

THE SPIRIT OF LAWS

by MONTESQUIEU



A COMPENDIUM OF THE FIRST ENGLISH EDITION

EDITED WITH AN INTRODUCTION BY

David Wallace Carrithers

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A Compendium of the First English Edition

EDITED, WITH AN INTRODUCTION, NOTES,
AND APPENDIXES, BY

David Wallace Carrithers

together with An English Translation of
AN ESSAY ON CAUSES AFFECTING MINDS
AND CHARACTERS (1736-1743)



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THE SPIRIT OF LAWS



Charles Louis de Secondat, Baron de la Brède et de Montesquieu (1689-1755).

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To the memory of Leo Gershoy

Preface

In 1760 a youthful John Adams noted in his diary that he had begun to read *The Spirit of Laws* and planned to compile comprehensive marginal notes to insure his proper attention to the work. Roughly a decade and a half later, Thomas Jefferson, who was to succeed Adams to the Presidency, devoted no less than twenty-eight pages of his *Commonplace Book* to extracts from this same work, and in 1792, in an essay on "Spirit of Governments," James Madison compared Montesquieu's role in the science of government to that of Francis Bacon in natural philosophy. According to Madison, Montesquieu "had lifted the veil from the venerable errors which enslaved opinion and pointed the way to those luminous truths of which he had but a glimpse himself."¹ The interest these future chief executives displayed in Montesquieu was by no means atypical. The two leather-bound volumes of Thomas Nugent's translation of *The Spirit of Laws*, not to speak of various French editions of Montesquieu's works, found their way into the libraries of many eighteenth-century Americans, and Montesquieu was widely quoted as a contemporary political sage whose wisdom rivaled that of the ancients.

If Montesquieu was practically required reading for eighteenth-century statesmen and political philosophers on both sides of the Atlantic, he still merits thoughtful consideration today. The precise forms of states have changed, but the problem of forestalling tyranny remains, and freedom has rarely found so

¹ See Paul M. Spurlin, *Montesquieu in America, 1760-1801* (New York: Octagon Books, 1969; orig. ed., 1940), pp. 88, 153-157, 241.

eloquent a spokesman. Unfortunately, however, the modern reader is likely to find a work that ran to over a thousand pages in its two-volume first edition a bit overwhelming. In fact, it is generally agreed that the contours of Montesquieu's work at times eluded him and that he sometimes lost his way. He was not always sufficiently discriminating concerning what data should be excluded from his finished work and what information should remain, and the resulting problem, as Ernst Cassirer once remarked, is that "Montesquieu's delight in particulars is so great that at times his illustrative anecdotes overshadow the main lines of his thought and threaten to make them unrecognizable."² Even d'Alembert, Montesquieu's least reserved contemporary panegyrist, admitted that *The Spirit of Laws* demands a "diligent and studious reading,"³ and Montesquieu himself recognized that his main ideas were sometimes obscured by historical asides and rhetorical flourishes. Roughly a year following publication of *The Spirit of Laws* Montesquieu remarked in one of his *Pensées*: "What good would it do me to have made reflections during the course of twenty years, if I had neglected to make the first one of all: that life is short? I haven't even time to abridge what I have done."⁴

Presented herein, therefore, is what an eighteenth-century editor might well have entitled: *Montesquieu Epitomized: a Carefully Selected and Useful Compendium of his Spirit of Laws, together with his Essay on Causes, the latter now first translated for his English and American audience*. No compendium can or should take the place of the original for those undertaking detailed research, but it

² *The Philosophy of the Enlightenment*, trans. by Fritz C. A. Koelln and James P. Pettegrove (Boston: Beacon Press, 1955), p. 210.

³ "Éloge de Monsieur Le Président de Montesquieu, mis à la tête du cinquième volume de L'Encyclopédie" [1755], in Nagel, I, p. xvi.

⁴ *Pensée* 204 (1706. III, f. 42): 1749.

is hoped that this edition will place Montesquieu's ideas before a wider audience than he has lately enjoyed. The principle guiding the "economizing" of Montesquieu has been the preservation of the most significant Books of *The Spirit of Laws* nearly uncut and the pruning of others of some of the dense underbrush of historical example with which he so loved to embellish an argument. Historical asides instrumental to the main argument have been retained. It has seemed wise to preserve the grand sweep of the thirty-one-book structure of the original since, as C. H. McIlwain once observed in an edition of the political writings of James I, "the student needs to know not alone *what* the masters thought, but also *how* they thought." Each Book of *The Spirit of Laws* is preceded by a brief Analysis of its contents, and paragraph numbers have been added both to aid discussion of the work and to provide a ready means for ascertaining where the text has been abridged.⁵

The division of the work into six Parts according to Montesquieu's original plan of organization has been reintroduced. In this division, Book IX was the first in the second Part of the work, Part Three began with Book XIV, Part Four with Book XX, Part Five with Book XXIV, and Part Six with Book XXVIII. Jacob Vernet, who handled many of the details of the original publication in 1748, failed to detect a printer's oversight in which only the sixth and final Part was designated as such in the printing, and at the last moment he convinced Montesquieu that it would be easier to alter this one page by means of a cancel than to use five cancels to indicate Parts One to Five in the text where they had been left out.⁶ Montesquieu was persuaded to abandon his plan of

⁵ These paragraph numbers appear in brackets in the text and notes.

⁶ See "Vernet to Montesquieu," July-August 1748, in Nagel, III, pp. 1121-1122, and "Vernet to Montesquieu," September 4, 1748, in Nagel, III, p. 1130.

organization, and although it was followed in the edition of 1750, it was set aside again in the posthumous edition of 1757.

One of the most interesting aspects of contemporary reaction to *The Spirit of Laws* was the intense hostility Montesquieu's work aroused in ecclesiastical circles. Hence the notes to *The Spirit of Laws* texts summarize ecclesiastical objections to the work as well as Montesquieu's replies to his Jansenist and Jesuit critics in his *Defense of the Spirit of Laws* (1750) and his *Responses and Explanations Given to the Faculty of Theology of the University of Paris* (1752–54). Important textual changes made for the edition of 1757 (see Note on the Text) are also indicated in the notes, and the reader's attention is called to selected passages that had a substantially different tone or meaning in the manuscript copy of *L'Esprit des lois* now owned by the Bibliothèque Nationale.

Following *The Spirit of Laws* and the notes the reader will find this editor's English translation of the *Essai sur les causes qui peuvent affecter les esprits et les caractères* (1736–1743). The importance of this posthumously published manuscript is discussed in the Introduction (see pp. 26, 36–37, 44–51), and portions of Book XIV of *The Spirit of Laws* that were originally part of this *Essai* are designated as such in the notes. Appendix I presents a tabulation of passages of *The Spirit of Laws* censured by Montesquieu's Jansenist critic, the Abbé de La Roche, and by the Jesuit Faculty of Theology of the University of Paris. Appendix II provides full bibliographical citations of the works of travel literature to which Montesquieu referred in his own notes to the volume, and Appendix III contains information concerning the sole surviving manuscript copy of *L'Esprit des lois* now owned by the Bibliothèque Nationale. Appendix IV prints the clarification of the meaning of political *virtue* added to the posthumous edition of 1757.

Several individuals have rendered valuable assistance during the course of this project. C. P. Courtney reviewed a prospectus for the volume and offered useful advice concerning the natural law-positivism question in *The Spirit of Laws*. Paul Spurlin read a draft of the Introduction and made a number of helpful suggestions, one of them leading to a sharper distinction between Montesquieu's theories of separate powers and of mixed government. Thomas S. Hall supplied information on medical terminology of the eighteenth century and responded to a number of queries concerning fine points of seventeenth- and eighteenth-century physiological theory. Communications from Lester G. King and Leland J. Rather were similarly helpful in the early stages of my research on Montesquieu's medical ideas. I am particularly grateful to Aram Vartanian for valuable suggestions with respect to the translation of the *Essai sur les causes* and to Charles-Jacques Beyer for much encouragement and counsel, including the identification of the "Materials" segment of the *Essai sur les causes* as fragments of the *De la différence des génies* (1717).

The major portion of the research was conducted at the Bibliothèque Nationale, the Bibliothèque municipale de Bordeaux, the British Library, and the Wellcome Institute for the History of Medicine, and I am grateful for the hospitality and assistance I invariably received. I particularly wish to thank the staff of the Salle de travail du département des manuscrits of the Bibliothèque Nationale for graciously making the manuscript copy of *L'Esprit des lois* available to me during the summer of 1974. The University of Chattanooga Foundation and the Faculty Research Grants Committee of the University of Tennessee at Chattanooga sponsored much of my research in Paris, Bordeaux, and London, and defrayed the costs of typing the manuscript. Mr. Alain L. Hénon, Associate Editor of the University of California Press, has encour-

aged me from the early stages of this project through to its completion and has rendered much useful advice, for which I am very grateful.

Note on the Text

The text of this edition is Thomas Nugent's translation (London: Nourse, 1750) of the first French edition (Geneva: Barillot, 1748). In order to preserve the flavor of the eighteenth-century translation, the original spelling and punctuation have been preserved, except in the case of some proper names and place names. The capitalization of words within chapter titles has been standardized, and what were clearly printer's errors have been corrected. In addition, the placement of some of Montesquieu's footnotes has been altered so that the reader is not interrupted mid-phrase or mid-sentence.

Montesquieu was indeed fortunate to procure such an able translator as Thomas Nugent. At the time he undertook his work on Montesquieu, Nugent had already completed English translations of Dubos's *Réflexions critiques sur la poésie et la peinture* (1719) and Burlamaqui's *Principes du droit naturel* (1748), and later in his career, after completing his translation of *The Spirit of Laws*, Nugent went on to produce English editions of Voltaire's *Essai sur les mœurs* (1756), Rousseau's *Émile* (1762), and works by Hénault and Grosley. Furthermore, as late as 1916 Thomas Nugent's *Pocket-Dictionary of the French and English Languages* (1767) was still being revised and reprinted.

Montesquieu's satisfaction with Nugent's efforts on his behalf is evident in a letter dated October 18, 1750. "I cannot help myself, sir," Montesquieu wrote to Nugent, "from giving you my thanks. I gave them to you already, because you translated for me; I give them to you now because you translated so well. Your

translation has no other fault than that of the original; and I must remain indebted to you for disguising them so well. It seems you wished to convey my style as well, and you created this resemblance *qualem decet esse sororum*.”¹ No doubt part of Nugent’s success was his obvious appreciation for the subject matter of *The Spirit of Laws*. In the dedication to the 1766 edition of his translation he compared Montesquieu’s importance to that of Cicero and remarked that “whoever finds a pleasure in perusing *The Spirit of Laws* must be deemed to have greatly improved in the study of politics and jurisprudence.”

The chief criticism one need make of Thomas Nugent is that in the years after 1750 he did not revise his text to keep abreast of the changes Montesquieu made in the original edition of 1748. The most important of these textual alterations resulted from ecclesiastical attacks on his work (see Appendix I), and it was in the 1757, posthumous edition of *The Spirit of Laws*, supervised by François Richer, that some of the contemplated changes were made. The legacy of Nugent’s oversight in failing to revise his translation to keep pace with Montesquieu’s revisions of the original has been considerable textual ambiguity in previous English-language editions of *The Spirit of Laws*. No English-language edition has faithfully presented the text of the 1757 edition. An 1823 London edition of Nugent’s translation bore on its title page the immodest advertisement “A New Edition Carefully Revised and Compared with the Best Paris Edition,” but even a cursory examination reveals that many changes made in the 1757 edition were not reflected in the English text. The Bohn’s Standard Library edition, edited in two volumes by J. V. Prichard (London: G. Bell, 1878), similarly ignored changes made in the 1757 edition, as did, more

¹ “Montesquieu to Nugent,” in Nagel, III, p. 1333.

recently, the well-known Hafner edition of 1949, with an Introduction by Franz Neumann, in which no attempt was made to establish the text either of the original edition of 1748 or that of the posthumous edition of 1757.² Given the textual confusion within existing English editions of *The Spirit of Laws*, it has seemed advisable to utilize the text of the original edition for this compendium. This will enable the reader to first approach the text as originally conceived by Montesquieu and then, by means of the notes, to assess the changes Montesquieu made in response to his critics.

² An important new chapter on slavery, for example, was not incorporated, and numerous other, substantive changes made for the 1757 edition are similarly absent from the work. (See Book XV, note 12, for an English translation of the chapter on slavery previously absent from English editions of *The Spirit of Laws*.)

Chronological Table of Major Events in Montesquieu's Life

Early Years (1689–1721)

- 1689 Birth of Charles-Louis de Secondat at La Brède.
- 1696 Death of Montesquieu's mother, Marie Françoise de Pesnel, whose dowry had included the Château de La Brède.
- 1700–1705 Montesquieu receives his formal education at the Collège de Juilly, an Oratorian institution near Paris.
- 1705–1708 Montesquieu studies law in Bordeaux, where he receives a bachelor of law degree from the University of Bordeaux (July 29, 1708), is licensed to practice law (August 12, 1708), and is received as an advocate in the Parlement of Bordeaux (August 14, 1708).
- 1708 Having learned he will one day inherit from his childless uncle the name Montesquieu and the position *président à mortier* of the Parlement of Guyenne, Charles-Louis de Secondat begins to use the title "Seigneur de Montesquieu, Baron de La Brède."
- 1709–1713 Montesquieu resides in Paris, where he continues his legal studies, composes an essay maintaining that pagans do not merit eternal damnation (1711),

and begins the notebook *Le Spicilège*, first published in 1944.

- 1713 Death of Montesquieu's father, Jacques de Secondat, who had pursued a military career. Montesquieu returns to Bordeaux.
- 1714 Becomes a counsellor in the Parlement of Bordeaux.
- 1715 Marries Jeanne de Lartigue, a Protestant. Composes *Memoir concerning the State's Debts* (Nagel, III, pp. 23–31), a plan for reducing France's national debt.
- 1716 Birth of Jean-Baptiste de Secondat, only son of Montesquieu (February 10). Montesquieu is elected to the newly founded Academy of Bordeaux (April 3). At the death of his uncle, he becomes *président à mortier* of the Parlement of Guyenne (July 13). Composes an *Essay concerning Roman Politics in Religion* (Nagel III, pp. 37–50). Endows a prize for anatomy at the Academy of Bordeaux.
- 1717 Birth of Marie-Catherine de Secondat, elder daughter of Montesquieu. Drafts the *Discourse on Cicero* (Nagel, III, pp. 15–21). Begins work on *Persian Letters*.
- 1718–1720 Elected Director of the Academy of Bordeaux. Composes summaries of works submitted on the causes of echo (Nagel, III, pp. 69–75), the functioning of the kidneys (Nagel, III, pp. 77–83), and the cause of heaviness and transparency of matter (Nagel, III, pp. 89–93; 95–97).