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Montesquieu's science of politics:
absolute values and ethical relativism
in *L'Esprit des lois*

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To paraphrase an essential insight of C. E. Vaughan, within the soul of Montesquieu, there were two men struggling for mastery: the one a definite forerunner of the modern sciences of sociology, history, and comparative jurisprudence; the other an advocate of basic seventeenth- and eighteenth-century metaphysical doctrines, upholding an essentially pre-scientific view of the world.¹ This struggle manifests itself especially clearly in the case of Montesquieu's conception of the source of moral value. As a social scientist, Montesquieu clearly demonstrates that the values men hold – the laws they enact and the customs they adhere to – are highly influenced by a number of factors in their historical environments. In this sense, Montesquieu has uncovered the key to ethical relativism; but, at the same time, because he advocates an eternally valid moral law, in no way dependent on historically specific man and his institutions, Montesquieu seems to be saying that all real value comes from God. According to this second view, Montesquieu is something of a traditional natural-law moralist. Thus the student of Montesquieu is hard put to thread his way through, as Berlin puts it, 'a kind of continuous dialectic [. . .] between absolute values which seem to correspond to the permanent interests of men as such, and those which depend upon time and place in a concrete situation'.²

¹ C. E. Vaughan, *Studies in the history of political philosophy before and after Rousseau* (Manchester 1939), i.255; references to Montesquieu, unless otherwise indicated, are to the Nagel edition of his works: *Œuvres complètes de Montesquieu*, publiées sous la direction de m. André Masson (Paris 1950-1955). References to *L'Esprit des lois* (*El*) are by book number and chapter number, to the *Lettres persanes* (*Lp*) by letter number, and to the *Pensées* (*P.*) by pensée number, as given in the Nagel edition.

² I. Berlin, 'Montesquieu', *Proceedings of the British Academy* (1955), xli.293.

Modern interpreters of Montesquieu, interested in depicting him as a precursor of the modern social scientist, are especially at pains to explain the incursions of natural law in the otherwise 'scientific' *Esprit des lois*.³ Whether these are explained away as metaphysical residues,⁴ or if Montesquieu is described as a 'captive to earlier conceptions',⁵ for political⁶ or for predominantly psychological reasons,⁷ the discrepancy remains. It is not hard to agree with Vaughan's assessment: 'It is in the conflict between these two strains that the main difficulty of interpreting [Montesquieu] has always been found to consist.'⁸

The conflict between moral absolutist and moral relativist can be illustrated especially clearly in the case of a phenomenon such as despotism. According to the general principles he lays down and illustrates, Montesquieu describes a despotic form of government as the essentially necessary consequence of a country's climate, terrain, religion customs, and history;⁹ he illustrates in detail how a specific interaction of these factors leads almost invariably to despotism, as different combinations of factors result in the more acceptable forms of monarchy and the republic. Yet, at the same time, Montesquieu has trouble even mentioning despotism without a shudder of revulsion (*E/III.9*). Though he has discovered the inner workings of nature that cause this tyranny to exist, he is as unstinting with his condemnation as a far more simple-minded theorist might be – one who saw despotic government arising solely in the deranged will of a Nero or a Caligula. The question is, as Aron puts it, 'how can one explain certain institutions as predetermined,

³ most notable of these are Emile Durkheim, *Montesquieu and Rousseau: forerunners of sociology*, translated by R. Mannheim (Ann Arbor 1960); Raymond Aron, *Main currents in sociological thought*, translated by R. Howard and H. Weaver (Garden City 1968); L. Althusser, *Politics and history*, translated by B. Brewster (London 1972).

⁴ see P. Martino, 'De quelques résidus métaphysiques dans l'*Esprit des lois*', *Revue d'histoire de la philosophie et d'histoire générale de la civilisation* (1946), xliii.235-45.

⁵ see Durkheim, *Montesquieu and Rousseau*, p.23; see also G. Sabine, *A history of political theory*, revised ed. (New York 1950), p.551; and F. Copleston, *A history of philosophy* (Garden City 1964), vol.6, pt.1, p.26.

⁶ this is the view of Martino. ⁷ this is the basic view of Althusser.

⁸ *Studies in the history of political philosophy*, p.275. Similar opinions are voiced by Aron (p.54), Werner Stark, *Montesquieu: pioneer of the sociology of knowledge* (London 1960), p.87, L. Brunschvicg, *Le Progrès de la conscience dans la philosophie occidentale* (Paris 1927), ii.469.

⁹ for the qualification 'essentially necessary' see G. Lanson, 'Le déterminisme historique et l'idéalisme social dans l'*Esprit des lois*', *Revue de métaphysique et de morale* (1916), xxiii.135-63; C. J. Beyer, 'Le problème du déterminisme social dans l'*Esprit des lois*', *Romanic review* (1948), xxxix.102-106.

independent of human will, and at the same time apply value judgements to these institutions?'¹⁰ As Berlin notes, there is probably not any strictly logical contradiction between Montesquieu's two attitudes.¹¹ But still the belief that positive laws and morals are a function of various natural and social conditions, on the one hand, and faith in a rigid standard of justice against which these social laws and mores must be measured, on the other, are strange bedfellows. And Berlin, for one, is unable satisfactorily to reconcile Montesquieu's 'genuine disparity of attitude'.¹² Brunschvicg puts the matter quite curtly: 'Question décisive mais à laquelle l'*Esprit des lois* ne fournit pas de réponse décisive.'¹³

It is this problem that is addressed in this paper. The attempt will be made to explain Montesquieu's political theory as political science, while his political science will be explained in light of fundamental beliefs about the nature of science, especially scientific law, held by many seventeenth- and eighteenth-century thinkers. In part one, we will examine book I, chapter 1 of *L'Esprit des lois*, which is the most general discussion of Montesquieu's basic metaphysical views found anywhere in his works, and which provides the context in which the scientific endeavour undertaken in *L'Esprit des lois* must be understood. It will be seen that this chapter is a brief résumé of the essentially Cartesian philosophy widely held during Montesquieu's time. Interpreting Montesquieu in this context will enable us to see that his social science, as he himself perceived it, is not in conflict with his belief in absolute values. Then, in part two, it will be shown that there are two inseparable faces to Montesquieu's science of politics – the 'pure science' of sociology and the 'applied science' of legislation – and that the latter is predicated upon a belief in absolute values.

i. Of laws in their relations to beings of different kinds

A great commentator on Montesquieu has said: 'Le début de l'*Esprit des lois* apparaît comme le portique d'une cathédrale.'¹⁴ Brunschvicg's simile is appropriate. The opening chapter of the great work is certainly more porch than palace; it is only comprehensible as the entranceway into a subject matter with which the reader is assumed to be familiar. Montesquieu later wrote of this discussion that the subject matter is immense

¹⁰ *Main currents in sociological thought*, p.33.

¹¹ 'Montesquieu', p.290.

¹² p.291; see also pp.289-93.

¹³ *Le Progrès de la conscience*, p.469.

¹⁴ Brunschvicg, *Le Progrès de la conscience*, p.467.

and, because he was forced to treat it in a limited space, he was forced to omit much pertinent material (Nagel, i.450). Unfortunately, among this material is the groundwork of the discussion itself, the process of reasoning that leads from paragraph to paragraph, from point to point. The result has caused consternation on the part of Montesquieu's commenatators; for instance, among those Montesquieu has managed to confuse are two important historians of political thought.¹⁵ Nevertheless, there is a method to the material that Montesquieu saw fit to present, between omissions as it were. It can be shown briefly that this first chapter is a bare presentation of Montesquieu's basic metaphysic. If we outline briefly the philosophical underpinning of Montesquieu's thought, the Cartesian system from which he drew, the logic of the puzzling chapter will become clear.

In a fine article on the Cartesian influence on Montesquieu's thought, Beyer argues that two doctrines especially, *mécanisme* and *spiritualisme*, are essential to understanding Montesquieu's metaphysic.¹⁶ These can be discussed in turn. Montesquieu was most obviously a Cartesian in his belief in *mécanisme*, that the effects of nature can be reduced to matter in motion. This belief is described in some detail in letter 97 of the *Lettres persanes*: 'L'auteur de la nature a donné du mouvement à la matière; il n'en a pas fallu davantage pour produire cette prodigieuse variété d'effets que nous voyons dans l'univers.' And in this letter, the enraptured Usbek goes on to describe the wondrous feats of western philosophers, who have disentangled the apparent chaos of nature and explained it according to 'cinq ou six vérités', the laws of mechanics.

Montesquieu's belief in the mechanism of nature is especially important in light of his opinion that mechanics explains more than the mere workings of the inanimate world. Holding to the tenets of Cartesian

¹⁵ see Sabine, *A history of political theory*, pp.553-54; J. Plamenatz, *Man and society* (New York 1963), ii.260.

¹⁶ C. J. Beyer, 'Montesquieu et l'esprit cartésien', in *Actes du Congrès Montesquieu, réuni à Bordeaux du 23 au 26 mai 1955* (Bordeaux 1956), p.162. Montesquieu's early scientific works are recognised as being heavily influenced by Cartesian science. Among these are the following: *Discours sur la cause de l'écho* (Nagel, iii.69-73); *Discours sur la cause de la pesanteur des corps* (Nagel, iii.90-92); *Discours sur la transparence des corps* (Nagel, iii.95-6); *Discours sur l'usage des glandes rénales* (Nagel, iii.77-82); *Essai d'observations sur l'histoire naturelle* (Nagel, iii.99-118). For discussions of this aspect of Montesquieu's thought, see: J. Jaffray, 'La carrière scientifique de Montesquieu', *La Nature* (1928), lvi.465-67; J. Torlais, 'Montesquieu homme de science', in *Actes du Congrès Montesquieu*, pp.349-53; J. Ehrard, *L'Idée de nature en France dans la première moitié du XVIIIe siècle* (Paris 1963), i.97-9.

dualism, Montesquieu believes that organic as well as inorganic matter obeys the laws of motion. Thus he refers to botany as 'cette partie de la physique qui concerne la végétation des plantes' (Nagel, iii.107). And he adds: 'nous croyons [. . .] que la plante la mieux organisée n'est qu'un effet simple & facile du mouvement général de la matière' (Nagel, iii.108). Because plants are merely matter and their matter obeys the universal laws of matter in motion, Montesquieu criticises those Cartesians who admit 'une providence particulière de Dieu dans la production des plantes, différente du mouvement général de la matière' for not being true followers of their master (Nagel, iii.112).

The same rules hold for animals. Though it would be beyond the scope of this paper to determine the precise place Montesquieu's views occupy in the so-called 'animal-soul' controversy that figured prominently in early eighteenth-century science,¹⁷ it is indisputable that Montesquieu believed in some version of the *bête-machine*; insofar as animals have material bodies – and no souls¹⁸ – their behaviour is governed by the universal laws of matter in motion. And Montesquieu believed that the invariable mechanical laws govern man as well. Montesquieu was a faithful disciple of Descartes in believing that the mind is the only thing that distinguishes men and animals, while the human body, like the bodies of animals, is a 'machine'.¹⁹ The numerous references Montesquieu makes to the human body as a machine in *L'Esprit des lois*, especially the notorious fourteenth book in which he discusses the effects of climate on the *homme-machine*, should be understood in this context. As Montesquieu says: 'L'homme, comme être physique, est, ainsi que les autres corps, gouverné par des loix invariables' (*El* i.1). But man, unlike plants and beasts, has a mind and is not ruled exclusively by his moving matter; he is subject to moral or spiritual causes as well.²⁰

The first manifestation of Montesquieu's spiritualism, closely tied to his mechanism, is his belief that the world is not governed by blind

¹⁷ for a complete discussion of this controversy, see L. C. Rosenfield, *From beast machine to man machine* (New York 1968).

¹⁸ it is doubtful that Montesquieu believed animals have no souls: see *El* i.1, paragraph 11. It is certain, however, that he believed them to be subject to the laws of mechanics.

¹⁹ Descartes's fullest exposition of the *homme-machine* is found in the *Traité de l'homme*, a book owned by Montesquieu; see L. Desgraves (ed.), *Catalogue de la bibliothèque de Montesquieu* (Geneva 1954), p.106, no.1439.

²⁰ for a full discussion of the two kinds of causes man is subject to see the *Essai sur les causes qui peuvent affecter les esprits & les caractères* (Nagel, iii.397-430); translated by M. Richter, in *Political theory* (1976), iv.139-62.

chance. In the first place, the laws of mechanics are invariable; and in the second, they are due to the action of a divine intelligence. An argument preserved from the unfinished, unpublished *Traité des devoirs*, repeated almost word for word more than twenty years later in the chapter under consideration, is meant to prove the existence of an intelligence ordering the world: 'Ceux qui ont dit, qu'une fatalité aveugle a produit tous les effets que nous voyons dans le monde, ont dit une grande absurdité; car quelle plus grande absurdité qu'une fatalité aveugle qui produit des êtres qui ne le sont pas?' (Nagel, iii.159). From this rejection of fatalism, Montesquieu concludes that there must be an intelligence directing the material world, God. The laws of nature – the invariable laws of matter in motion – were established by God and are inseparable from the act of creation that gave rise to the world. As Beyer says: 'elles ne sont créées par Dieu que dans le sens que toute la nature l'est'.²¹ The very existence of the world presupposes these laws, which are necessary for its preservation: 'les loix selon lesquelles il [Dieu] a créé [l'univers] sont celles selon lesquelles il [le] conserve' (EI 1.1). This thought appears in a very similar form in Descartes's *Discours de la méthode* (1636): 'L'action, par laquelle maintenant il le conserve, est toute la même que celle par laquelle il l'a créé.'²² And if there were other worlds, they too could not subsist without the necessary laws. In the words of Montesquieu: 'si l'on pouvoit imaginer un autre monde que celui-ci, il auroit des règles constantes, ou il seroit détruit' (EI 1.1). Or, as Descartes expressed this idea: 'Que Dieu aurait créé plusieurs mondes, il n'y en saurait avoir aucun où elles [les lois de la nature] manquassent d'être observées.'²³ It is the existence of these invariable laws of mechanics, this rational grounding of the world, that makes the natural sciences possible. By discovering the laws of nature, philosophers can explain the divine architecture of the universe (Lp 97).

A second aspect of Montesquieu's spiritualism is his belief that similar laws govern the intelligible, the spiritual world. For, in the same sense that God could not create a material world devoid of law, a similar necessity forced him to create an order in the spiritual or moral world. And the laws that rule that moral world are those of justice, as invariable as the universally valid mechanical laws: 'La justice est un rapport de

²¹ Beyer, 'Montesquieu et l'esprit cartésien', p.167.

²² R. Descartes, *Discours de la méthode* (Paris 1966), p.70.

²³ *Discours de la méthode*, p.69.

convenance, qui se trouve réellement entre deux choses: ce rapport est toujours le même, quelque être qui le considère, soit que ce soit dieu, soit que ce soit un ange, ou enfin que ce soit un homme' (Lp 83). We have in this brief quotation the bare core of Montesquieu's moral philosophy: a belief in an eternal standard of justice, a. in no way dependent on human customs or positive laws, b. consisting of an invariable relation or *rapport*.

Little need be said about Montesquieu's belief in an eternal, absolute standard of justice. There can be no doubt that he held such a belief. For instance, throughout his life, Montesquieu's major objection to the moral philosophy of Hobbes was the fact that Hobbes had denied the existence of any more-than-human justice.²⁴

The second concept basic to Montesquieu's moral thought is the idea that moral truths consist of relationships or *rapports*. Many commentators note the fact that this was a widely held view at the time Montesquieu wrote, and so it is not difficult to understand his holding it.²⁵ It is, however, necessary to explain briefly the fact that Montesquieu calls these eternal moral relationships 'laws' (*lois*) – which is the same term he applies to the relationships of physics – and thus conflates two essentially separate uses of the term *loi*: law, or *loi*, in a descriptive sense, as it pertains to the actual behaviour of physical bodies; law in a prescriptive sense, as it pertains to the laws of morality. The fact of the matter is that, for Montesquieu, a law, any law, can be described as a constant conjunction or a necessary relationship. I believe that the idea of such a constant conjunction can best be described in a contemporary terminology, and as such, one that is alien to Montesquieu's own writings. In this modern jargon, no matter what the subject matter, any two entities that bear a relation to each other that can be indicated by the logical notation, $p \rightarrow q$, are the subjects of the law, $p \rightarrow q$. For Montesquieu, necessary or causal conjunction is the essence of law: 'Les loix, dans la signification la plus étendue, sont les rapports nécessaires qui dérivent de la nature des choses' (EI 1.1). This holds of the mathematical world: e.g., $2 + 2 = 4$ is a law. And it holds true of the physical world: e.g., and especially, Descartes's or Newton's laws of motion.²⁶ Though the concept is somewhat more difficult to visualise as it pertains to moral

²⁴ see especially Nagel, i.436-37; *Pensée* 1266; below n.27.

²⁵ see especially S. M. Mason, *Montesquieu's idea of justice* (The Hague 1975), pp.3-109.

²⁶ see EI 1.1, paragraph 7.

laws, the idea is the same. In this case, the moral imperatives can best be conceived as products of relationships. For instance, given a being, A, in relationship p to another being, B, he should behave in fashion q toward B; thus $p \rightarrow q$ is a law.

These eternal, invariable relations are conceived as being between the essential – as opposed to the accidental or particular – properties of the entities or beings they relate. Thus the laws of mechanics pertain to all objects, no matter what they are. And the law of mathematics according to which $2 + 2 = 4$ holds for two doughnuts as well as for two apples or two oranges. The moral laws pertain to all moral agents, regardless of their particular characteristics, regardless of even their existence. They are so far from being dependent on the laws and mores of specific societies that they would be true even if such societies did not exist (*El* 1.1):

Avant qu'il y eût des êtres intelligens, ils étoient possibles; ils avoient donc des rapports possibles, & par conséquent des loix possibles. Avant qu'il y eût des loix faites, il y avoit des rapports de justice possibles. Dire²⁷ qu'il n'y a rien de juste ni d'injuste que ce qu'ordonnent ou défendent les loix positives, c'est dire qu'avant qu'on eût tracé de cercle, tous les rayons n'étoient pas égaux.

Il faut donc avouer des rapports d'équité antérieurs à la loi positive qui les établit: comme par exemple, que, supposé qu'il y eût des sociétés d'hommes, il seroit juste de se conformer à leurs loix; que, s'il y avoit des êtres intelligens qui eussent reçu quelque bienfait d'un autre être, ils devroient en avoir de la reconnaissance; que, si un être intelligent avoit créé un être intelligent, le créé devoit rester dans la dépendance qu'il a eue dès son origine; qu'un être intelligent qui a fait du mal à un être intelligent, mérite de recevoir le même mal; & ainsi du reste.

Thus we see that the central idea of Montesquieu's moral theory is the existence of an intelligence ruling the moral as well as the physical world. Because of the action of this intelligent being in creating the universe, there are moral laws, which assume the form of necessary or constant relationships, rooted in the nature of things. These moral laws are as certain, as perfect in their invariability, as those of mathematics, and more important, as perfect and certain as those of physics. Thus Montesquieu sees no opposition between the moral sciences and the physical

²⁷ this originally read 'Dire avec Hobbes', though 'avec Hobbes' is crossed out in the original manuscript; see J. Brethe de La Gressaye (ed.), *De l'esprit des lois* (Paris 1950-1961), i.234.

sciences. Both disciplines concern the study of similar, perfect, invariable laws. Both the moral world and the physical world are ruled by such perfect laws, in keeping with Montesquieu's 'metaphysical optimism'.²⁸

The moral ideas outlined above did not originate in the thought of Montesquieu. He was no more an original moral thinker than he was an original metaphysical thinker, and he undoubtedly leaned heavily on any number of late seventeenth- and early eighteenth-century thinkers. The most likely sources of Montesquieu's ideas are Malebranche and Samuel Clarke, though it is impossible to pin down the exact chain of influence. Though Montesquieu was undoubtedly influenced by Malebranche, whom he considered to be one of the four great poets – along with Plato, Shaftesbury, and Montaigne (*P.* 1092) – for our present purposes it will suffice to adopt Shackleton's suggestion that Clarke is the primary influence.²⁹ The argument of this paper would be served just as well if Montesquieu's ideas could be traced to a different thinker, but one who followed the basic outline of Clarke's thought.

Aside from the purely historical question of influence, it is important to locate the probable source of Montesquieu's ethical system for the purpose of interpreting it. As is true in the case of his metaphysical ideas, Montesquieu never gives anything resembling a comprehensive discussion of ethical matters. He treats complicated ethical questions as he treats metaphysical questions, skimming the surface, and taking it for granted that his reader knows the complex web of reasoning upon which the surface rests. Thus, because there is nowhere a systematic discussion of the philosophical underpinning of Montesquieu's moral thought, here too the reader is forced to gather his scattered utterances and supply the groundwork himself.

Montesquieu's debt to Clarke – or if not to Clarke himself, to a closely related theorist – becomes as clear as possible when it is seen that one of the basic arguments in Clarke's *Discourse concerning the being and attributes of God* is necessary to fill the gaps found in Montesquieu's discussion of ethical matters in book 1 chapter 1 of *L'Esprit des lois*. Montesquieu is clearly making numerous tacit assumptions, and for our

²⁸ R. Mercier, 'La notion de loi morale chez Montesquieu', *Proceedings of the Sixth Triennial Congress of the International Federation for Modern Languages and Literatures* (Oxford 1954), p.191; Ehrard, *L'Idée de nature*, ii.725; M. Richter, *The Political theory of Montesquieu* (Cambridge 1977), p.27.

²⁹ R. Shackleton, *Montesquieu: a critical biography* (London 1961), p.246; for further references see R. Derathé (ed.), *De l'esprit des lois* (Paris 1973), i.414-15; cf. Beyer, 'Montesquieu et la philosophie de l'ordre', *Studies on Voltaire* (1972), lxxxvii.145-66.

purpose it will suffice to demonstrate that these are similar to the basic ethical postulates of Clarke. For obvious reasons of space, it is not necessary to be concerned with the subtleties of Clarke's *Discourse*; a bare outline of his thought will do. Clarke's basic argument can be roughly broken down into three points. The first is that there is an eternally valid moral law, in no way dependent on the laws laid down by various legislators or legislatures:

There Are [...] certain necessary and eternal differences of things, and certain consequent fitnesses or unfitnesses of the application of different Things or different Relations one to another, not depending on any positive Constitutions, but founded unchangeably in the nature and reason of things, and unavoidably arising from the differences of the things themselves.³⁰

The eternal moral law assumes the form of relationships and these are as certain, as invariable, as the truths of mathematics.³¹

The second major point is that these relationships of fit and unfit, just and unjust, that exist in the 'nature and reason of things',³² are intellectually perceptible, and are perceived with varying degrees of clarity by beings of varying degrees of intelligence:

Now what these eternal and unalterable Relations, Respects, or Proportions of things, with their consequent Agreements or Disagreements, Fitnesses or Unfitnesses, absolutely and necessarily Are in themselves, that also they appear to the Understandings of all Intelligent Beings, except those only, who understand things to be what they are not, that is, whose Understandings are either very imperfect, or very much depraved.³³

The third point is closely related. Some beings are superior to others in performing the right as well as in perceiving it. A perfectly reasonable creature has only to perceive the right to do it; his will is infallibly determined by his intelligence. In other beings, however, passion can intervene and sway him from the true course. We continue the passage just quoted:

³⁰ Samuel Clarke, *A discourse concerning the being and attributes of God and the truth and certainty of the Christian revelation* (London 1732), p.185; the relevant sections are reprinted in L. A. Selby-Bigge (ed.), *The British moralists* (Indianapolis 1964), ii.11.

³¹ Clarke, *Discourse*, e.g., pp.189-90; in Selby-Bigge, p.15.

³² Clarke uses the terms 'nature of things', or the variations, 'reason of things', and 'nature and reason of things', very often; see pp.5, 11, 15, 20, 29, 31, 35, 37, 42, 44, 45, 50, 51, 52, 53, 55, of the Selby-Bigge edition.

³³ Clarke, *Discourse*, pp.185-6; Selby-Bigge, pp.11-12.

And by this Understanding or Knowledge of the natural and necessary relations, fitnesses, and proportions of things, the Wills likewise of all Intelligent Beings are constantly directed, and must needs be determined to act accordingly, excepting those only, who Will things to be what they are not and cannot be; that is, whose Wills are corrupted by particular Interest or Affection, or swayed by some unreasonable and prevailing Passion.

Thus a particular intelligent being can be prevented from behaving justly by two factors, limited intelligence and the proddings of passion, working either apart or in unison: 'Negligent Misunderstanding and willful Passions or Lusts, are [...] the only Causes which can make a reasonable Creature act contrary to Reason, that is, contrary to the eternal Rules of Justice, Equity, Righteousness and Truth.'³⁴ Since God is both perfectly reasonable and immune to the passions and lusts that beset man, it follows that he must always do what is right; he is bound by his own moral law: 'Tis manifest His Divine Will cannot but always and necessarily determine itself to choose to Do what in the whole is absolutely Best and Fittest to be done; that is, to act constantly according to the eternal Rules of infinite Goodness, Justice, and Truth.'³⁵

The above is a rough outline of the structure of Clarke's ethical thought, but enough for present purposes. It will be seen that Clarke's ethical views, in conjunction with the Cartesian metaphysic outlined here, will give us the means to unravel Montesquieu's tortured discussion of laws in general in the opening chapter of *L'Esprit des lois*.³⁶

In turning to the chapter itself, it is important to emphasise the distinction between law in a descriptive sense and law in a prescriptive sense. Descriptive laws pertain to the way in which objects actually behave; these laws, the most notable of which are the laws of physics, are *laws* because of their invariability. They describe the behaviour of their objects in every case. Prescriptive laws, on the other hand, describe the ways in which their objects *ought* to behave. This kind of law must be made by some power capable of enforcing it. Depending on the degree to which prescriptive laws are adhered to in practice, they become descriptive as well. The point to note here is that Montesquieu is guilty of serious equivocation; he uses the term 'law' (*loi*) for these different kinds of laws indiscriminately.

³⁴ Clarke, *Discourse*, p.187; Selby-Bigge, p.13.

³⁵ Clarke, *Discourse*, p.186; Selby-Bigge, p.12.

³⁶ cf. an analysis of book 1 that ignores the Cartesian background, D. Lowenthal, 'Book 1 of Montesquieu's *The Spirit of the laws*', *American political science review* (1959), liii.485-98.

The chapter opens with Montesquieu's famous definition of law (quoted above, p.159), and he immediately begins his inquiry into the various kinds of necessary relationships. The continuation of the first sentence is an enumeration of the various kinds, each pertaining to a distinct class of objects. Montesquieu lists five different classes of objects and five corresponding classes of laws (*El* 1.1):

- [1] la divinité a ses loix,
- [2] le monde matériel a ses loix,
- [3] les intelligences supérieures à l'homme ont leurs loix,
- [4] les bêtes ont leurs loix,
- [5] l'homme a ses loix.

The remainder of the chapter consists of an explication of these various kinds of laws.

Montesquieu begins with the laws of God. Using the 'blind fatality' argument mentioned above, he establishes the existence of 'une raison primitive', and laws are the relationships subsisting between it and different beings, and between the beings themselves. The effect of this statement is a further classification of the kinds of laws. We can break them down into those between God and different objects, and between the objects themselves. According to this distinction, all five classes of laws described above are laws of God, which were established by God and rooted in the nature of things. All these are descriptive laws, owing their invariability to God. Class 5, however, contains more than these. It also contains the laws that are established by man, those man imposes upon himself through legislation (and through his conscience and religion). The crucial quality that distinguishes these from the other kinds of laws is the fact that they are not always adhered to and so are not invariable. Insofar as they are enacted by legislatures or put into effect by the religion or customs of various societies, they are laws in the prescriptive sense of the term. Because they are not invariable, they are not descriptive, but Montesquieu calls them *lois* just the same.

In the ensuing paragraphs, Montesquieu combines his discussion of the laws of God and those of the physical world. There is a close identification of mechanical laws with the laws of God, the unifying idea being the fact that the creation and maintenance of the physical universe are dependent on these mechanical laws. These ideas have been discussed in sufficient detail above, and so we move on to the laws of the intelligible world.

The laws of the intelligences superior to man can best be understood as the laws of perfect reason, uncontaminated by lusts and passions. Whether or not we regard these beings as the angels mentioned in letter 83 of the *Lettres persanes*, it seems clear that, if we assume that these more than human intelligences are bound to perceive, to will, and to do the good, as similar beings would according to the ethical thought of Clarke, we can see that the laws that pertain to these intelligences are the laws of perfect morality. In the text itself, Montesquieu discusses perfect and imperfect intelligences together, but his thought can be sorted out. When he says: 'Les êtres particuliers intelligens peuvent avoir des loix qu'ils ont faites; mais ils en ont aussi qu'ils n'ont pas faites,' he is discussing the two types of laws imperfect intelligent beings are subject to: the laws of man, which they themselves enact, and the laws of perfect morality, made for them by God. The laws of perfect morality, quoted above, are descriptive of the behaviour of only perfect intelligences. Only beings superior to man always adhere to them. Since they are ordained by God for all intelligent beings, they apply to man in a prescriptive sense, but because man is a finite being and liable to error, they are not descriptive of his behaviour. Similarly, the laws man makes for himself are prescriptive but not descriptive. Thus, aside from a short-lived effort to distinguish man-made, imperfect laws (prescriptive) from perfect, descriptive laws, through the use of the term *droit*, Montesquieu is guilty of some confusing (and no doubt confused) argumentation. But this is probably to be expected, since at the time he was writing, the most common use of the term *loi* was for prescriptive laws.³⁷ Thus, at the same time Montesquieu used the term *loi* to pertain to the constant relationships of the physical and moral sciences, he made the mistake of retaining the more traditional use of the term as well.

To summarise, the relationships of perfect morality quoted above (p.160) are descriptive of the behaviour of perfect intelligences, but, in the case of man, because of human frailty, they are not always adhered to. For this reason 'il s'en faut bien que le monde intelligent soit aussi bien gouverné que le monde physique'. Attributing men's transgressions of the moral law to their finite intelligence and their free will, Montesquieu goes on to discuss the laws of *bêtes*.

The laws of *bêtes* are basically the mechanical laws of the *bête-machine* discussed above. But Montesquieu is not certain that animals have no

³⁷ see Shackleton, *Montesquieu*, pp.244-45.

souls. Hence, like man, they might be able to break their natural laws; but in any event, plants are rigidly bound: 'les plantes, en qui nous ne remarquons ni connoissance, ni sentiment, les suivent mieux'.

After one more paragraph on *bêtes* we pass on to the laws of man, who is susceptible to conflicting kinds:³⁸ 'comme être physique [l'homme] est, ainsi que les autres corps, gouverné par des loix invariables'. These laws, the laws of mechanics that pertain to the *homme-machine*, are the only ones descriptive of human behaviour. For as an intelligent being, a less than perfect intelligence, 'il viole sans cesse les loix que dieu a établies, & change celles qu'il établit lui-même'. Insofar as he is a moral or intelligent being, man is subject to two (basic) kinds of laws: those of perfect morality prescribed by God; and human laws, prescribed by men. But because he is in constant violation of both, neither kind is descriptive of his behaviour. The reasons why he violates these laws are basically the two found in the thought of Clarke: 'il faut qu'il se conduise: & cependant il est un être borné: il est sujet à l'ignorance & à l'erreur, comme toutes les intelligences finies: les foibles connoissances qu'il a, il les perd encore. Comme créature sensible, il devient sujet à mille passions.' Because of human limitations, the laws listed above must be supplemented and reinforced. Thus the laws of religion have been established by God to remind man of his duty to God; the laws of morality are revealed by philosophers, and political and civil laws are made by legislatures. To judge by the brevity with which he alludes to them, Montesquieu no doubt considers the laws of religion and morality largely tangential to his main endeavour in *L'Esprit des lois*. Political and civil laws, however, are not dismissed so quickly and form the subject matter for the bulk of the work. Throughout the first chapter, Montesquieu depicts man as subject to three kinds of laws: the physical and moral laws given by God, and positive laws, which he imposes upon himself. As we shall see, the main endeavour in *L'Esprit des lois* is to discover a fourth kind of law that governs man, the laws of the social world, analogous to those of the natural world: constant relationships between positive laws and various natural and social factors. And Montesquieu moves on to lay the groundwork for this discussion.

As for the laws of religion and morality, Montesquieu has little to say about them. Though he considers them significant enough to warrant inclusion in a discussion 'Des loix en général', their presence here serves,

³⁸ see above, n.20.

as does the chapter as a whole, primarily to define the context for the remainder of the work. Aside from the brief résumé of eternal relationships of justice earlier in the chapter, Montesquieu generally leaves these to the philosophers. However, though throughout the body of *L'Esprit des lois* Montesquieu largely confines his discussion of human duties to those that are prescribed by the laws and customs of existing societies, he still believes in relationships of absolute justice. And this belief will be seen to be one of the basic assumptions of his scientific endeavour.

ii. Of positive laws

In chapter 3 of book 1, Montesquieu makes the all important transition from the metaphysical context established in chapter 1 to the sociological inquiry that dominates his work. He moves from God-made laws to man-made laws and to his attempt to make the latter the subject matter of a new science.

In this chapter Montesquieu discusses three kinds of laws established by man. At first sight it appears that he realises the significant difference between these laws and those discussed earlier in book 1, since he refers to them as *droits*. There are three classes of *droits*: the *droit des gens*, which governs relations between peoples; and two kinds of *droits* that pertain to specific societies: the *droit politique*, which relates the government of a given state to the governed; and the *droit civil*, which governs the relationships between the citizens of specific states. Had Montesquieu maintained the distinction between man-made *droits* and God-made laws, parts of *L'Esprit des lois* would be far easier to understand. However, he proceeds to use the words *loi* and *droit* interchangeably as they refer to man-made laws, and the one glimmer of a technical, philosophic language in the work soon fades from sight.

The *droit des gens* is treated only cursorily. This is one instance in which Montesquieu's belief in absolute values – 'les vrais principes' – is apparent. Though this is somewhat anomalous in a chapter that pretends to discuss positive laws, we need not be concerned with that here, and we pass on to political laws and civil laws.

The distinction between *droit civil* and *droit politique* is done away with almost immediately – in practice, if not explicitly until several paragraphs later – and Montesquieu moves rapidly to lay the groundwork for the bulk of his work. Presumably because they are ruled by irrational passions, men cannot exist in society without some form of external restraint. After brushing aside the idea that the ideal form of

government for every society should be modelled after the example of paternal authority, Montesquieu presents the germ of the formula according to which the ideal form of government for each particular society can be discovered: 'le gouvernement le plus conforme à la nature est celui dont la disposition particulière se rapporte mieux à la disposition du peuple pour lequel il est établi.' Montesquieu goes on to spell out his meaning more clearly: 'La loi, en général, est la raison humaine, en tant qu'elle gouverne tous les peuples de la terre; & les loix politiques & civiles de chaque nation ne doivent être que les cas particuliers où s'applique cette raison humaine.' Though this statement might appear to conflict with Montesquieu's discussion of law in general in chapter 1, the important point to bear in mind is that *loi*, as discussed in this quotation, is human law, law made by man according to human reason (*la raison humaine*).³⁹ Human law, in general, is made up of the sum total of the positive laws of all the nations of the world, while the 'cas particuliers' are not general at all. They should be adapted to the specific conditions of the particular societies for which they are made. The gradual shift from a descriptive statement to a prescriptive statement, made in this brief paragraph, is indicative of an important attitude that pervades this entire chapter. It will be seen in the crucially important sentences that follow.

The prescriptive statements found in the above paragraph, and those in the following paragraphs, no doubt locate Montesquieu in the great tradition of prescriptive political theory. We should undoubtedly read them as addressed to a legislator, hypothetical or otherwise.⁴⁰ However, as Montesquieu goes on to advise the legislator about the specific factors he should take into consideration in drawing up laws, Montesquieu leaves the purview of traditional, prescriptive political theory and becomes a scientist. The ensuing paragraphs, which are no doubt intended as a direct introduction to the books and chapters that will follow, embody some complex thought, probably more complex than Montesquieu himself was aware. The idea he is introducing here is that of the *esprit général*. Quite simply, the main point is that a people's character or spirit is formed by the interaction of a number of different factors. Since the factors influencing any one country are peculiar to it,

³⁹ this sentence originally read, in the original manuscript: 'La raison humaine donne des lois politiques et civiles à tous les peuples de la terre et les lois de chaque nation n'en doivent être que des cas particuliers' (*De l'esprit des lois*, ed. Derathé, 1.359).

⁴⁰ for the importance of the legislator, see below, pp. 172 ff.

the general character or general spirit of each country is also peculiar to it. And it is the job of the legislator to prescribe laws that are suited to the spirit of the particular country with which he is concerned. Thus Montesquieu conceives legislation to be a science; the lawgiver must analyse his object scientifically and prescribe specific laws on the basis of his analysis. It is important to note that we have here a marriage between two different but closely related sciences which must be distinguished. The one is an inquiry into the general laws (in the broadest sense of Montesquieu's use of the term) that govern the interaction of the various factors that make up the *esprit général*. Without seriously abusing the term, we can describe these laws as 'sociological'; they are scientific laws designed to show the constant interaction between various specific social conditions. And Montesquieu's inquiry into the interactions between the various components of the *esprit général* of different countries is social science.

The second science involved here is the science of legislation. Though this is closely related to social science, it is different in that – to follow a distinction as old as political theory itself⁴¹ – it is an *applied* science, whereas sociology is a *pure* science. For the sake of simplicity, we are probably correct in saying that the science of legislation is an applied science based on the utilisation of the laws discovered by the pure science of sociology. The distinction is not a rigid one, and in all probability Montesquieu himself did not make it. In the text itself, he passes from one to the other within the confines of a single lengthy sentence. We reproduce the important paragraphs in full:

[a] Elles [les loix politiques & civiles de chaque nation] doivent être tellement propres au peuple pour lequel elles sont faites, que c'est un très-grand hazard si celles d'une nation peuvent convenir à une autre.

[b] Il faut qu'elles se rapportent à la nature & au principe du gouvernement qui est établi, ou qu'on veut établir; soit qu'elles le forment, comme font les loix politiques; soit qu'elles le maintiennent, comme font les loix civiles.

[c] Elles doivent être relatives au *physique* du pays; au climat glacé, brûlant, ou tempéré; à la qualité du terrain, à sa situation, à sa grandeur; au genre de vie des peuples, laboureurs, chasseurs, ou pasteurs: elles doivent se rapporter au degré de liberté que la constitution peut souffrir, à la religion des habitans, à leurs inclinations, à leurs richesses, à leur nombre, à leur commerce, à leurs mœurs, à leurs manières: enfin elles ont des rapports entr'elles; elles en ont avec leur origine, avec l'objet du législateur, avec l'ordre des choses sur

⁴¹ see Plato, *Statesman*, 258e ff.

lesquelles elles sont établies. C'est dans toutes ces vues qu'il faut les considérer. [d] C'est ce que j'entreprends de faire dans cet ouvrage. J'examinerai tous ces rapports; il forment tous ensemble ce que l'on appelle l'ESPRIT DES LOIX.

These paragraphs continue directly after the definition of law discussed on page 168, and like that brief paragraph, they reveal the same wavering between imperative and declarative sentences. I think this is important. For these different kinds of sentences mark off the respective territories of the distinguishable sciences of legislation and sociology. Legislation, insofar as it consists of directives addressed to the potential lawgiver, is characterised by imperative sentences, while sociology, a pure science, consists of sentences in the declarative form. Though these distinctions may seem a bit strained, the form of the paragraphs quoted above reveals a fundamental ambiguity.

Paragraph a, like the last clause of the one-sentence paragraph quoted on page 168, is one sentence long and is in the form of a prescription ('Elles doivent être [. . .]'). Paragraph b is also a single lengthy sentence, again prescriptive in character ('Il faut qu'elles se rapportent [. . .]'). In these two sentences, there can be little question but that Montesquieu is giving advice to a legislator; these paragraphs are applied, prescriptive science. The crucial logical move takes place in paragraph c. Here too we begin with a prescriptive statement: 'Elles doivent être [. . .]'. But after a number of clauses, the character of the sentence changes; it becomes descriptive: 'enfin elles ont des rapports entr'elles; elles en ont avec leur origine' (my emphasis). Though in the final sentence of the paragraph we return to a prescription, this final prescriptive statement is significantly different. It is not specifically directed at a legislator. ('C'est dans toutes ces vues qu'il faut les considérer.') For we can see from the next paragraph that, while in the process of describing the relationships with other factors that the laws ought to have, Montesquieu has been laying the foundation for his social science; he has given the formula for his own dispassionate inquiry: 'C'est ce que j'entreprends de faire dans cet ouvrage. J'examinerai tous ces rapports.'

We can see from this examination of the text that Montesquieu does two things at once.⁴³ If we separate the two strands which he has so obviously joined, it should be possible to comprehend the logic of the puzzling paragraphs. We begin by returning to the notion of the *esprit*

⁴³ cf. S. Goyard-Fabre, *La Philosophie du droit de Montesquieu* (Paris 1973), pp. 119-20; cf. *De l'esprit des lois*, ed. Derathé, i. xxx-xxxiii.

général, the character peculiar to a given people. This is an idea that had long been in Montesquieu's mind, and he devoted much of his life to an analysis of the ways in which the basic influences upon a nation's character interact and the relations they bear to one another.⁴³ Accordingly, a great deal of *l'Esprit des lois* is exactly what he says it is in paragraph d. The starting point of Montesquieu's endeavour is spelled out in his preface: 'J'ai d'abord examiné les hommes; & j'ai cru que dans cette infinie diversité de loix & de mœurs, ils n'étoient pas uniquement conduits par leurs fantaisies.' Given the fact that the behaviour of men in societies is governed by laws (positive laws) and mores, customs and beliefs, Montesquieu makes these facets of human societies the objects of a new kind of scientific laws. Paying special attention to positive laws (*les droits civils et politiques*), and their close relatives, customs, he studies in endless detail the relations they bear to a people's climate, terrain, religion, etc. His major endeavour is to discover scientific laws, constant relationships between specific kinds of *droits* and various other factors. His main discovery was that each of the kinds of governments – monarchy, republic, despotism – bears a constant relationship to a number of factors. To cite only one of any number of famous examples, Montesquieu notes a general correspondence between the size of a country and the eventual form of government it will have. Hence it is natural for a republic to have only a small territory (*El VIII.16*), while a monarchy tends to be of moderate extent (*El VIII.17*), and a despotism tends to arise in a large territory (*El VIII.19*). Montesquieu believes these three relationships between size of country and form of government to be constant *rapports*, or laws, in his most general use of the term. Of course we know, and we can believe that he knew, that these relationships do not follow in every single case;⁴⁴ rather they are laws of what sociologists today call ideal-types.⁴⁵ Still, they are laws, sociological laws, the constancy of which, though not as perfect, is analogous to that of the moral, mathematical and physical laws discussed above. Thus the main body of *L'Esprit des lois* is dedicated to the discovery of laws (natural laws or constant relationships, rooted in the nature of things) that govern the relationships of particular laws (positive or humanly enacted laws) to a variety of natural and social factors, some of which are other civil and constitutional laws. The sum total of such natural

⁴³ see Shackleton, *Montesquieu*, pp. 313-19.

⁴⁴ see above, n.9.

⁴⁵ see *El III.11*; many scholars argue that Montesquieu used ideal types, for instance, Aron, Durkheim, Berlin.

laws or constant *rappports* that pertain to all the enacted laws of all the peoples of the world is the spirit of the laws (positive laws).

The discovery of these laws (sociological laws), based on an inquiry into the societies and histories of all the nations of the world, is a pure science. This endeavour, which occupied the best part of Montesquieu's life, should be viewed as an attempt to expand the perimeters of natural science to encompass social phenomena. A number of commentators note Montesquieu's apparent desire to become the Descartes or the Newton of the political and social worlds.⁴⁶ It would seem that they are correct. As Beyer says, in applying scientific methods to the social world, regardless of the precise degree to which these methods warrant the designation 'scientific', 'Montesquieu ne veut donc nullement contredire Descartes, mais le compléter, le compléter, en incorporant dans la science un domaine nouveau'.⁴⁷ And within his lifetime, Montesquieu was afforded at least some recognition as the Newton, if not the Descartes, of the social world. In a letter from Charles Bonnet, dated 14 November 1753, we find the following: 'Newton a découvert les lois du monde matériel; vous avez découvert [. . .] les lois du monde intellectuel. Mais les rapports dont ces lois ne sont que les résultats sont bien plus compliqués que ne le sont ceux du monde physique' (Nagel, iii.1478).

Thus we can see the general endeavour that forms the main subject of inquiry in *L'Esprit des lois*, and we can see its relationship to the prevailing scientific ideas of Montesquieu's time. But this is not all. It would be incorrect to leave off discussing Montesquieu's science of politics at this point, because his pure social science, though in part undoubtedly undertaken for its own sake, is inherently two-sided. As well as being a pure science, Montesquieu's sociology affords the grounding for the applied science of legislation. To read Montesquieu's theoretical discussion as *pure* theory is to miss an important dimension of the work. He is also concerned with laying the groundwork for a new legislative science. The laws Montesquieu has discovered are inseparable from the use to which they are to be put.

The legislator is a key figure in *L'Esprit des lois*, and it will require only a brief discussion to establish the fact that Montesquieu's science of politics cannot be understood fully unless the role of the lawgiver is

⁴⁶ for example, P. H. Meyer, 'Politics and morals in the thought of Montesquieu', *Studies on Voltaire* (1967), lvi.852; Mercier, 'La notion de loi morale chez Montesquieu' p.184.

⁴⁷ Beyer 'Montesquieu et l'esprit cartésien', p.173.

given its due.⁴⁸ But that is not all. I believe that a good deal of the confusion concerning Montesquieu's ethical views, his advocacy of absolute values and/or ethical relativism, is closely linked to the two faces of his scientific endeavour. To a large extent, each of Montesquieu's twin sciences entails a different attitude toward the source of moral value. The pure science of sociology is undertaken to discover certain relationships that exist in the fabric of societies. Among these are those between the values a people holds (their laws and morals) and various social phenomena. In this sense, as Stark's book is designed to prove,⁴⁹ the investigation undertaken in *L'Esprit des lois* makes Montesquieu a forerunner of the sociology of knowledge, and from this point of view, an ethical relativist. He has discovered, implicitly if not explicitly, the various social forces that cause a people to adhere to certain ethical beliefs.

The science of legislation, on the other hand, presupposes absolute values. Though the actual values according to which Montesquieu believes societies should be run are for the most part not made explicit in *L'Esprit des lois*, it is abundantly clear that he holds certain general ethical beliefs, which he believes to be the values that legislators should institute in societies. Because the science of legislation is central to Montesquieu's endeavour, it is clear that we must take his absolute values seriously. *The social science he establishes is designed not to overthrow absolute values, but to facilitate their implementation in the world.*

L'Esprit des lois manifests Montesquieu's absolute values in two respects. The first of these, though the more striking, does not merit much discussion. This aspect of the work is the large number of out and out value judgements Montesquieu makes. Thus, many customs and practices found in the world are condemned as being against 'nature'.⁵⁰ Whether these value judgements are based on deductive arguments,⁵¹ or

⁴⁸ see F. Meinecke, *Historicism*, translated by J. E. Anderson (London 1972), pp.99 ff; *De l'esprit des lois*, ed. Derathé, i.xxxvii-xl.

⁴⁹ Op. cit. *Montesquieu: pioneer of the sociology of knowledge*.

⁵⁰ for instance, torture, in *El* vi.17.

⁵¹ the main deductive moral argument in *El* is the one against the right of conquest as advocated by Grotius, in x.3; this is an important component of another deductive argument, that against slavery in xv.2. Though sometimes Montesquieu bases arguments on natural rights – *défense naturelle* (*El* x.2, xxiv.6, xxvi.3, xxvi.7), natural modesty (*El* xxvi.3), the fact that all men are born equal (*El* xv.7) – on the whole he is far from being a deductive natural-law theorist. Cf. the view of M. Waddicor, *Montesquieu and the philosophy of natural law* (The Hague 1970).

utilitarian grounds,⁵² or merely the most common humanitarian considerations, there is a fairly consistent stream of criticism emanating from the heart as well as the mind of Montesquieu, railing against all the inhumanity that man perpetrates on man.⁵³ Though this sort of social criticism is not based on a systematic set of arguments, it reveals a fairly consistent turn of mind.⁵⁴ But because these arguments are lacking in a deductive framework, they have little to tell us about Montesquieu's philosophic thought. For the most part, the abuses Montesquieu condemns – slavery (xv.2), slaughter of captives in war (x.3), the unbridled license of despotism (II.4, III.9, III.10, VIII.10, etc.) – are conditions that would evoke comparable reactions from many lovers of justice.

The more important respect in which Montesquieu's absolute values make their appearance is through his discussion of the applied science of legislation. For this is a moral science. Montesquieu attempts to put traditional natural-law political theory on a new footing. Whereas the basis for the great natural law tradition lay in deducing the best laws for society in general from the nature of the abstract individual, Montesquieu realises that the laws of any society must be adapted to the particular conditions of that society. The legislator must be a sociologist as well as a moralist. But, granted this major difference, there is a fundamental element of continuity between *L'Esprit des lois* and the natural law tradition. As Montesquieu says in one of his *Pensées*: 'Je rends grâce à Messieurs Grotius & Puffendorf d'avoir si bien exécuté ce qu'une partie de cet ouvrage demandoit de moi, avec cette hauteur de génie, à laquelle je n'aurois pu atteindre' (P.1537; 1863).

Montesquieu's advice to the legislator, his prescriptive political theory, is intimately bound up with the concerns of the natural law tradition. Whether his ideal state is thought to be a republic or a monarchy, Montesquieu offers a generally consistent formula for the elements that must be present in order to have a good government. Because, like Hobbes, Montesquieu believes that man is by nature passionately self-interested,⁵⁵ he believes that the key to a good form of

⁵² see, for instance, the discussion of slavery in *El* book xv, and despotism in *El* II.4, IV.3, VI.13, etc. Montesquieu's major arguments against despotism are based on utilitarian grounds.

⁵³ cf. *El* xv.8.

⁵⁴ cf. R. Grimsley, 'The idea of nature in the *Lettres persanes*', *French studies* (1951), v.306.

⁵⁵ see, e.g., Nagel, iii.410; Nagel, i.406; P.1675, 2035; *Lp* 83; and the opening paragraphs of *El* I.3.

government is some means of channelling the basically destructive passions of individuals to work for the good of the state. Whether this is done by transforming passion into virtue in a republic, or through the more complicated, but less utopian, system of social engineering necessary for a monarchy, need not concern us. Both of these states are inestimably superior to despotism, in which passion reigns unchecked.

Despite the genuine importance the problem of the best form of government plays in his work, Montesquieu's science of politics is more concerned with the real than the ideal. Acutely aware of the complexity of things, of the logic behind existing institutions, Montesquieu prefers piecemeal improvement to any programme of radical reform. The attitude he is most anxious to instil in his lawgiver is expressed clearly in the first sentence of the important twenty-ninth book,⁵⁶ 'De la manière de composer les lois': 'Je le dis, & il me semble que je n'ai fait cet ouvrage que pour le prouver: L'esprit de modération doit être celui du législateur' (*El* xxix.1).

In practical terms, Montesquieu's advocacy of 'moderation' bears fruit in an attitude toward reform akin to that later upheld by Burke.⁵⁷ In discussing the role of the legislator in the *Lettres persanes*, Montesquieu states that when conditions do arise requiring certain laws to be changed, great precautions must be taken: 'il n'y faut toucher que d'une main tremblante' (*Lp* 129). The ability to make even the smallest change is limited to the very few, only those 'qui sont assez heureusement nés pour pénétrer, d'un coup de génie, toute la constitution d'un état' (*El* preface). And so the knowledge necessary to enact successful reforms is greatly enhanced by a proper understanding of the immutable social laws discussed in *L'Esprit des lois*.

The connection between Montesquieu's values and his concrete legislative proposals can be seen clearly in a case such as his fear of instability. It is the complete absence of institutional stability in a despotism that allows the great abuses this government inevitably leads to (*El* II.4, III.10). Whatever slight stability despotic rule exhibits is a result of factors external to the government such as religion or customs

⁵⁶ as Brethe de La Gressaye demonstrates convincingly, this book was originally intended to be the conclusion of *L'Esprit des lois* as a whole (*De l'esprit des lois*, i.cxxvi-cxxxi). Cf. Barckhausen, who writes of the science of legislation: 'N'est-ce point la conclusion la plus logique et la plus naturelle d'une théorie générale des lois?' (*Montesquieu, ses idées et ses œuvres, d'après les papiers de la Brede* (Paris 1907), p.221).

⁵⁷ see especially Nagel, i.476.

(*El* III.10, VIII.10), and so, a despotism cannot be corrupted; by definition, it is already corrupt (*El* VIII.10). In such states chaos reigns; all men are equal in being nothing (*El* VI.2); they live like beasts, blindly submitting to the will of a savage (*El* III.10). Montesquieu believes that despotic governments have produced the most dreadful calamities ever visited on man (*El* II.4), and he cannot even speak of them without shuddering (*El* III.9).

Thus Montesquieu's advice to the legislator is largely concerned with a genuine fear of the corruption of a monarchy or republic that might eventually lead to tyranny. Because the corruption of every government begins with the corruption of its *principe* (*El* VIII.1), he is constantly persuading and exhorting, pointing out the means through which a legislator may be able to strengthen the *principe* of his government. As well as being directed to the attainment of the perfect form of government (or the ideal-type), such prescriptions have a moral value. As Shackleton says, since adherence to the *principes* of the various governments is a preservative against corruption, it is a good itself.⁵⁸ And for the most part, Montesquieu's prescriptive political theory manifests itself in such concrete directives, giving advice about the steps that should be taken and the conditions under which they would be most likely to be successful.⁵⁹

For reasons of space, it is not necessary to discuss Montesquieu's prescriptive political theory in detail. At this point the general outline of his position should be clear. Though the advice he gives his legislator is based on a scientific understanding of the ways in which the various factors that make up societies interact, his eventual system is no less a system of prescriptive political theory than those of Hobbes or Locke. And though the scientific analysis on which he bases his system prefigures the great works of Comte, Tocqueville, and Durkheim, it would be doing Montesquieu an injustice to consider him a pure, positivistic sociologist. His endeavour is essentially two-sided. His inquiries into the nature of society are conducted with a definite end in mind: to make men's lives better according to an eternal standard of values in which he believes. In *L'Esprit des lois*, Montesquieu places the pure science of sociology at the disposal of the applied science of legislation.

Thus we see the role that Montesquieu's values play in his science of politics. It is within the context of Montesquieu's overall world view, and

⁵⁸ *Montesquieu*, p.282.

⁵⁹ for a particularly good example of this, see *El* v.19.

the relationships of justice that are an essential part of it, that we must understand his ethical relativism. His endeavour is to extend the bounds of science. As the natural world and the moral world are ordered according to fundamental laws, so must be the social world. And Montesquieu must be accounted at least partially successful in discovering those relationships rooted in the nature of things that give rise to a people's laws and mores, the values that they hold. In this sense Montesquieu has, not completely consciously, discovered the very stuff of ethical relativism. And though at times in his works, the import of ethical relativism seems to dawn on him,⁶⁰ Montesquieu was more a potential ethical relativist than an actual one. Though he made pioneering inquiries into the process through which values come to be established, we have no reason to believe that the full implications of this discovery ever dawned on him. And so we are stretching things when we call him 'an ethical relativist' pure and simple. For instance, it is clear that Montesquieu does not view *his* values as determined by his circumstances; rather, they are eternal relationships of justice, rooted in the nature of things. Thus, though there is a disparity of attitude in *L'Esprit des lois* between belief in absolute values and ethical relativism, it is a latent contradiction, existing beneath the surface of the work.

It is true that the contradiction becomes manifest if we draw the logical conclusions from the various facets of Montesquieu's analysis, especially if we apply the most original aspects of his sociological method to the problem of the origin of moral beliefs. But it appears that Montesquieu himself did not draw these conclusions. In the very process of charting the previously unexplored terrain of his new science of politics, Montesquieu insisted upon measuring the workings of the world, and the imperfect reason of the mortals it contains, against a scale of absolute values and perfect reason.⁶¹

⁶⁰ see especially *P*.410.

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