through the social implications of honour. Its springs are less taught than republics or despotisms, so it has the potential to maintain itself in the absence of austere virtue, or a common enemy, or indeed fear. Good citizens (if not always good men) are plentiful because ambition has 'good effects under a monarchy', though it can be 'repressed' by the sovereign when necessary. Honour thereby takes the place of virtue, and 'makes all of the parts of the body politic move'. It is, once again, artificial because political in conception, but even 'false honour' can uphold moderate monarchical government. And if the principle of honour is to 'demand distinctions', a moderate monarchy is its best constitutional form provided that appropriate intermediary powers are in place.²²³ This is Montesquieu's defence of magistracy, as 'nothing gives greater force to the laws than the extreme subordination of the citizens to the magistrates'.²²⁴ His claim could also of course be pressed into both contemporary and historical service. First, it supported a political critique that Sieyès would later make infamous in France apropos the Estates General, arguing that if the 'legislative body were not convened for a considerable time, there would no longer be liberty'.²²⁵ Second, it once again challenged the applicability of republican virtue to modern politics. Addressing those who lauded Italian city-states for their freedom, Montesquieu asks his readers to take their measure by comparing them with the English system of liberty, the curious hybrid of a republic hiding under a monarchy with its mixture of legislative, executive and judicial powers. In Italian city-republics 'where the three powers are united', he claims, 'there is less liberty than in our monarchies'. He continues:

Observe the possible situation of a citizen in these republics. The body of the magistracy, as executor of the laws, retains all the power it has given itself as legislator. It can plunder the state by using its general

²²¹ Montesquieu 1989, 2. 11. 9, p. 168; 1964, p. 591; 1989, 6. 29. 19, p. 618; 1964, p. 755. See also Krause 2006, esp. pp. 214f.

²²² Montesquieu 1989, I. 3. 1, p. 21; 1964, p. 536.

²²³ Montesquieu 1989, 2. 11. 3, p. 155; 1964, p. 586; cf. Montesquieu 1964, p. 538: 'La nature de l'honneur est de demander des préférences et des distinctions'.

²²⁴ Montesquieu 1989, I. 5. 7, pp. 50f; 1964, p. 547.

²²⁵ Montesquieu 1989, 2. 11. 6, pp. 162, 161; 1964, p. 588.

wills [*il peut ravager l'Etat par ses volontés générales*]; and, as it also has the power of judging, it can destroy each citizen by using its particular wills.²²⁶

Laws, provided they are certain, protect honour even when honour is false. Therefore monarchy best appeals to and supports our natural vanity, but demands less of us in terms of virtue because of the stability provided through security and law. The potentially arbitrary power of the monarch is similarly checked by the principle of honour, which promotes internal excellence or regulation, and external recognition as its validation, and which in practice can support policies like office selling for profit, something of personal importance to Montesquieu.²²⁷ In all of this, Montesquieu certainly presages Adam Smith's account of the paradoxical stability and self-sustaining character of modern commercial society, using honour (an ultimately selfish passion) and a desire for recognition to promote the common good. At the same time, his use of honour seems to update Machiavelli's satirizing of princely *clementia* as the true source of political virtue. Like Machiavellian prudence, honour could dissimulate, could be relative, could be false and artificial, but it was certainly nothing like classical virtue. None of that mattered though so long as the law was constant.²²⁸ The utility of honour therefore lies in its capacity to recalibrate or redirect agency towards governed conduct under laws, because the power of the monarch is checked and regulated by the power of various intermediary bodies. Such a claim also allowed Montesquieu to insert a rhetorical and conservative defence of honour into his wider and circuitous genealogy of the French monarchy.²²⁹ Honour is appropriate to the ideal of a modern monarchy, which has to somehow justify vast inequalities of rank, status and wealth but govern well, and which is incapable of reintroducing (even though it should not even want to do so) an impossibly demanding ideal of ancient virtue to meet its goals.²³⁰

²²⁶ Montesquieu 1989, 2. 11. 6, p. 157; 1964, p. 587; also Sullivan 2006, esp. p. 277, and n. 42.

²²⁷ Rahe 2001, pp. 77–80; cf. Krause 2002a, pp. 42f, 45f, 82, 98f. Montesquieu defends office selling under monarchy *contra* Plato, arguing that chance will produce 'better subjects than the choice of the prince'. See Montesquieu 1989, I. 5. 19, pp. 70f; 1964, p. 555, citing Plato 1997b, bk. 8, 551c. Cf. Hobbes 1998, ch. 5, § 13, p. 112, praising it for clarifying issues of succession and transferral of offices; cf. Goyard-Fabre 1993, pp. 3f, 6, 7–9, 15.

²²⁸ Montesquieu 1989, I. 3. 6–7, pp. 26f; 1964, p. 538; 1989, I. 6. 21, pp. 94f; also Montesquieu 1964, p. 564; cf. Machiavelli 1997, chs. 16, 18, 21; Shackleton 1988d, pp. 116–31. Cf. Mosher 1984, p. 184.

²²⁹ Sonenscher 2007, esp. pp. 137–52.

²³⁰ See Mosher 2001, esp. pp. 200ff; De Dijn 2008, esp. pp. 26–31; Rahe 2001, esp. pp. 91ff.

It is unsurprising therefore to find Montesquieu suggesting that the connections between laws, the constitution of the state and the various passions of the people, all 'meet [in] the passions and prejudices of the legislator'. It was a claim that allowed him to present Aristotle and Plato, Machiavelli, Thomas More, and James Harrington as precursors of his argument.²³¹ Balance, moderation and propriety structure Montesquieu's political thinking, and he saw the need for it everywhere, whether in terms of balancing property and political power, or in terms of the need to balance our natural self-interest with the demands of political stability. It was equally vital, though, that the 'genius' of the legislator recognize the need for concision and simplicity in style. Laws should be like the Roman Twelve Tables, not the *Novellae* of Justinian or the overly rhetorical laws of princes in the East. They certainly should not change 'without sufficient reason'.²³² They should also sit well with the mediocrity or generality of the middling sort, as Aristotle had proposed.²³³

When Montesquieu inserted the later 'Avertissement' to the 1757 edition of *De l'Esprit des lois*, he developed these ideas to relate them to claims about virtue once more. True political virtue, the spring (*ressort*) for action that unites the good man to the ideal republic, is neither moral, nor Christian, nor indeed classical and heroic virtue.²³⁴ Only political liberty, and hence moderation or propriety, can foster the promotion of political virtue through the artificial manipulation of natural passions, and while monarchy might best achieve this aim, part of the human ingenuity that makes this artifice possible stems from the wisdom of the legislator who knows how to relate religion to politics. Civil religion is another tool, like honour, for promoting a well-ordered polity. Just as intermediary powers help to balance moderate regimes by cultivating good citizens, so too should 'religion and the civil laws' aim 'principally to make good citizens of men'. To the extent that one or the other 'departs from this end', the other force should attempt to counterbalance it. The more repressive religion is, the less repressive the civil law should be, and

²³¹ Montesquieu 1964, p. 1073 (*Pensées*, no. 2095).

²³² Montesquieu 1989, 6. 29. 16, pp. 612, 614; 1964, p. 753; cf. Montesquieu 1989, 6. 30. 16, p. 614; 1964, p. 754: 'The laws should not be subtle. They are made for people of limited understanding [*mediocre entendement*]'. Montesquieu was critical of Plato's discussion of Greek laws against suicide undertaken for weakness of the soul. Because the person committing suicide can easily evade such laws, and because their motives can never be fully known, no rational punishment can be handed out. See also Montesquieu 1989, 6. 29. 16, p. 616; 1964, p. 754; cf. Montesquieu 1989, 6. 20. 9, pp. 606f; 1964, p. 653. Finally, see Montesquieu 1964, pp. 879f (*Pensées*, no. 258).

²³³ Montesquieu 1989, 5. 25. 7, p. 486; 1964, p. 707; Aristotle 1998, 1293a40, 1294a15–25, pp. 92, 94.

²³⁴ Montesquieu 1989, 'Author's Foreword', pp. xlii.

vice versa.²³⁵ He added that 'the less we can satisfy our particular passions, the more we give ourselves up to passions for the general order.'²³⁶ This claim appears as part of a discussion of patriotism, but is further illustrated with the curious example of a monkish order. The more austere the rules that deprived them of their ordinary passions, Montesquieu noted, the more the monks would redirect their passionate attachment to this law itself.²³⁷ This unnatural form of self-propriety is, once more, precisely what is generally required of the good citizen, namely an artificial overcoming of self, which nevertheless allows for the pursuit of a natural desire for honour and distinction. Taken individually, both Christian and political virtue are excessive, but in combination, they can be moderated and take on the characteristics of honour. That seems to be the best that can be achieved.²³⁸

The strict conceptual terms of political liberty are outlined in the following section, but it is clear already that political liberty both requires and cultivates propriety or moderation. This is so in the double sense that political liberty is appropriately directed agency under law, whilst appropriate and self-directed agency is (in tautologous fashion) the hallmark of free agency. Because agency requires self-regulation, and because it is at best an artificial and temporary fix for the problems of otherwise unregulated self-interest and ambition, political liberty is a delicate balance between self-interest and political order. Insofar as we are individuals, the passions relate our nature to the question of temporality, or action in time.²³⁹ Insofar as we are citizens, political liberty is the sphere of action open to us under law within which we can act on these passions to achieve our goals. For those reasons political liberty is best fostered by a moderate regime, because moderate regimes (like moderate individuals) are not burdened by an overarching, potentially despotic, and unitary form of sovereignty. They can deal with passionate diversity and difference so long as all are clear about the nature of the laws, because clear laws check and regulate human agency to create a political union of general wills out of this multiplicity of particular wills. Union between passion and action in the individual machine, therefore, is analogous with political union in the body politic. Both are a form of harmony where different parts of the machine (political or individual) balance and check one another appropriately. This explains in part why Montesquieu was

²³⁵ Montesquieu 1989, 5. 24. 14, p. 468; 1964, p. 701; see also Montesquieu 1989, 5. 24. 15–16, pp. 470f; 1964, pp. 701f.

²³⁶ Montesquieu 1989, I. 5. 2, p. 43; 1964, p. 544: 'moins nous pouvons satisfaire nos passions particulières, plus nous nous livrons aux générales'.

²³⁷ For discussion, see Krause 2002a, pp. 37ff, 64ff; cf. Crisafulli 1943, esp. pp. 122f.

²³⁸ Cf. Israel 2006, pp. 377–80.

²³⁹ Goldzink 2001, p. 84.

interested in developing a general and secular political theory based on *esprit générale*, alongside a defence of the plural intermediary powers that monarchy promoted. The history of the French monarchy and its 'fundamental laws' could elucidate and give lustre to Montesquieu's argument, he thought, because rightly understood, honour actually rules according to fundamental laws.²⁴⁰ Indeed, perhaps the most general expression of this argument is presented in the formulation that honour is found 'only in the disposition of the laws, and especially [*même*] of the fundamental laws, which form liberty in its relation to the constitution'.²⁴¹ The concerns seem to have their roots in an argument begun in earnest by Pascal, who had claimed that society is a body of 'thinking members', that a 'multitude which cannot be reduced to unity is confusion', and that unity that is 'not a multitude is tyranny'.²⁴² For Montesquieu, as for Rousseau after him, only a general will of this sort could transform bare power into legitimate political authority, and only certain political forms would permit it.²⁴³ The implications were clear to both, even if their solutions were opposed, a situation that led Rousseau to offer his famously backhanded compliment that the 'illustrious Montesquieu' had begun the scientific study of politics, but that it remained a 'grand and useless science'.²⁴⁴ For Montesquieu, however, commercial liberty and human acquisitiveness could flourish in the modern world, and they could best flourish under a moderate monarchy ruled by law and governed by honour. As he wrote, 'in a nation that is in servitude, one works more to preserve than to acquire; in a free nation, one works more to acquire than to preserve'.²⁴⁵

Furthermore, just as honour in monarchy served to support the laws, so too was there a spatial dimension to the analysis. If the 'principles of the established government' are dependent upon its size, its 'spirit'

²⁴⁰ Israel 2006, p. 279; Keohane 1980, pp. 348ff; De Dijn 2008, pp. 24ff; Loy 1977, pp. 183–92. On the history of the French monarchy in Montesquieu's text, see Sonenscher 2007, esp. pp. 48f, 129ff, 137f; Kingston 1996, pp. 35ff, 57, 175; cf. Carcassonne 1927, pp. 67, 92f, 95, 659f; Mosher 2007, pp. 104f.

²⁴¹ Montesquieu 1989, 2. 12. 1, p. 187; 1964, p. 598: 'Il n'y a que la disposition des lois, et même des lois fondamentales qui forme la liberté dans son rapport avec la constitution'. On the particular use of fundamental laws in Montesquieu, see Ehrard 2005, pp. 267ff, 272–75. 'Annexe I', pp. 279f, and 'Annexe II', pp. 281–86, who lists the occurrences of the terms *loi(s) fondamentale(s)* and *constitution* in *de l'Esprit des lois*. Cf. Thompson 1986, esp. pp. 1110.

²⁴² Pascal 1966, nos. 368–73 [473, 474, 480, 483] 604 [871], pp. 135f (on thinking bodies), 231f (on unity and multiplicity); see Riley 1986, esp. p. 19.

²⁴³ See Riley 1986, pp. 63, 101.

²⁴⁴ Rousseau 1969, p. 836. Thomas Nugent also undertook one of the first English translations of Rousseau's *Émile*. See Rousseau 1763, vol. 1, pp. 365f, for this quotation.

²⁴⁵ Montesquieu 1989, 4. 20. 4, p. 341; 1964, p. 652.

will change to the 'degree to which its boundaries are narrowed or extended'.²⁴⁶ Therefore the 'natural tendency' (*propriété naturelle*) of small states is towards government by republic, while despots will rule over vast empires.²⁴⁷ Therefore, 'it is in the nature of a republic to have only a small territory; otherwise, it can scarcely continue to exist'. Large republics have 'little moderation in spirits', and 'the common good is sacrificed to a thousand considerations'.²⁴⁸ For the moment, the monarchies of France and Spain were 'precisely the requisite size' to be able to defend their middle-sized territories effectively, and potentially arbitrary power was tempered by both 'ecclesiastics' and strict laws. Similarly, Holland, Germany and the Swiss Leagues were of appropriate size and scale as federal republics.²⁴⁹ Indeed, in a paragraph that Rousseau would take up almost verbatim (but with a significant disagreement about Rome), Montesquieu thought that all states had a particular object or purpose that drives them.²⁵⁰ All should nevertheless be wary of growing flabby and potentially despotic, from which point it is but a short step to begin to see why England was so important to Montesquieu.²⁵¹ England appeared to be a paradigmatic illustration of a 'moderate' government, and it is only in 'moderate governments' (if not always 'moderate states') that 'political liberty is found'.²⁵² Montesquieu had therefore also claimed that the English were right to remove the 'intermediate powers that formed their monarchy' in order to maintain their liberty. They would be 'one of the most enslaved peoples on earth' without it.²⁵³ He never did outline what he saw as the principal spring of English government, but he did say that 'political liberty' there has a 'direct purpose', which is to balance the sectional interests of the three different estates in order to maintain the liberty and the power of the state. Yet even if Montesquieu thought the task of politics and legislation was to reconcile all of these potentially

²⁴⁶ Montesquieu 1989, I. 8. 20, p. 126; 1964, p. 576; cf. Aristotle 1998, 1296a9–11, p. 98, 1296b17–27, p. 99.

²⁴⁷ Montesquieu 1989, I. 8. 20, p. 126; 1964, p. 576.

²⁴⁸ Montesquieu 1989, I. 8. 16, pp. 124f; 1964, p. 575. See also Montesquieu 1989, I. 9. 1, p. 131; 1964, p. 577, claiming that small republics are 'destroyed by a foreign force', but 'if it is large, it is destroyed by an internal vice'.

²⁴⁹ Montesquieu 1989, 2. 9. 1, 3, 6, pp. 131, 133, 135f; 1964, pp. 577f; also Montesquieu 1989, I. 2. 4, p. 18; 1964, p. 535.

²⁵⁰ Montesquieu 1989, 2. 11. 5, p. 156; 1964, p. 586; Rousseau 2003, bk. 2, ch. 11, p. 79. See Ehrard 1987, esp. pp. 68ff. Montesquieu also noted in this connection the importance of trade and his contemporary example was that of Marseilles; cf. Montesquieu 1989, 4. 20. 5, p. 341; 1964, p. 652; also Takeda 2006, pp. 707–34; Larrère 2000, esp. pp. 7, 9, 12f.

²⁵¹ Montesquieu 1989, I. 8. 17–20, pp. 125f; 1964, pp. 575f; Machiavelli 1989, bk. 2, ch. 6, p. 209.

²⁵² Montesquieu 1989, 2. 11. 4, p. 155; 1964, p. 586; Spector 2006, pp. 415f.

²⁵³ Montesquieu 1989, I. 2. 4, p. 19; 1964, p. 535; Rousseau 2003, bk. 3, ch. 15, p. 114.

divergent interests in their particular contexts, he also knew that it could not flatten out the commotions and contradictions altogether. Thus if neither republican virtue nor despotism is appropriate or acceptable, then one wants to know how else the limited and artificial arena of politics might cultivate a moderate liberty to pursue the common good. Part of the answer is that it cannot do so directly, and the best hope Montesquieu suggests is the chance cultivation of liberty that comes about accidentally when monarchies allow individuals to pursue their glory and honour under laws. Not reason, but chance, does the job, and yet there is still a central role for politics within this process.

One central issue that Montesquieu continued to focus on therefore concerned the role of the legislator, particularly in terms of the promotion of a civil religion. In general, of course, the laws adumbrated by the legislator need to be relative to the principles of government under consideration; hence the virtue of the republic, the honour of the monarchy, and the fear embodied in despotism would always present themselves in ideal (and hence abstract) form as the appropriate expression of the passions of the legislator in any given context. These 'relations between the laws and the principle tightens all the springs of the government, and the principle in turn receives a new force from the laws'.²⁵⁴ The legislator must follow the spirit of the nation when doing so is not contrary to the principles of the government, because, much like Adam Smith, who would later outline a system of natural liberty, Montesquieu thought that 'we do nothing better than what we do freely and following our natural genius'.²⁵⁵ In general, 'laws are conceived so as not to run counter to the nature of things', including relations of 'honour, those of morality, and those of religion'.²⁵⁶ Moreover, there are 'different orders of law; and the sublimity of human reason consists in knowing well to which of these orders principally relate those things that require statute', and which will not contradict the fact that men are always 'governed by diverse sorts of laws'.²⁵⁷ This is as close as Montesquieu comes to giving reason a leading role, but the sublimity of human reason here is analogous to the skill of the wise politician who knows that societies have a multiplicity of virtues and vices, but that 'political vices' are not necessarily 'moral vices', nor

²⁵⁴ Montesquieu 1989, I. 5. 1, p. 42; 1964, p. 544; cf. Machiavelli 1989, bk. 1, chs. 4, 10, pp. 202ff, 220ff; also bk. 1, ch. 58, p. 317; bk. 3, chs. 1–2, 29, pp. 419–24, 493f.

²⁵⁵ Montesquieu 1989, 3. 19. 5, p. 310; 1964, p. 642.

²⁵⁶ Montesquieu 1989, 6. 29. 16, p. 616; 1964, p. 754.

²⁵⁷ Montesquieu 1989, 5. 26. 1, p. 494; 1964, p. 710: 'Les hommes sont gouvernés par diverses sortes de lois. . . Il y a donc différents ordres des lois; et la sublimité de la raison humaine consiste à savoir bien auquel de ces ordres se rapportent principalement les choses sur lesquelles on doit statuer; et à ne point mettre de confusion dans les principes qui doivent gouverner les hommes'.

moral vices necessarily political ones. Knowing this, the legislator can use religion to cultivate moderation rather than virtue.²⁵⁸

In explaining the utility of religion to politics in this way, Montesquieu also wanted to do more than simply note its instrumental value. He directly countered Bayle's provocative thesis about the possibility of a society of virtuous atheists, seeing it as 'sophistry' and faulty moral judgement.²⁵⁹ Instead, 'religion, even a false one, is the best warrant men can have of the integrity of men'.²⁶⁰ This of course led to a familiar paradox, because 'men are exceedingly drawn to hope and fear, and a religion that had neither hell nor paradise would scarcely please them'.²⁶¹ Correlatively, 'men who believe in the certainty of rewards in the next life will escape the legislator', for you cannot constrain the man 'who believes himself sure that the greatest penalty the magistrates can inflict on him will end in a moment only to begin his happiness'.²⁶² The legislator, therefore, must be possessed of an appropriate, or moderate, religious sensibility that can be filtered through to the general population. And in this regard, Montesquieu seems to defend something like Machiavellian *virtù*; having separately assailed Machiavelli's own satire on princely clemency and virtue, Montesquieu now claimed that 'a prince who loves and fears religion is a lion who yields to the hand that caresses him'. He knows his appropriate limits. By contrast a prince 'who fears and hates religion' can only be 'like the wild beasts who gnaw the chain that keeps them'. For 'he who has no religion at all is that terrible animal that feels its liberty only when it claws and devours'.²⁶³ It is the duty of the state to impose civil religion in order to promote propriety and decorum by strengthening the laws. By so doing, it will uphold political liberty in pursuing a balance, or mean, between the sometimes contradictory demands of morality, commerce and religion.²⁶⁴ Christianity was the best illustration of a religion that had not simply tried to 'establish a dogma', but had also directed it

²⁵⁸ Montesquieu 1989, 3. 19. 10–11, pp. 313f; 1964, p. 643; cf. Ehrard 1963, vol. 1, p. 379; Shklar 1979, p. 326; Spector 2006, pp. 112, 144–49.

²⁵⁹ Montesquieu 1989, 5. 24. 1–2, 6, pp. 459f, 463f; 1964, pp. 698f.

²⁶⁰ Montesquieu 1989, 5. 24. 8, p. 465; 1964, p. 700; see Israel 2006, pp. 271f.

²⁶¹ Montesquieu 1989, 5. 25. 2, p. 480; 1964, p. 705; cf. William Warburton, Letter to Montesquieu, February 9, 1754, in Montesquieu 1955j, pp. 1488–95.

²⁶² Montesquieu 1989, 5. 24. 14, p. 469; 1964, p. 701; cf. Rousseau 2003, bk. 4, ch. 8, pp. 150f.

²⁶³ Montesquieu 1989, 5. 24. 2, p. 460; 1964, p. 698: 'Un prince qui aime la religion et qui la craint, est un lion qui cède à la main qui le flatte, ou à la voix, qui l'apaise: celui qui craint la religion et qui la hait, et comme les bêtes sauvages qui mordent la chaîne qui les empêche de jeter sur ce qui passent: celui qui n'a point du tout de religion, est cet animal terrible qui ne sent sa liberté qui lorsqu'il déchire et qu'il dévore'.

²⁶⁴ Crisafulli 1943, p. 384.

as required.²⁶⁵ It therefore seemed to Montesquieu that the type of government best suited to a Christian religion is a 'moderate' one, because it 'soften[s] the mores of men' and redirects their honour and ambition towards commonly beneficial purposes. Protestantism, with its rigidities and self-denying ordinances, is best suited to republics, and Catholicism (unsurprisingly) to monarchies. The general direction given by Christianity to dogma concerning the immortality of the soul, in turn, 'makes us hope for a state we believe in' and thereby directs or diverts our actions in ways that Locke could certainly have agreed with.²⁶⁶

COMMERCIAL SOCIETY AND POLITICAL LIBERTY

The rise of modern commercial society had prompted Montesquieu's defence of a moderate monarchy, and underscored his rejection of Machiavellian politics based on reason of state. If 'experience itself has made known that only goodness of government brings prosperity', then 'one has begun to be cured of Machiavellianism, and one will continue to be cured of it'. Commerce had similarly demystified the *arcana imperii*, making mysteries of state and esoteric political prudence, of the sort defended even by libertines like Gabriel Naudé, little more than 'imprudences' (*imprudences*) in the modern world.²⁶⁷ Indeed, monarchies that aimed either at imperialism or universal monarchy following this model would necessarily end in ruin because of it.²⁶⁸

Commerce can produce beneficial effects even though it is rooted in self-interested behaviour, particularly if it is governed by a moderate monarchy in which the spring of honour is allowed to flourish alongside the desire for 'exact justice'.²⁶⁹ This had literally world-historical importance. Commerce, for example, had simultaneously overcome the irrational hostility of barbarous Europeans towards the Jews, once this persecuted people had 'invented letters of exchange'. Thanks to commerce, therefore, the 'theologians were obliged to curb their principles' and instead of criticizing commerce as 'bad faith' (*mauvaise foi*) they returned it 'so to speak, to the bosom of integrity'.²⁷⁰ Montesquieu then presents an early version of a thesis about the movement from the passions to the interests

²⁶⁵ Montesquieu 1989, 5. 24. 19, p. 473; 1964, p. 703.

²⁶⁶ Montesquieu 1989, 5. 24. 4–5, pp. 462f; 1964, p. 699; 1989, 5. 24. 19, p. 473; 1964, p. 703.

²⁶⁷ Montesquieu 1989, 4. 21. 20, p. 389; 1964, p. 673; Donaldson 1992, esp. pp. 142, 159f, 164, 166; Keohane 1980, pp. 171ff.

²⁶⁸ Spector 2006, p. 405.

²⁶⁹ Montesquieu 1989, 4. 20. 1–2, p. 338; 1964, p. 651.

²⁷⁰ Montesquieu 1989, 4. 21. 20, p. 389; 1964, p. 672.

in modern politics. He claims that 'to the speculations of the schoolmen [*scolastiques*] we owe all the misfortunes that accompanied the destruction of commerce; and to the avarice of princes we owe the establishment of a device that puts it, in a way, out of their power'.²⁷¹ The exact justice of commercial society, when buttressed by moderate monarchy and appropriate honour, provided the best possible shell for political liberty. Yet it is important to remind oneself of the strictness of what passed for liberty according to Montesquieu.

Political liberty might allow laws to be strictly and observably applied, but this did not mean that societies were in general more equal. How could it be anything else under a monarchy? Montesquieu actually has a rather complicated view of inequality, suggesting that equality meant little more than it had for the Greeks. That is to say, it meant little more than 'obeying and commanding one's equals'. Thus, the perfect equality and independence (there is, importantly, no liberty here) of a state of nature is lost upon entering society, and only through political liberty and laws can individuals 'become equal again'. This equality, however, is limited to the fact that one has to obey one's equals, which in turn requires a common standard of excellence that relates fitness to rule with social position or hierarchy. It is a model for the preservation of property and rule by elites.²⁷² It is not a model that supports democracy, for democracy, according to Montesquieu, allows persons to do what they want and not what they should. Democracy is, therefore, immoderate, and also seems to require an overly burdensome conception of virtue and participation in order to uphold it. In fact Montesquieu saw participation as 'one of the great drawbacks [*inconvenients*] of democracy'.²⁷³

His is instead a model that supports honour, because honour can only exist in a state 'whose constitution is fixed and whose laws are certain'.²⁷⁴ As he would say in his discussion of aristocracy, although an aristocratic state could not be classified as free, 'moderation is therefore the soul of such governments'.²⁷⁵ Having liberty was more important than living in a 'free state'. Indeed, his critique of Venice, the emblematic 'aristocratic

²⁷¹ Montesquieu 1989, 4. 21. 20, p. 389; 1964, p. 672; cf. Hirschman 1977, pp. 38ff, 42, 50ff, 70–74, 97; Montesquieu 1964, p. 948 (*Pensées*, nos. 640, 641), on the relationship between princes, corruption and justice.

²⁷² See della Volpe 1978, esp. pp. 127–30.

²⁷³ Montesquieu 1989, 2. 11. 6, p. 159; 1964, p. 587; also Montesquieu 1989, 3. 19. 27, p. 326; 1964, p. 647, for the idea that the 'great advantage' of modern over 'ancient democracies' is that trusted representatives could 'revise the bad impressions' expressed by the people, and 'calm these emotions'. Cf. Shklar 1985, esp. pp. 184f.

²⁷⁴ Montesquieu 1989, I. 3. 8, p. 27; 1964, p. 538.

²⁷⁵ Montesquieu 1989, I. 3. 4, p. 25; 1964, p. 538: 'La *moderation* est donc l'âme de ces gouvernements'. Emphasis in original. cf. Montesquieu 1964, p. 1035 (*Pensées*, no. 1804): 'On ne peut appeler *libre* un État aristocratique'. Emphasis in original.

republic', is typical in this regard. It builds extensively on an unmasking narrative of the Venetian government along the lines of Tacitus, whose scepticism Montesquieu appreciated.²⁷⁶ This sort of account, provided by various contemporaries like Amelot de la Houssaye, argued that dictatorship and degeneration lay behind the façade of Venetian liberty and constitutional stability.²⁷⁷ The myth of Venice in fact hid the realities of a more conventional despotism.²⁷⁸ From this record Montesquieu drew the general conclusion that both extreme liberty and extreme democracy are devalued forms of the true equality of a 'regulated' polity governed by moderation and not excess. Yet there are so many allusions here it can be hard to know where to begin. It sounds practically derivative of Cicero's attempt in the *De Officiis* to reconcile liberty with equality understood as difference (in status, wealth, hierarchy and so forth). But because it equally applies to political, military and economic conduct, the discussion seems to be an expression of Montesquieu's Tacitean fascination with the Germanic roots of liberty, the nature of slavery and questions concerning reason of state.²⁷⁹ Its emphasis provides the resources needed for a contemporary and updated Tacitean critique of corruption, whether monarchical or republican.²⁸⁰

The most general claim seems also to be an Aristotelian-inspired critique of excess. For not only does moderation imply a degree of balance between extremes, but it is possible that Montesquieu's criticisms of extreme political forms are also drawn directly from Aristotle's own claims about the debased character of 'extreme democracy'. This form of government, 'in which not the law, but the multitude, have the supreme power and supersede the law by their decrees', comes about through the rise of demagogues and clearly might lead to tyranny.²⁸¹ That was the im-

²⁷⁶ Carrithers 1991, esp. pp. 250f, 252f, 258, 264; Volpillac-Auger 1993, pp. 25f; cf. Volpillac-Auger 1985, esp. pp. 129ff; Senaralens 2003, p. 106.

²⁷⁷ Soll 2005, esp. pp. 18f, 62–66; Wootton 1994, esp. pp. 354ff, 362, 365ff. The French police were certainly aware of the radical implications of Amelot's Tacitean criticism, and watched him closely. See Soll 2003, esp. pp. 313f. Montesquieu also used the work of Diderot, 1680.

²⁷⁸ See Whelan 2001, pp. 619–47.

²⁷⁹ Montesquieu 1989, I. 8. 3, p. 114; 1964, p. 571; cf. Machiavelli 1997, ch. 10, p. 38; Machiavelli 1989, bk. 1, ch. 55, pp. 306–10; bk. 2, ch. 2, pp. 328–33; see too Waddicor 1970, pp. 150ff, 154, 156f, 163; Volpillac-Auger 1985, pp. 129ff, 139ff, 178f; Carcassonne 1927, p. 659. Cf. Montesquieu 1964, pp. 884, 860 (*Pensées*, nos. 297, 73).

²⁸⁰ Desgraves 1954, no. 3084, p. 223; cf. Tuck 1993, esp. pp. 40f, 47, 54, 59, 67f, 71ff, 77, 80f, 85; Malcolm 2007, esp. pp. 35f, 94–97, 100 n. 22, 101–4, 115ff, 119–23; Rahe 2001, pp. 92ff.

²⁸¹ Aristotle 1998, 1292a5–8, p. 89. The other four forms of democracy are those based 'strictly on equality', the election of magistrates based on a property qualification, a third where all eligible citizens share in the government but the law remains 'supreme', and a

plication Cicero had drawn, and like Cicero, Montesquieu of course favoured a 'mean' between democracy and oligarchy as the ideal constitution of a state. Only this sort of a state has 'good fortune', and its 'citizens have a moderate and sufficient property'. A majority of the 'middle class' of people, without extremes of wealth, poverty and excellence, is 'clearly best', though for Montesquieu once more moderate monarchy best achieves this distribution.²⁸² It was indeed fortunate, he thought, that 'in most kingdoms (not republics) in Europe, the government is moderate'.²⁸³

As one might by now expect, his recognition that commerce expressed natural ambition should not be assumed to allow it completely free rein, for that would be excessive and immoderate. His discussion of the liberty of commerce maintains that it was 'not a faculty granted to traders to do what they want', because that again would mean the 'servitude of commerce'. Montesquieu argues instead that laws hamper trade in favour of commerce in well-regulated polities.²⁸⁴ Such was the English example, 'sovereignly jealous of the commerce that is done there' with only a few binding treatises and strong laws.²⁸⁵ Typically, this liberality was tied to size. As states grow, so do the threats to liberty, but commerce could keep this danger in check because the 'natural effect of commerce is to lead to peace'. Moreover, although commerce 'corrupts [*corrompt*]' pure moeurs, this is not a devastating objection, because commerce also redirects and polishes them, making them less fierce and curing 'destructive prejudices' through 'exact justice' and politeness.²⁸⁶ It was altogether a paradoxically beneficial enterprise, and one can see here still further precursors of Adam Smith. Indeed, just as many have tried to fold Smith into a republican political tradition, given the character of Montesquieu's reflections, it is perhaps unsurprising that some have attempted to align him with the recovery of a neo-Roman concern with liberty as freedom from arbitrary power. It is important to remember, though, that for Montesquieu political liberty is not the same as independence, even though it depends upon a conception of persons and their capacities for its foundation as a theory of political freedom.²⁸⁷ In political society, liberty 'can

fourth where all eligible citizens are 'admitted to the government, but the law is supreme as before'. Aristotle 1998, 1291b31–1292a4, pp. 88f.

²⁸² Aristotle 1998, 1295b40–1296a1–10, p. 98; Montesquieu 1989, I. 4. 2, pp. 32f; 1964, pp. 540f.

²⁸³ Montesquieu 1989, 2. 11. 6, p. 157; 1964, p. 586: 'Dans la plupart des royaumes de l'Europe, le gouvernement est modéré'. Cf. Montesquieu 1989, 2. 13. 12, 13 p. 221; 1964, pp. 610f.

²⁸⁴ Montesquieu 1989, I. 8. 3–4, pp. 114f; 1964, pp. 571f; also Montesquieu 1989, 4. 20. 12, p. 345; 1964, p. 653.

²⁸⁵ Montesquieu 1989, 4. 20. 7, pp. 342f; 1964, p. 652.

²⁸⁶ Montesquieu 1989, 4. 20. 1–2, p. 338; 1964, p. 651.

²⁸⁷ Pettit 2007, pp. 711, 715.

consist only in having the power to do what one should want to do and in no way being constrained to do what one should not want to do'. Liberty 'is the right to do everything the laws permit'.²⁸⁸ The resonance with Thomas Hobbes's political language is striking, however, as his earliest translators noted.²⁸⁹

Hobbes had famously asserted that civil liberty lies in the silence of the laws, and in his *Leviathan*, that liberty in general is simply the absence of external impediments to motion. In the work of Hobbes that Montesquieu was more familiar with, namely the *De Cive*, which was available in both Latin and French translation, this latter point had not yet been developed.²⁹⁰ Indeed, in this text Hobbes was much more ambiguous about freedom, and it caused his system several difficult moments. For although political liberty was still regulated by the laws, he suggested more generally that liberty could be restricted both by external and by internal impediments. He equally claimed that internal impediments to action are derived from the will, which led to the conclusion that any impediments to one's freedom are those freely chosen by oneself, because they stem from the individual will (*arbitrium*). They are arbitrary in a classical sense of that term, a point he continued to wrestle with when thinking about the relationship between fear and freedom.²⁹¹

That this caused internal problems for Hobbes's political theory is less interesting for my argument than the claim that Montesquieu attempted to characterize liberty in similar fashion. Liberty according to Montesquieu is the idea of actively doing something that one should do, and being actively constrained from doing that which, if one were properly aware, one should not wish to do in the first place.²⁹² Thus, if 'political liberty consists in security or, at least, in the opinion that one has security', this then means that the central defence of the liberty of the citizen must come from the 'goodness or quality [*bonté*] of the criminal laws'. We know that commerce prompts a desire for exact justice, so that helps make sense of some of this argument, but it seems also to imply that restrictions on one's liberty might be self-imposed. If what it means to

²⁸⁸ Montesquieu 1989, 2. 11. 3, p. 155; 1964, p. 586.

²⁸⁹ Nugent 1750, vol. 1, pp. v–vi.

²⁹⁰ On the publishing history of *De Cive*, see Hobbes 1983, esp. pp. 8–13; also Malcolm 2002, esp. pp. 458–60; Thomas Hobbes, Letter 197, to Anthony Wood, April 20/30, 1674, in Hobbes 1997, vol. 2, pp. 744 (Latin), 746 (English translation). See also Hobbes 1997, vol. 2, pp. 893–99, p. 895; See the other correspondence in Letter 50, to Samuel Sorbière, February 18/28, 1647; Samuel Sorbière, Letter 51, to Thomas Hobbes, February 22/March 4, 1647; Thomas Hobbes, Letter 52, to Samuel Sorbière, March 12/22, 1647, in Hobbes 1997, vol. 1, pp. 152f, 154f, 155–59.

²⁹¹ Hobbes 1998, ch. 9, § 8, p. 111; cf. ch. 13, §§ 15–17, pp. 150ff; Hobbes 1991, ch. 21, p. 145. See too Skinner 2008, esp. pp. 127ff.

²⁹² Cf. Rousseau 2003, bk. 1, ch. 8, pp. 53f.

act freely is simply to allow passions to motivate one to do what one wills, that is anarchy; to act at liberty, or rather to act with political liberty, Montesquieu suggested, is to cultivate one's agency and do what one should. Hence, the account of civil liberty offered in *De Cive* meant that freedom is not 'doing everything of our own freewill', as that would contradict the necessity of government and the seeking of peace. It also means that civil liberty is simply understood as the space in which one has to move freely, to be free from coercion.²⁹³ Constraints upon liberty are therefore those which individuals choose themselves through actions of their own will.²⁹⁴ Montesquieu offers a similar account.

For Montesquieu too, the relations between individuals under the civil state are 'governed by conventions' (*reglées par des conventions*) that are minimally structured at least in terms of their adherence to the basic precepts of natural law. In his mind, the civil state is indispensable to the procurement of social harmony, but as a 'necessary evil' (*mal nécessaire*) it is 'always menacing' (*toujours menaçant*), and its power counteracts the existence of other, contradictory powers or forces.²⁹⁵ Laws and politics have to combine effectively to promote such right conduct, and when the two are in rare alignment, if 'liberty can only be founded in this knowledge', a well-ordered state could be the result. Laws cultivate liberty, on this reading, and their absence simply allows excessive individual passions free rein, an argument with profound implications. For example, 'a man against whom proceedings had been brought and who was to be hung the next day would be freer than is a pasha in Turkey'.²⁹⁶ Punishment is of course important to this claim, and of the four major types of crimes that exist (those counter to religion, moeurs, tranquillity and security), the latter two are those that prompt punishment.²⁹⁷ Once again, though, the important point to note is that such punishments should be 'derived from the nature of the thing'. So not only does punishment become predominantly retributivist in the sense that it is just if it fits the crime, it must also be proportional and in 'harmony' with the

²⁹³ Hobbes 1998, ch. 9, § 9, p. 111.

²⁹⁴ Hobbes 1998, ch. 9, § 9, p. 111; discussion in Skinner 2008, pp. 110–14. Cf. Hobbes 1969, bk. 1, ch. 12, § 3, p. 62; Hobbes 1991, chs. 6, 21, pp. 44f, 146f.

²⁹⁵ Ehrard 1973, vol. 2, pp. 500, 504f, alludes to the famous passage in Montesquieu 1989, 2. 11. 4, p. 155; 1964, p. 586, where to prevent its abuse, 'power must arrest power by the arrangement of things [*il faut que, par la disposition des choses, le pouvoir arrête le pouvoir*]'.
²⁹⁶ Montesquieu 1989, 2. 12, 2, p. 188; 1964, p. 599; See too Montesquieu 1964, p. 1035 (*Pensées*, no. 1802), where security from caprice is the 'only advantage that a free people have over another [*Le seul avantage qu'un peuple libre ait sur un autre, c'est la sécurité où chacun est que le caprice d'un seul ne lui ôtera point ses biens ou sa vie*]'.
²⁹⁷ Montesquieu 1989, 2.12. 4, pp. 189ff; 1964, p. 603.

wider framework of justice and natural law, and hence dissuade others of committing similar crimes.²⁹⁸

Punishment properly understood guarantees security and justice, which in turn stems from the law expressed by intermediate powers in a moderate regime. To the extent that politics can provide this justice, then for Montesquieu 'political liberty in a citizen is that tranquillity of spirit which comes from the opinion each one has of his security [*sûreté*], and in order for him to have this liberty the government must be such that one citizen cannot fear [*craindre*] another citizen'.²⁹⁹ Hobbes of course had no compunction about suggesting the compatibility of both fear and freedom. Indeed, for Hobbes 'citizens have no greater liberty in a popular state than in a Monarchical'. What allows them to falsely think that they do is their participation as part of a 'sovereign people'.³⁰⁰ The claim about the problem of participation was one Montesquieu could agree with, but he could not accept the connection between fear and political liberty. Fear was the principle of despotism and insecurity, and fear was most obvious in Hobbes's work in the state of nature, which is partly why it had to be rejected.

Montesquieu therefore continued to focus on the apparent injustice of Hobbes's state of nature arguments, claiming that 'to say that there is nothing just or unjust but what positive laws ordain or prohibit is to say that before a circle was drawn, all its radii were not equal'.³⁰¹ Yet although the account Hobbes gave of the state of nature in *De Cive* was well known and read, it certainly did not say that in this state men are naturally evil or that they could do whatever they liked whenever they wanted. Few contemporary French readers, Montesquieu included, ever really acknowledged this fact when they pilloried Hobbes's position.³⁰² Despite this fact, however, Montesquieu's account of the constant struggle after power or recognition as an inherent part of human relationships was as Hobbesian as anything else.³⁰³ At the same time, the analysis of

²⁹⁸ Montesquieu 1989, I. 6. 16, p. 91; 1964, p. 563; for discussion, Carrithers 1998, esp. p. 218ff, 239f.

²⁹⁹ Montesquieu 1989, 2. 11. 6, p. 157; 1964, p. 586: 'La liberté politique dans un citoyen est cette tranquillité d'esprit qui provient de l'opinion que chacun a de sa sûreté'.

³⁰⁰ Hobbes 1998, ch. 10, § 8, pp. 121f; 1998, ch. 7, §§ 3–4, pp. 92ff; cf. Hobbes 1991, ch. 21, p. 149.

³⁰¹ Montesquieu 1989, I. 1. 1, p. 4; I. 1. 2, p. 6; 1964, pp. 530f.

³⁰² Cf. Glaziov 1993, and the sharply critical review by Wokler 1995, pp. 473ff.

³⁰³ This fact makes Rousseau's reaction to the presentation of Hobbes's arguments by Diderot exceptionally interesting, as Hobbes's moral theory of the passions outlined in *Elements of Law* was then largely unknown. See Diderot 1779, esp. pp. 581, 585, 589; Wokler 1975, pp. 55–111. For the text, see Hobbes 1969, bk. 1, ch. 8, §§ 5, 8, ch. 9, § 1, pp. 34ff, 36f.

envy in particular and honour in general as a lubricant of social progress suggests the key conclusion that Adam Smith would take still further.³⁰⁴ That was the idea that overly austere morals and overly rational political speculation, which try to nullify those egotistical traits of mankind 'inscribed on our souls', are always doomed to fail. It is only when fortune or fate is 'appropriate' (*mediocre*) that we can be happy.³⁰⁵ Indeed, 'fortune is our mother; adversity, our governor'.³⁰⁶ Such adversity governs our individual will, and thereby structures even a purely philosophical idea of liberty, which 'consists in the exercise of one's will, or at least (if one must mention all systems) in one's opinion that one is able to exert one's own will'.³⁰⁷ When removed from this conceptual abstraction, though, the 'word *liberty* in politics does not signify, in many ways, that which the orators and poets thought it did'. Instead, 'properly signified the word is a relation', and should not be used to 'distinguish different states of government'.³⁰⁸ Political liberty is not about free government or free states, but is instead a relation between passion and right action at the level of the individual and of the legislator, and for that reason it fits well with the idea of liberty as propriety. One can be a free agent if one deliberates rationally, but volitional and responsible freedom for Montesquieu requires either willingly regulating agency (which is always difficult), or having political liberty in a state that allows natural tendencies to flourish, and where free agency becomes the same as doing what one should want to do because the scope of legitimate actions is clearly constrained by law. The combination of prudent management and pure chance thus required lay behind Montesquieu's admiration for the traditional French monarchy, and his account of modern English liberty.

In making these arguments, Montesquieu seemed to be rejecting Locke's general claim about the relationship between liberty and the will. Recall

³⁰⁴ Montesquieu 1964, p. 987 (*Pensées*, no. 1042): 'C'est l'envie de plaire qui donne de la liaison à la société, et tel à été le bonheur du genre humain que cet amour-propre, qui devait dissoudre la société. La fortifie, au contraire, et la rend inébranlable'.

³⁰⁵ Montesquieu 1964, p. 859 (*Pensées*, nos. 69–70).

³⁰⁶ Montesquieu 1964, p. 987 (*Pensées*, no. 1022): 'Je disais: "La Fortune est notre mère; l'adversité, notre gouverneur."'.

³⁰⁷ Montesquieu 1964, p. 1035 (*Pensées*, no. 1798 [943]); Montesquieu 1989, 2. 12. 2, p. 188; 1964, p. 598: 'La *liberté* philosophique consiste dans l'exercice de sa volonté, ou du moins (s'il faut parler dans tous les systèmes) dans l'opinion où l'on est que l'on exerce sa volonté'. Montesquieu 1964, p. 1035 (*Pensées*, no. 1798 [943]): 'La *liberté* pure est plutôt un état philosophique qu'un état social'.

³⁰⁸ Montesquieu 1964, p. 947 (*Pensées*, no. 631): 'ce mot de *liberté* dans la politique ne signifie pas, à beaucoup près, ce que les orateurs et les poètes lui font signifier. Le mot n'exprime proprement qu'un rapport et ne peut servir à distinguer les différentes sortes de gouvernements'. Emphasis in original.

that for Locke, uneasiness (and hence passion) determines the will, and liberty is the capacity to suspend judgement before acting so as to pursue our true happiness. Both look very much like doing what one should want to do is the *sine qua non* of free action, but despite this appearance, Montesquieu thought that uneasiness, or lack of tranquillity, was contextually specific. Some nations and some peoples suffered from it, whilst others did not, and those whose government was not moderate were the most obvious candidates for such a feeling of what Locke's French translators suggested was *inquiétude*. Such uneasiness seems particularly germane to Montesquieu's understanding of the English character. With their history, character and climate the English have an excellent political system that suits them and which is beneficial for commerce. However, whilst the English political system was admirable, the English themselves were hardly cheered by their condition. They were an unhappy lot, always worried about something, always moved by uneasiness, but even this uneasiness could not be the principal spring behind the system of liberty in a republic presented as a monarchy.³⁰⁹ It had first to be transformed by something like fear, though not exactly like it. Fear was both the principle of despotism (and England was not despotic), and it provided a central unifying focus to classical republics (and England was not classically republican either). In the English case, unease combined with vigilance in the face of fear over political corruption, in an argument that seems to derive from Montesquieu's sympathy with Bolingbroke's Whig critique of British politics. Maintaining their security in the face of corruption, a necessary prerequisite for their liberty, kept the English uneasy in general, and the strong middle class (those *gens médiocres* upon which stable politics is built) particularly tense. They had something like virtue, but not of any recognizably republican sort. Theirs was instead the virtue of owners, watchful over their property in case someone tried to steal it. Such a commodification of uneasiness meant that although the English were free, they were too restless ever to properly enjoy their condition.³¹⁰ English morals were clearly enragged by passions like 'hatred, envy, jealousy and the ardour for enriching and distinguishing oneself', and the nation 'could more easily be led by its passions than by reason'.³¹¹ Overall, then, one would do well to follow good English institutions, rather than live in England.

³⁰⁹ See Rahe 2001, pp. 88f, to whose analysis I am indebted here; also Sonenscher 2008, p. 235 and n. 79. Cf. Montesquieu 1964, p. 1005 (*Pensées* no. 1430).

³¹⁰ Rahe 2001, esp. pp. 95ff.

³¹¹ Montesquieu 1989, 3. 19. 27, pp. 325ff; 1964, p. 648; Shklar 1979, esp. pp. 324f. See too Manicas 1981, esp. pp. 323–29; Gilbert 1994, esp. pp. 54ff; Spinoza 1958, ch. 6, § 1, p. 315.

Thus in 1749, a year after the publication of his *De L'Esprit des lois*, Montesquieu wrote to his friend William Domville to assuage his fears about corruption in English politics, claiming that 'in Europe the last sigh of liberty will be heaved by an Englishman'.³¹² If the system of English liberty was the best expression of commercial freedom in a European context suffused with Anglophobia, at least two further elements were of profound importance to Montesquieu's explanation. The first of these was the general transformation in the understanding of the relationship between liberty, national identity and reason of state in the English maritime empire up to the Restoration.³¹³ This clarified the contrast between the English and the Roman example, and in a modified form, Montesquieu presented a version of what has more recently become known as the 'credible commitment' thesis.³¹⁴ Rather than comparing their wealth with the Romans, the English would be better advised to examine instead the source of their own riches. This would show why they should worry about their liberty, which is linked to commerce, and which in turn 'is linked in some fashion to your existence'.³¹⁵ The commercial character of their corruption needs to be examined.³¹⁶

Second, however, since the regicide, the English nobility had collapsed, and those 'intermediate powers' that buttressed the monarchy had been removed. This paradoxical development meant that in England a modern 'republic hides under the form of a monarchy'.³¹⁷ Moreover, if the English somehow lost their precarious constitutional structure, they would in effect revert to something like a monarchical despotism and become 'one of the most enslaved peoples on earth', as recent discussions of habeas corpus illustrated.³¹⁸ In trying to prevent France from falling prey to similar dangers, Montesquieu's arguments were designed to show that any form of political or economic hegemony was necessarily fragile and historically conditioned, and that all attempts to mitigate decline (whether containing territorial expansion effectively or by English-style constitutional balance), could only ever be temporary.³¹⁹ Given this precarious circumstance, the spirit of liberty defended by the English constitution

³¹² Montesquieu, Letter to William Domville, July 22, 1749, in Montesquieu 1955j, pp. 1244–45.

³¹³ See Acomb 1950; also Pincus 1998, pp. 75–104; 2001, pp. 272–98.

³¹⁴ North and Weingast 1989, pp. 803–32.

³¹⁵ Montesquieu, Letter to Domville, in Montesquieu 1955j, p. 1245.

³¹⁶ See Desserud 1999, esp. pp. 147ff; see too Sonenscher 2007, p. 47; text in Montesquieu 1989, 4. 21. 14, p. 381; 1964, p. 669.

³¹⁷ Montesquieu 1989, I. 8. 9, p. 118; 1964, p. 573.

³¹⁸ Montesquieu 1989, I. 2, 4, p. 19; 1964, p. 535; cf. Montesquieu 1989, I. 5. 19, p. 70; 1964, p. 555; discussion in Manin 2008, esp. pp. 40ff.

³¹⁹ Spector 2006, p. 151, 403, 404ff; Krause 2002, esp. pp. 714–19.

best expressed Montesquieu's wider claim that moderation is the best policy, and that 'men almost always accommodate themselves better to middles than to extremities [*mieux des milieux des extrémités*]'.³²⁰ The worry that he sought to outline was that English liberty was the result of an institutional compound that could easily tip over into a despotism where the legislature could 'examine' but could not 'check' the executive. This is where the passion or virtue of uneasiness, which moved Englishmen to vigorously defend their liberty, came dangerously close to the principle of despotism, namely fear.³²¹

If these thoughts make his otherwise generous praise for the English constitution a little more muted both historically and politically, they nevertheless show the importance of propriety and moderation to political liberty in Montesquieu's work. In order to clarify this importance, Montesquieu's narrative involves a series of interpretative steps. The first offers a general outline of his synthetic account of justice, an account that feeds into an awareness of the limitations of classical politics for contemporary ends. From here, one can see how the very idea of liberty itself, according to Montesquieu, requires an account of the passions of the soul, whilst his analysis of political liberty also requires an account of those passions that set politics in motion. Writ small, freedom is simply human action in particular contexts. Writ large, political freedom is responsible action governed by laws and justice appropriate to a particular polity. The spirit of the laws thus becomes a theory of embodied political freedom, and a measure of the success of commercial society is how far it is able to balance self-interest with the need to regulate conduct. The difficulty of coming to terms with such questions must in part explain the terrifically complex lineage and apparently sprawling character of the work.³²² Yet because Montesquieu's reflections on the nature of modern politics, the passions, judgement, and on liberty, all cohere around the central themes of moderation, appropriateness, measured happiness and self-development, his was a gargantuan synthesis that many could draw upon. Its synthetic unity results from his attempt to marry an historical sociology of liberty with claims about passions and actions, in order to explore how the passions that set politics in motion have to navigate between divine, physical, intellectual and moral causes, that is to say, between justice and the natural order of things. Only then can

³²⁰ Montesquieu 1989, 2. 11. 6, p. 166; 1964, p. 590.

³²¹ Montesquieu 1989, 2. 11. 5, p. 156; 1964, p. 586; Montesquieu 1989, 2. 11. 6, pp. 160, 162; 1964, p. 588; Rahe 2001, pp. 96f.

³²² Cf. Volpilhac-Augier 2005, esp. pp. 152–84, 'Genèse de *L'Esprit des lois*', and 'Annexe III. Les secretaries de Montesquieu après 1748', pp. 200–212; Benrekassa 2004; also Shackleton 1988a, pp. 49–63; 1988d, pp. 65–72.

one understand the spirit of the laws.³²³ His political thought itself represents something of a middle way between the extremes of enthusiasm and imagination in the aftermath of the political rejection of Jansenism in France.³²⁴ In fact, through an awareness of the Jansenist heritage he acknowledged the importance of the passions in explaining human action, and recognized that even apparently selfish passions can be necessarily and positively related to social unity and political moderation. From this point he was led to certain conclusions about the limits of human rationality and the fragility of political order.

The impact of his work in Britain, even on an elite fully versed in Francophone culture, was profound. For critics like Domville, Montesquieu's analysis was grist to the mill concerning the potentially disastrous effects of corruption.³²⁵ Conversely, the Reverend David Williams took up Montesquieu's method of analysis even as he thought he was criticizing it. He did so in order to comment upon and critically evaluate the idea of a balanced constitution, an idea which in no way implied the idea of a passive entity that was simply acted upon. Instead he noted (as had Montesquieu, in fact) that balance was an active principle of the movement of powers in concert.³²⁶ Understanding this balance was necessary to fully appreciate the true and just order of the relationships between things.³²⁷ And in thinking through the historical and philosophical implications of both his and John Locke's political theories in particular, British political thought would in the following century come to develop an abiding concern with the paradoxical character of liberty both had outlined, particularly its relation to that equivocal word, 'justice', which Montesquieu had thought to be buttressed by our feelings of resentment and the desire for 'vengeance'.³²⁸ His considerations were actively taken up by many of the most perspicuous of eighteenth-century political thinkers, but my hope in the following chapter is to show that in this regard few were more perceptive than Adam Smith.

³²³ Volpillhac-Auger 2004, esp. pp. 173–76.

³²⁴ Goldstein 1998, p. 32; cf. La Vopa 1988, pp. 103f; see also Dedieu 1928, pp. 161–214.

³²⁵ Fletcher 1939, pp. 157, 159f.

³²⁶ Cf. Montesquieu 1989, 2, 11, 6, p. 164; 1964, p. 589: 'The form of these three powers [legislative, executive, judiciary] should be rest or inaction. But as they are constrained to move by the necessary motion of things, they will be forced to move in concert'. For general discussion, Gunn 1983, pp. 67f, 199, 203, 210; Holmes 1995, p. 166; cf. Courtney 2001a, esp. pp. 278f, 281. See too Montesquieu 1964, pp. 1005f (*Pensées*, nos. 1428–33).

³²⁷ Williams 1782, pp. 3f, 7 (citing Montesquieu on the 'unnecessary' distinction between civil and political liberty), pp. 9f (on 'balance'), and p. 53 (organisation of the people).

³²⁸ Montesquieu 1964, p. 990 (*Pensées*, no. 1102): 'Le but naturel de la vengeance est de réduire un homme à ce sentiment de désirer de ne nous avoir point offensé'.

'The True Propriety of Language': Persuasive Mediocrity, Imaginative Delusion and Adam Smith's Political Theory

The moral and political philosophy of Adam Smith famously states that natural ambition and self-interest, a 'desire of bettering our condition', lies at the heart of human motivation.¹ However, this desire masks a more fundamental 'love of domination and authority', made manifest in the pleasure we have in getting others to carry out our will. This can be even more strongly expressed as the natural 'love of domination and tyrannizing'.² What seems to have interested Smith the most, however, was how this natural desire for superiority comes to be tempered by countervailing social tendencies, and in particular by the peculiar and unnatural configuration of modern commercial society. In tandem with Montesquieu's account of honour, commercial society, according to Smith, utilizes our naturally avaricious tendencies, and counterbalances ambition and a love of domination with an equally deep-seated need for social acceptance and recognition. A fear of shame, a reflex of the 'natural right' to preserve our 'reputation', underscores the tension and results in politeness or decorum as the norm.³ Commerce alone, however, seems able to reconcile these conflicting demands without the explicit use of force and through the division of labour instead. It therefore avoids a more 'natural' state of slavery and domination.⁴ It is a symbol of progress.

The progress of opulence that the division of labour promotes, while it works with our natural sentiments also threatens our psychic development. It makes us value trinkets and baubles, ephemera over substance, and this in turn suggests a day when the 'nobler parts of the human character may be, in a great measure, obliterated and extinguished in the great body of the people'.⁵ Like Montesquieu, Smith thought that under an increasingly complex division of labour the 'minds of men are con-

¹ Smith 1976, WN, II. iii. 28, pp. 341f.

² Smith 1975, LJ (A), iii. 114, p. 186.

³ Smith 1975, LJ (B), 8, 192, pp. 399, 480f.

⁴ Smith 1976, WN, III. ii. 10, p. 388; III. iv. 11, p. 420; cf. Smith 1975, LJ (B), 333, p. 541; discussion in Luban 2008, esp. pp. 4, 25–30, 33f, 38ff; Rasmussen 2008, p. 149.

⁵ Smith 1976, WN, V. i. f. 51, pp. 783f; 1975, LJ (B), vi. 6, p. 333.