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Montesquieu's Use of Republican Language in *The Spirit of Laws*¹

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De l'Esprit des Lois – equally known in English as *The Spirit of the Laws* or *The Spirit of Laws* – Montesquieu's magnum opus was immediately hailed in Europe as a *summa* of social, political and legal science. It was rapidly translated in several languages and widely distributed throughout Europe, and as such, it fits in perfectly well with the general theme of this conference. One may actually judge its huge editorial success from the number of its editions throughout the century after the original edition appeared in Geneva, in 1748 : about twenty editions, for instance, appeared in France and abroad before the revised and corrected edition of 1757, whose text has been used by most editors since and presented along with D'Alembert's famous *Éloge de Montesquieu* and *Analyse de l'Esprit des Lois*. The publication of Montesquieu's *Works* in French continued at a sustained rhythm up to 1800, in parallel with that of *l'Esprit des Lois* and of its translations in Europe, notably in the United Kingdom where thirty-one editions are accounted for in English (Courtney, 2002). The reception of that “best-seller” and its influence on the political thought and revolutions at the end of the eighteenth century, as well as the number and variety of critical comments up to this day, all testify to the richness of its concepts over the long term and incite the reader to question the spatio-cultural dimension of conceptual change. Montesquieu's theories have played a role not only in the way we conceive politics in relation to national contexts, but also at various levels, depending on the location and time involved. In that sense, the reception of the work ties up with the methodological relativism of its conception, since the purpose was to account for the spirit of the laws and the complexity of relationships and establishment processes with regard to political institutions, which are always reduced to their relative nature under the sign of a nation's history and general spirit (Spector, 2010).

However, I shall cast aside the reception of *The Spirit of Laws* and focus rather on the ideological context of its formulation in order to understand the rhetorical function of the typology, principles and republican language in Montesquieu's political argumentation. In the framework of a study on the concept of “republic”, it is impossible not to encounter Montesquieu since he is, together with Rousseau, part of the authors that contribute the most to the widespread dissemination of the republican vocabulary, notably through the *Encyclopédie*. Jaucourt's articles on the various forms of government are based on the first books of *l'Esprit des Lois* and re-use both its aphorisms and its definitions. However, Jaucourt's commentary conceals a discrepancy with Montesquieu's major invention, which is the theory of relations (“la théorie des rapports”). Georges Benrekassa has noted that most Encyclopedists actually paid little attention to what bears an essential significance for us, that is, Montesquieu's contribution to the epistemology of social science. Its importance in the definition of a new social ethics was reassessed by John Pocock according to a rather original process. « We are now in the era of a revived and modernized natural jurisprudence, based on the notion that an intensive study of the variations of social behavior throughout space and time would reveal the

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underlying principles of human nature on which the diversities of conduct were based and from which the 'lois' took their 'esprit'. Jurisprudence, whatever it was like as the formal study of law, was the social science of the eighteenth century, the matrix of both the study and the ideology of manners » (Pocock, 1985). In l'*Encyclopédie*, what distances articles of political philosophy from Montesquieu revolve around the ideology of natural rights and of the contract, the most symbolical example being the article on slavery (Ehrard, 1998). While referring to « cet illustre auteur » (that famous author), Jaucourt goes beyond his reasoning and radically condemns slavery because : « il blesse la liberté de l'homme, qu'il est contraire au droit naturel & civil, qu'il choque les formes des meilleurs gouvernemens, & qu'enfin il est inutile par lui-même. [...] en un mot, rien au monde ne peut rendre l'esclavage légitime ».

The conceptual specificity with regard to typology, principles and relations that justify the complexity of the political phenomena may be appreciated through their contrast with the major currents of thought of his times, either historical, jusnaturalistic or republican. The last two books on the theory and the revolutions of mediaeval laws, for instance, reassess historical theses on French monarchy compared to his notion of the link between the authority of the king and fundamental laws. Regarding the theories of natural law and of the contract, Jean Goldzink has shown how Montesquieu parts from the theories of Hobbes and Locke. His tight analysis, as close as possible to the text itself, questions other interpretations, which have been formulated since the end of the nineteenth century and consider *The Spirit of Laws* as a theory of political liberalism (Goldzink, 2011).

By placing mankind in a cosmological chain and by opposing Hobbes on the very ground of the Englishman's genealogical method concerning the state of nature, from Book I, Montesquieu escapes the framework of a strict jusnaturalism in order to create a form of political science without natural rights for the human being. He neutralises the two large legitimation paradigms of government by one or several persons, which are paternal authority and consent by contract. He maintains the law of nations « relative to their mutual intercourse » (*droit des gens*), politic law (*droit politique*) « relative to the governors and the governed », and civil law (*droit civil*) dealing with issues between individuals (I, 3). Those relations, which are universal, may be specified differently depending on location and time. The typology, as well as the description of the nature and of the principles of governments are deployed under a form of plural history and various factors that determine the general spirit of a nation, its inherent *esprit des lois*. What matters primarily is to discover the insertion of laws in the nature of things : « the government most conformable to nature, is that which best agrees with the humour and disposition of the people, in whose favour it is established ». Laws « should be relative to the nature and principle of each government » (I, 3). The famous chapter on the English Constitution analyses a very enlightening case, not as an actual model to be exported, but as a constitutional system aiming at political liberty that achieves a balance of powers by distributing functions in reference to social forces that even out themselves.

Hence, Republicanism, according to its English variation, was therefore part of ideological debates during the Enlightenment. In the political discourse of the 1730s and 1740s, the Dutch Republic (the United Provinces) was often quoted as the model of a prosperous nation where citizens were enjoying a great deal of freedom, while the British parliamentary regime was widely successful in withstanding comparison in Europe with the French monarchy with regards to political liberty. Thus preparing the posthumous success of the English exception as proof of Montesquieu's liberalism, as he tried to bypass Locke, universal rights and republican freedom altogether, as Rousseau was well aware. « The

science of politics is still unknown » ; Montesquieu « was not concerned with the principles of political law ; he was content to deal with the positive laws of settled governments ; and nothing could be more different than these two branches of study » (*Émile*, livre V).

I - Free State and Republic : the argumentation mode of The Spirit of Laws

Since typology and principles are involved, a linguistic analysis as close as possible to the text of *l'Esprit des Lois* makes it possible to appreciate Montesquieu's argumentative skill in dealing with the republican notion of freedom. In Europe, the two English revolutions had marked the minds of the time following the execution of Charles I, the abolition of royalty, the suppression of the House of Lords and the political experimentations conducted during the Commonwealth. After the "glorious revolution", the aspiration for change finally generated a parliamentary monarchy without any possible return to a tyrannical monarchy (Pincus, Worden, 2009). Together with the wave of translations from English, French works on the English revolutions at the turn of the century, publications from the 1720s and 1730s show the genuine interest exerted in France by the political life of Britain (Dedieu, 1909). The publication or the re-edition by Whig publicists of the works of Harrington, Milton, Sydney and Henri Neville, as early as 1698-1700, had introduced the readership to the republican language of the English Revolution. The middle of the century appears in France as a major focal point in the Frantext database for the discourse on republic. The frequency distribution of the word *république* between 1748 and 1788 shows a relative frequency peak in 1748-9, due to the top frequency recorded in the works of Mably and Montesquieu. Through Lord Bolingbroke he knew well, the latter was familiar with English constitutional debates and ideological controversies on political economy. On the other hand, Roman history and Machiavelli's political thought, which English republicans call their gospel, have impassioned the French during the eighteenth century, ever since Amelot de la Houssaye translated *Il Principe*, in 1683.

Interpretation problems of the republican discourse are both historical and semantic in nature, starting with the various uses of the word "republic" in the eighteenth century (Monnier, 2005, 2017). The definition, as transmitted edition after edition since 1694 by the French Academy in its *Dictionnaire* is : « Estat gouverné par plusieurs. Il se prend quelquefois pour toute sorte d'Estat, de Gouvernement » (Any State governed by several [persons]. It is sometimes used to mean any type of State or government). In his *Dictionnaire critique* (1787-8), Féraud found that meaning rather outdated at the eve of the French Revolution and noted that Neologists say : *la chose publique*. The English term *commonwealth* is generally translated into French by *république*, and maintains in both languages a sense that is associated with its etymology, *res publica*, meaning the common good, the public thing. In English texts dating from the years of Cromwell's government (1649-1659), other synonymous expressions were used, such as "free State", "popular government" or "popular State", which were also found in French.

Montesquieu's typology of governments

In classical vocabulary, since the term *république* was only referred to pure forms of government and to free States, it was perceived as a normative term. We know how Rousseau in his *Social Contract* gives its full meaning to the notion as a legal organisational process of the State for the common good : « I therefore give the name "Republic" to every State that is governed by laws, no matter what the form of its administration may be : for only in such a case does the public interest

govern, and the *res publica* rank as a *reality*. Every legitimate government is republican ». A note refers explicitly to the typology of the *Spirit of Laws* : « I understand by this word, not merely an aristocracy or a democracy, but generally any government directed by the general will, which is the law. To be legitimate, the government must be, not one with the Sovereign, but its minister. In such a case even a monarchy is a Republic » (II, VI). Here, Rousseau stands in the field of democratic lawfulness, and does not rely, like Montesquieu, on the theory of the forms of government.

Several interpretations have been put forward concerning Montesquieu's novel typology, as he establishes in the initial books of his work a threefold distinction between governments, according to their nature and their principle : republican government, monarchical government, and finally despotism, which is a common sliding slope to all governments, and therefore all the more essential to avoid (Larrère, 2001). If Montesquieu did not coin the word, which is used by authors who opposed absolute monarchy for various reasons (Bayle, Fénelon, Boulainvilliers), he forged and systemised an essential concept for his general theory of governments (Binoche, 1998, Krause, 2001). *The entire body of history* is an endless laboratory of arguments where typology is far from neutral : the universal harm of an authority with no limits, which is not only a government by one alone, but a State without laws and rules, where all subjects are slaves, provides Montesquieu with some sort of counter-justification for moderate monarchy. The typology of the *Spirit of Laws* – government by one or by several *versus* despotic State – neutralises the normative dimension of the notion of republic, especially since that initial typology is covered later by a binary typology – moderate government and despotism.

The passions-principles

We all know the outstanding value Montesquieu attributes to the principles he creates on the basis of moral concepts : « when I had once discovered my first principles, he writes in the preface, everything I sought for appeared ; and in the course of twenty years, I have seen my work begun, growing up, advancing to maturity, and finished ». John Pocock has shown that in Britain the notion of virtue had been put forward in an almost republican way since the Restoration in order to preserve the balance of the Constitution and defend the independence of representatives against nepotism and patronage. The rhetoric of virtue and corruption, which is typical of the Country's ideology, was borrowed later by Bolingbroke in his speeches on parties and it is possible that the ambiguities of that notion of civic ethics in a world of passions and interests were inspirational to Montesquieu (Spector, 2004). Passions-principles of governments – such as virtue, honour and fear – are raised to the level of genuine political concepts. The principle of the Republic is virtue : it is moral and political virtue « in the sense it points toward the general good » (III, 5^a), « the love of the laws and of our country » (IV, 5). It is neither the machiavellian *virtù* of the Prince, nor the virtue of a hero. Virtue « in a republic, is the love of one's country, that is, the love of equality » (Advertisement). Hence, we understand better why revolutionaries, starting with Robespierre, later adopted some of those definitions. Yet, Montesquieu, by letting political virtue, and « all those heroic virtues which we admire in the ancients, and to us are known only by story » (III 5), remain almost the only recourse of democracy or of a popular State, refers to the republic in Antiquity. Democratic institutions are those of the cities – the senate, the magistrates, etc. The polysemous use of all those terms until the French Revolution helps in providing an intellectual security for the opponents of democracy, notably on the basis of arguments

on the size of the States or the representative system, that reinforces that idea that “the time for republics is over” (Althusser, 1959).

However, when considering the distance from the Golden Age of the Republic at the time of the Romans and of the Cities of Sparta and Athens, the Britain of the Commonwealth was only yesterday. Under Cromwell’s Protectorate, republicans defended the parliamentary representation and the people’s right to select their government. The absence of the word is noteworthy in the chapter referring to that significant era of English republicanism (III, 3). Montesquieu systematically avoids any of the terms used at the time to designate that episode in British history, such as “civil wars”, “revolution” or “rebellion”, but historians who have studied the texts more closely have shown that the 1650s, in the aftermath of the civil wars, were years of passionate research for a parliamentary solution aiming at the creation of a genuine republic, a free State, governed by laws. Between the republic of the Antiquity and the revolutions towards the end of the century, the theorists of the free State reused classical language in order to develop the principles of republican freedom on the basis of natural law and contract (Skinner, 1998, Worden, 1991). Montesquieu knew very well the texts on English republicanism from which he borrowed his vocabulary ; and his analysis of the English Constitution shows that he furthered his reading of Harrington’s *Oceana*. His main interest was the stability of the State and the balance of powers, rather than theories that rely on natural law in order to secure the freedom and the right of resistance.

Classical rhetoric and destabilization of republican language

After so many scholarly comments on Book XI, let us linger awhile on the following fragment of Book III, which is nothing else but a parody of the first English Revolution by the mere inversion of the sensitive figures of the republican language : the cynical style remains timeless. The excerpt is rather long to quote, for Rousseau, that “subtle Diogenes” according to Kant, later responded to it in a note of *The Social Contract* :

« A very droll spectacle it was in the last century to behold the impotent efforts of the English towards the establishment of democracy. As they who had a share in the direction of public affairs were void of virtue ; as their ambition was inflamed by the success of the most daring of their members (Cromwell) ; as the prevailing parties were successively animated by the spirit of faction, the government was continually changing : the people, amazed at so many revolutions, in vain attempted to erect a commonwealth. At length, when the country had undergone the most violent shocks, they were obliged to have recourse to the very government which they had so wantonly proscribed. »

« When Sylla thought of restoring Rome to her liberty, this unhappy city was incapable of that blessing. She had only the feeble remains of virtue, which were continually diminishing : instead of being roused out of her lethargy, by Cæsar, Tiberius, Caius Claudius, Nero, Domitian, she riveted every day her chains ; if she struck some blows, her aim was at the tyrant, not at the tyranny ». The specific reference to the ambivalent figure of a political general is worth noting : Sylla, who illustrated in the republican discourse the danger of ambition in leaders at the origin of civil upheaval and tyrannical dictatorship, becomes the powerless restorer of liberty. Hence the figures of the Prince and of the tyrant, as well as those of the people and the slave, and the inverted figures of the public and of the individual, are blurred in the general chaos (democracy without virtue) and in the corruption of the republic that resulted in political “revolutions”. It is an extreme situation where every passion turns into its contrary, where *the force of the principle draws everything to it* (VIII, 11).

« When virtue is banished, ambition invades the minds of those who are disposed to receive it, and avarice possesses the whole community. The objects of their desires are changed ; what they were fond of before, is become indifferent ; they were free, while under the restraint of laws, but they would fain now be free to act against law ; and as each citizen is like a slave who has run away from his master [...] Formerly the wealth of individuals constituted the public treasure ; but now this is become the patrimony of private persons. The members of the commonwealth riot on the public spoils, and its strength is only the power of a few, and the licentiousness of many ». Athens, in its fascination and fragility, shines in the distance as the City that combines supreme freedom and servitude : « This famous city, which had withstood so many defeats, and after having been so often destroyed, had as often risen out of her ashes, was overthrown at Chæronea, and at one blow deprived of all hopes of resource » (III, 3).

That chapter on democracy prefigures what is to be developed in Book VIII with the upfront corruption of principles, including virtue and the spirit of equality. In democracy, an extreme spirit of equality is as irreparable as the loss of virtue ; it also generates corruption, which is the very inversion of the principle of the republic. « When once a republic is corrupted, there is no possibility of remedying any of the growing evils, but by removing the corruption and restoring its lost principles ». The people of Rome were all virtuous and free. « But when their morals were corrupted, the more power they were possessed of, the less prudent was their conduct ; till at length, upon becoming their own tyrants and slaves, they lost the strength of liberty to fall into the weakness and impotency of licentiousness » (VIII, 12). The first uses of the notion of corruption before Book VIII relate almost all to the laws and to the spring of democracy. The ultimate consequence is discussed as early as the terms of the principle of the popular state, with the reference to the Commonwealth : « when, in a popular government, there is a suspension of the laws, as this can proceed only from the corruption of the republic, the state is certainly undone » (III, 3).

Let us rest reassured however : the need for virtue decreases as a government draws closer together. Republican arguments are turned in favour of monarchy and of intermediary powers that are natural to it : « In monarchies, policy effects great things with as little virtue as possible... » (III, 5). « Ambition is pernicious in a republic. But in a monarchy it has some good effects ; it gives life to the government, [...] Honor sets all the parts of the body politic in motion, and by its very action connects them ; thus each individual advances the public good, while he only thinks of promoting his own interest » (III, 7). In the very first books, monarchy is defined as the government of the laws. In Book V, after two chapters describing the advantages of monarchy compared to republic and despotism, Chapter 11 *Of the Excellence of a Monarchical Government* echoes Nedham's famous title (*The Excellency of a free state*) in order to deal with civil disorders. « Monarchy has a great advantage over a despotic government. As it naturally requires there should be several orders or ranks of subjects, the state is more permanent, the constitution more steady, and the person of him who governs more secure » (V, 11).

« Cicero is of opinion that the establishing of the tribunes preserved the republic. *And indeed*, says he, *the violence of a headless people is more terrible. A chief or head is sensible that the affair depends upon himself, and therefore he thinks ; but the people in their impetuosity are ignorant of the danger into which they hurry themselves.* This reflection may be applied to a despotic government, which is a people without tribunes ; and to a monarchy, where the people have some sort of tribunes » (V, 11).

II - *Political liberty and the English Constitution*

The argumentation mode becomes more precise when initiating the opposition between a despotic and a free State, which is more clearly formulated in Book XI. After the linguistic deconstruction of the Commonwealth, the rhetoric of inversion is perpetuated in the chapters on social upheaval and corruption of governments, with a view for the benefit of a moderate government to undoing not only the association between monarchy and despotism, but also the exclusive relationship between republic, free State and government of the laws. « Democratic and aristocratic states are not in their own nature free. Political liberty is to be found only in moderate governments » ; « it is necessary from the very nature of things, power should be a check to power », to prevent abuse of power (XI, 4).

The security liberty

As early as the initial chapters of Book XI, Montesquieu intertwines typologies in order to dismantle the classical association of freedom with the republic and provides his own definitions of liberty as different from *independence* : « Liberty is a right of doing whatever the laws permit » (XI, 3). « The political liberty of the subject is a tranquillity of mind arising from the opinion each person has of his safety » (XI, 6). « Political liberty consists in security, or, at least, in the opinion that we enjoy security » (XII, 2).

The following book, which is dedicated to the guarantees for a citizen to be free and which actually deals with criminal laws, has been far less commented than the previous one. Inversely, though, it constitutes the most topical account of *l'Esprit des lois* in the *Encyclopédie*, with Jaucourt's legal articles on crime (*Crime*) and criminal laws (*Lois criminelles*) forming the essential part of Books VI and XII concerning a citizen's security liberty protected by laws (Benrekassa). Beyond the distribution of powers and the separation of the judicial power, the advances of liberty, according to Montesquieu, are due to an extent knowledge of criminal laws : « The knowledge already acquired in some countries, or that may be hereafter attained in others, concerning the surest rules to be observed in criminal judgments, is more interesting to mankind than any other thing in the world. Liberty can be founded on the practice of this knowledge only... » (XII, 2). People are free « only as they are governed by civil laws » (XXVI, 20).

Montesquieu does not subscribe to the republican notion of freedom as defended by the radical authors of English republicanism : « There is no word that admits of more various significations [...] than that of *Liberty*. Some have taken it as a facility of deposing a person on whom they had conferred a tyrannical authority ; others for the power of choosing a superior whom they are obliged to obey ; others for the right of bearing arms, and of being thereby enabled to use violence... » (XI, 2). The controversy pierces through the apparent control over the argumentation. Thanks to typology ruptures, passions are raised to the level of genuine political concepts, thus enabling them to respond to republicanism by reconfiguring the categories of republican language in a theory of political moderation. Honour maintains tranquillity in monarchy by calling upon self-pride : « the honor of monarchies is favoured by the passions, and favours them in its turn : but virtue is a self-renunciation, which is ever arduous and painful » and « requires a constant preference of public to private interest » (IV, 5). The paradigm of virtue keeps the republic and democracy at a distance, whereas the metaphor of general corruption, which threatens any abusive power, leaves the erratic image of a popular government as a crowd without leaders, since a lawless State leads to despotism and slavery for all.

Rousseau, who has read *The Spirit of Laws* very closely replies indirectly to Montesquieu's arguments in *The Social Contract*: « Outbreaks and civil wars give rulers rude shocks, but they are not the real ills of peoples [...] Their true prosperity and calamities come from their permanent condition [...] A little disturbance gives the soul elasticity ; what makes the race truly prosperous is not so much peace as liberty. Government undergoes contraction when it passes from the many to the few, that is, from democracy to aristocracy, and from aristocracy to royalty. To do so is its natural propensity » (III, IX*). A long note turns over Rome's example and classical vocabulary [the body of patricians, the senate, the body of tribunes...] against hereditary aristocracy, « the worst of all legitimate forms of administration » : « for names do not affect facts, and, when the people has rulers who govern for it, whatever name they bear, the government is an aristocracy. The abuse of aristocracy led to the civil wars and the triumvirate. Sulla, Julius Caesar and Augustus became in fact real monarchs ; and finally, under the despotism of Tiberius, the State was dissolved » (III, X*). A famous writer, he writes in the chapter on democracy (III, IV), « has made virtue the fundamental principle of Republics [...] that great thinker was often inexact, and sometimes obscure, and did not see that, the sovereign authority being everywhere the same, the same principle should be found in every well-constituted State... ».

Regarding the civil bond, Rousseau advocates patriotism and self-love, which is common to all sensitive beings. It constitutes the natural principle that binds freely the individual to the republic, the internalised link of natural affections and manners that ties the citizen to the homeland that he not only cherishes, but with whom he shares the same values, and whose laws guarantee both his dignity and his freedom. Rousseau's response refers to the famous statement in *The Social Contract*. « *The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.* This is the fundamental problem of which the *Social Contract* provides the solution » (I, vi).

The distribution of powers in the English Constitution

In the chapter of *The Spirit of Laws* on the English Constitution, where liberty should « appear in its highest perfection », figures the well-known formula regarding the separation of powers, which made Montesquieu famous : « There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals » (XI, 6). The idea to separate the executive power from the legislative was already defended by English republicans, such as Nedham and Locke, for instance, in order to guarantee everybody's submission to the law. That purely negative principle would serve later in the drafting of constitutions. It was adopted unanimously in the French Declaration of Rights of 1789, although it did not determine the distribution of competences. What is actually debated in the political philosophy of the eighteenth century is the principle concerning the specialisation and hierarchy of functions, and the adequate mechanism to balance powers, which is related to the theory on the forms of government (Michel Troper, 2010).

The system of free constitution that Montesquieu describes is different through its capability to maintain and regulate itself on its own, in the sense that several non-specialised powers or authorities ensure the balance of legislative power (*the general will of the state*) through their mutual faculty of

rejecting (vetoing). The reference to Harrington, at the end of the chapter, suggests that he was imagining the free Commonwealth of Oceana, while he had a truly free Constitution right in front of his eyes. Lord Bolingbroke, who was opposed to Walpole, considered that the balance between the three powers, which was typical of a mixed government, was the very principle of a free constitution : « It is by this mixture of monarchical, aristocratical and democratical Power, blended together in one system, and by these three estates balancing one another, that our free constitution of government hath been preserved so long inviolate ; or hath been brought back, after having suffered violations, to its original principles, and been renew'd, and improve'd too, by frequent and salutary revolutions » (Bolingbroke, 1754, Letter XIII). The Constitution of a free State requires a subtle craftsmanship in order to moderate interests and to maintain social equilibrium.

In *The Spirit of Laws* the mosaic of vocabularies – social, political and constitutional – allows us, depending on the cases involved, passing from the aristocracy to the nobility and the Senate, from distinctions to the magistrates and to the power of corporate bodies, and from the body of nobles to the famous intermediary powers. « The most natural, intermediate and subordinate power, is that of the nobility. This in some measure seems to be essential to a monarchy » (II, 4). « An aristocratical government has an inherent vigour, unknown to democracy. The nobles form a body... » (III, 4). Heredity is the extreme point in the corruption of aristocracy, when changed into an oligarchy (VIII, 5). The polysemy of the notion of republic and the very etymology of the word “aristocracy”, when added to the declining use of the word “oligarchy”, give us to the possibility to consider the “body of the nobles” as the lost appropriate “regulating power” (*puissance réglante*) to moderate legislative power. « The ancients had no notion of a government founded on a body of nobles, and much less on a legislative body composed of the representatives of the people » (XI, 8).

The argumentation plays on the conceptual evolution and the juxtaposition of vocabularies. The impact of *The Spirit of Laws* on the political discourse at the end of the century pertains perhaps less to the originality of the method than to the rhetorical invention and expressive strength of political wordings. Montesquieu draws from the neo-classical vocabulary the notions that underlie his theory of governments. The argumentation, the reference to History and the ambiguity of the vocabulary have all led to contrasted readings. With due account of Montesquieu’s intellectual weight in the eighteenth century, those who interpreted his thought do not seem to have measured the potential significance of the rhetoric of corruption. Revolutionaries did not invent the politics of virtue. Marisa Linton has shown that the language of moral and political virtue, which is adapted from Classicism and natural philosophy, was at the core of social thought since the middle of the century (Linton, 2001). Already, Montesquieu was assigning the institutions of the republic with the formidable task to fight the alteration of the principle : « We must not imagine that criminal actions only are destructive of virtue ; it is destroyed also by omissions, by neglects, by a certain coolness in the love of our country, by bad examples, and by the seeds of corruption : whatever does not openly violate, but elude the laws ; does not subvert, but weaken them ; ought to fall under the inquiry and correction of the censors » (V, 19).

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In the final crisis of the monarchy, the concepts of *The Spirit of Laws* escaped their author. The unbridled uses of the notion of despotism in the pamphlet war that prevailed in the 1770s and 1780s

actually proved devastating for the royal power : the revolutionary spirit stole the notion – as the symbolic form of the State degeneration – in order to bring to life the representation of the Old Régime (Richter, 2002). In the spirit of the revolutionaries, only civic ethics could overcome corruption. The rhetoric of virtue and of corruption had an influence in the radicalisation of the political groups that wished to personify the republic. The experiences lived through the country's dangers were leading the dominating party to consider itself as the only one to be in a position to exert virtue in the republic against "factions", which were perceived as many corruptive powers assimilated with the Counter-Revolution.

Montesquieu's political theory, which relied on the social-historical continuity of the States, was finally counter current to History and the dynamics of human rights. Its reference to the first English Revolution prefigures Burke's interpretation of the French Revolution of 1789. With regards to republican freedom, Montesquieu could not fight on equal terms with the principles of 1789, due to the influence of Locke and Rousseau. The civic ideal of virtue was the moral ideal of citizens who were equal in rights, and the preservation of political liberty could no longer be reduced to the balance of powers in a society of orders. Even before monarchy was abolished, the hostility towards the aristocracy of nobles eradicated their everlasting privileges and their presumption to rule (Doyle, 2009). However, at the time the Constitution was written, the famous wording for dividing the three powers provided Montesquieu with his entrance ticket into Modernity.

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