1. Of the Relation of Laws to different Beings.

Laws, in their most general signification, are the necessary relations arising from the nature of things. In this sense all beings have their laws; the Deity has his laws, the material world its laws, the intelligences superior to man have their laws, the brute animal have their laws, man has his laws.

They who assert that a blind necessity produced the various effects we behold in this world talk very absurdly; for can anything be more unreasonable than to pretend that a blind necessity could be productive of intelligent beings?

There is, then, a prime reason, and laws are the relations subsisting between it and different beings, and the relations of these to one another.

God is related to the universe, as Creator and Preserver; the laws by which He created all things are those by which He preserves them. He acts according to these rules, because He knows them; He knows them, because He made them, and He made them, because they are in relation to His wisdom and power.

Since we observe that the world, though formed by the motion of matter and void of understanding, subsists through so long a succession of ages, its motions must certainly be directed by invariable laws; and could we imagine another world, it must also have constant rules, or it would inevitably perish.

Thus the creation, which seems an arbitrary act, supposes laws as invariable as those of the fatality of the Atheists. It would be absurd to say that the Creator might govern the world without those rules, since without them it could not subsist.

These rules are a fixed and invariable relation. In bodies moved, the motion is received, increased, diminished, or lost, according to the relations of the quantity of matter and velocity; each diversity is uniformity, each change is constancy.

1"Law," says Plutarch, "is the king of mortal and immortal beings." See his treatise, A Discourse to an Unlearned Prince.
MONTESQUIEU

BOOK 3

THE SPIRIT OF LAWS

CHAPTER 3

such society become sensible of their force, since the principal advantages of this society they endeavor to convert to their own advantage, which constitutes a state of war between individuals.

These two different kinds of states give rise to human laws. Considered as inhabitants of a great planet, which necessarily contains a variety of nations, they have laws relating to their mutual intercourse, which is what we call the law of nations. As members of a society that must be properly supported, they have laws relating to the governors and the governed, and this we distinguish by the name of political law. They have also another sort of law, as they stand in relation to each other; by which is understood the civil law.

The law of nations is naturally founded on this principle, that different nations ought in time of peace to do one another all the good they can, and in time of war as little injury as possible, without prejudicing their real interests.

The object of war is victory; that of victory is conquest and that of conquest preservation. From this and the preceding principle all those rules are derived which constitute the law of nations.

All countries have a law of nations, not excepting the Iroquois themselves; though they differ in their objects for they send and receive embassies, and consult the rights of war and peace. The misfortune is that their law of nations is not founded on true principles.

Besides the law of nations relating to all societies, there is a politico or civil constitution for each particularly considered. No society is safe without a form of government.

The general strength may be in the hands of a single person, or of many. Some think that nature having established external authority, the most natural government was that of a single person. But the example of potent authority proves nothing. For the power of the other relates to a single government, that of brothers after the death of a father, and that of cousins after the death of cousins, refer to a government of many. The political power necessarily comprehends the union of several families.

Better is it to say that the government must promote peace and justice, 1654-1718.
Book II. Of Laws Directly Derived from the Nature of Government

1. Of the Nature of the Three Different Governments. There are three species of governments: republican, monarchy, and despotic. In order to distinguish their nature, it is sufficient to consider their common notions, which suppose three definitions, or rather three facts: that a republic government is that in which the body, or mass of the people, is possessed of the supreme power; monarchy, that in which a single person governs by fixed and established laws; a despotic government, that in which a single person directs everything by his own will and pleasure.

This is what I call the nature of each government; we must now inquire into these laws which directly conform to this nature, and consequently are the fundamental institutions.

2. Of the Republican Government, and the Laws in Relation to Democracy. When the body of the people is possessed of the supreme power, it is called a democracy. When the supreme power is lodged in the hands of a part of the people, it is then an aristocracy. In a democracy, the people are in some respects sovereign, and in others the subject.

There can be no exercise of sovereignty but in their sufraages, and these are their own wills, and by the will who are in the hands of their representatives. The laws therefore which establish the right of suffrage are fundamental in this government. And indeed it is as important to regulate in a republic, in what manner by whom, and concerning what, suffrages are to be given, as it is in a monarchy to know who is the prince, and after what manner he ought to govern.

Lamblin says that at Athens a stranger who intermeddled in the assemblies of the people was punished with death. This is because such a man trampled on the rights of sovereignty.

It is an essential point to fix the number of citizens who are to form the public assemblies; otherwise it would be uncertain whether the whole, or only a part of the people, had given their votes. At Sparta the number was fixed at ten thousand. But Rome, designed by Providence to rise from the weakest beginnings to the highest pitch of grandeur, Rome, Deceived

...
rendered them secret towards the close of the republic was the cause of its decline. But as this is differently practised in different republics, I shall offer here my thoughts concerning this subject.

The people's suffrages ought doubtless to be public; and this should be considered as a fundamental law of democracy. The lower class ought to be directed by those of higher rank, and restrained within bounds by the gravity of eminent personages. Hence, by having the suffrages secret in the Roman republic, all was lost; it was no longer possible to direct a populace that sought its own destruction. But when the body of the nobles are free to vote in an aristocracy, or in a democracy the senate, as the business is then only to prevent intriguers, the suffrages cannot be too secret.

In giving a sense to the nobles; it is dangerous also in a body of nobles: but not so among the people, whose nature is to act through passion. In countries where they have no share in the government, we often see them, as much infatuated on account of an event as ever they could be for the welfare of the state. The misfortune of a republic is when its intriguers are as an army; which happens when the people are guided by oribary and corruption. To prevent this, there should be a power of deciding in the senate, which, by being in a majority, can prevent the use of such power.

It is likewise a fundamental law in democracies, that the people should have the sole power on exact laws. And yet there are a thousand instances which show that the people should have the power of deciding; the fewest, it is frequently proper to make some trial of a law before it is established. The constitutions of Rome and Athens were excellent. The decrees of the senate had the force of laws for the space of a year, but did not become perpetual till they were ratified by the consent of the people.

8. Of the Laws in relation to the Nature of Aristocracy. In an aristocracy, the supreme power is lodged in the hands of a certain number of persons. These are invested with all the legislative and executive authority, and the rest of the people, in respect to them, are, in effect, the subjects of a monarchy in regard to the sovereign.

They do note vote here by lot, for this would be productive of inconveniences only. And indeed, in a government where the most mortifying dissensions are already established, though they were to be so chosen by lot, still they would be useless; for it is the noblemen they envy, and not the magistrate.

When the nobility are numerous, there must be a senate to regulate the affairs which the body of the nobles are incapable of deciding, and to prepare others for their decision. In this case it may be said that aristocracy is in some measure in the senate, the democracy in the body of the nobles, and the people are a cipher.

It would be a very happy thing in an aristocracy if the people, in some measure, could be raised from their state of servitude. Thus at Geneva, the bank of St. George being administered by the people, gives them a certain influence in the government, whereas their whole prosperity is derived. The senate ought by no means to have the right of veto over the actions of monarchs; for this would be the only way to perpetuate abuses.

At Rome, which in its early years was a kind of aristocracy, the senate did not fill up the vacant places in their own body; the few new members were nominated by the consulars. In a republic, the sudden rise of a private citizen in exorbitant power produces monarch, or something more than monarch. In the latter, the laws have provided for, in some measure adapted themselves to the constitution, and the principle of government checks the monarch; but in a republic, where a private citizen has obtained an exorbitant power, the abuse of this power is much greater, because the laws foresee it not, and consequently made no provision against it.

There is another case, when the constitution is such as to have immediately need of a magistrate invested with extraordinary power. Such was Rome with her dictators, such as Venice with her state intrusions: these are formidable magistrates, who restore.

The best policy is, by which those who have no share in the legislature are so few and insignificant that the governing party have no interest in opposing them. Thus when Antipater made a law at Athens

1. That every man should be able to vote at any time.
2. That a magistrate should be chosen only for two months.
3. That the magistrates should be chosen by the people.
4. That Antipater should not be able to act without the consent of the people.

The spirit of laws

as it were by violence, the state in its liberty. But how can it be that these magistrates are so very different in these two republics? It is because Rome supported the remains of her aristocracy against the people; whereas Venice employs her state intrusions to maintain her aristocracy against the nobles. The consequence was that at Rome the dictatorship could be only of short duration, as the people acted through passion and not with design. It was necessary that a magistracy of this kind should be extended with little use, and power, the business being in Intimation, and not to punish, the multitude. It was also proper that the dictator should be created only for particular affords, and not for this only should have an unlimited authority: for here it is that schemes may be set on foot, continued, suspended, and resumed; and that the ambition of a single person becomes that of a family, and the ambition of one family that of many. They have occasion for a secret magistracy, the crimes they punish being hatched in secrecy and silence. This magistracy must have a general inquisition, for their business is not to remedy known disorders, but to prevent the unknown. The latter is designed to punish suspected crimes: whereas the former used rather menace than punish; even for crimes that were openly avowed.

In all magistrates, the greatness of the power must be compensated by the brevity of the duration. This most legislators have fixed to a year; a longer space would be dangerous. As a monarch whose power extends to the nature of government. For who is it that in the management even of his domestic affairs would be thus confined? At Augsberg, the chief magistrate of the republic is changed every month; the other every two weeks, and the governor of the castle every day. But this can take place only in a small republic environed by formidable powers, who might easily corrupt any such and insignificant magistrates.

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Montesquieu

The Spirit of Laws

Chapter 7

A level with one another, and upon this their preservation depends.

Moderation is therefore the very soul of this government: a moderation, I mean, founded on virtue, not that which proceeds from indifference and pusillanimity.

3. That Virtue is not the Privilege of a Monarchical Government. In monarchies, policy effects great things with as little virtue as possible. Thus in the great machines of art has reduced the number of movements, springs, and wheels.

The state subsists independently of the love of our country, of the thirst of true glory, of tenacity, of the scruples of our nearest interests, and of all those heroic virtues which we admire in the ancients, and we are known only by tradition.

The law supplies here the place of those virtues; they are set by no means wanted, and the state disregards them. An action performed here in secret is in some measure of no consequence.

Though all crimes be in their own nature public, yet there is a distinction between crimes really public and those that are private, which are so called because they are more injurious to individuals than to the community.

Now in republics private crimes are more public, that is, they attack the constitution more than they do individuals; and in monarchies, public crimes are more privates, that is, they are more prejudicial to private people than to the constitution.

And that no one will be offended with what I have been saying, my observations are founded on the unanimous testimony of historians. I am not ignorant that virtuous princes are so very rare; but I venture to affirm that a monarchy is extremely difficult for the people to be virtuous.

Let us compare what the historians of all ages have asserted concerning the course of monarchy; let us recollect the conversations and sentiments of people of all nations, in respect to the wretched character of courtiers, and we shall find that these are not only speculations, but truths confirmed by a sad and melancholy experience.

A position in life, interest, meanness mixed with pride, a desire of wealth without industry, a dislike of public virtue, and a contempt of private virtue as it is directed to the public good, very little of private moral virtue; and not at all of that which relates to revealed truths. This will appear better in 9, 10, 11, 12.

Aversion to truth: hatred, perjury, violation of engagements, contempt of civil duties, loss of the prince's virtue, hope from his weakness, but above all, the perpetual sacrifice cast upon virtue, is, I think, the characteristic by which most countries in all ages and countries have been constantly distinguished. Now, it is exceedingly difficult for the leading men of the nation to be brave, and the inferior sort to be honest: for the former to be cheaters, and the latter to rest satisfied with being only dupes.

But if there should chance to be some usefully honest men among the people, Cardinal Richelieu has his political testament, seems to hint that a prince would not care not to employ them. So true is it that virtue is not the spring of this government: it is not indeed excluded, but it is not the spring of government.

8. In what Manner Virtue is supplied in a Monarchical Government. It is high time for me to have done with this subject, but I should be suspected of writing a satire against monarchical government. For be it from my own principles, if monarchy wants one spring, it is provided with another. Honesty, that is, the prejudice of every person and rank, supplies the place of the political virtue of which I have been speaking, and is everywhere represented: here it is capable of inspiring the most glorious actions, and, joined with the force of laws, may lead us to the end of government as well as virtue itself.

Monarchical governments, though they are well-regulated, monarchies, they are almost all good subjects, and very few good men; for to be a good man's good intention is necessary, and we should love our country, too much on our own account, as out of regard to the community.

9. Of the Principle of Monarchy. A monarchical government supposes, as we have already observed, preeminent and personal, as likewise a noble and powerful person; and as the prince is the nature of honour to aspire to, and of power to be obtained over, it is properly placed in this government.

Ambition is permitted in a republic. But in a monarchy it has some good effects; it gives life to the government, and is attended with

This is to be understood in the sense of the preceding note.

We must not, says he, employ people of mean extraction, they are too rigid and mortal. Testament Polity.

This word good man is understood here in a political sense only.

See Footnote 1.
This advantage, that it is in no way dangerous, because it may be continually checked.

It is with this kind of government as with the system of the universe; in which there is a power that constantly repels all bodies from the centre, and a power of gravitation that attracts them to it. Honour 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 protecting his own interest.

True it is, that, philosophically speaking, it is a false honour which moves all the parts of the government; but even this false honour is as useful to the public as true honour could possibly be to private persons.

Is it not very wanting to oblige men to perform the most difficult actions, such as recall the extraordinary occasion of justice and revolution, without other recompense than that of glory and applause?

9. That Honour is not the Principle of Despotic Government. Honour is far from being the principle of despotic governments; mankind being here all upon a level, no one person can prefer himself to another; and as on the other hand there are all slaves, they can give themselves no more preference. Besides, as honour has its laws and rules, as it knows how to submit, as it depends in a great measure on a man's own caprice, and not on that of another person; it can be found only in countries in which the constitution is fixed, and where they are governed by settled laws.

How can despots abide with honour? The one glory in the contemplation of life; and the other is founded on the power of taking it away. How can honour, on the other hand, bear with despotism? The former has its fixed rules, and particular capsures; but the latter is directed by no rule, and its own caprices are subordinated to all others.

However, therefore, a thing unknown in virtuous governments, some of which have not even a proper word to express it, is the prevailing principle in monarchies; here it gives life to the whole body politic, to the laws, and even in the virtues themselves.

2. Of the Principle of Despotic Government. Virtue is necessary in a republic, and in a monarchical honours, so fear is necessary in a despotic government; with regard to virtue, there is no occasion for it, and honour would be extremely dangerous.

Here the immense power of the prince devolves entirely upon those whom he is pleased to entrust with the administration. Persons capable of setting a value upon themselves would be likely to create disorders. Fear must therefore depress their spirits, and extinguish even the least sense of ambition.

A moderate government may, whenever it pleases, and without the least danger, relax its springs. It supports itself by the laws, and by its own internal strength. But when a despotic prince ceases for one single moment to uphold his arm, when he cannot instantly diminish those whom he has entrusted with the first employments? All is over for as long as the spring of this government, no longer sufficient, the people are left without a protector.

It is probably in this sense the Cardinal maintained that the Grand Sieur would not oblige to keep his word or oath, when he limited thereby his authority. It is necessary that the people should be judged by laws, and the great men by the caprice of the prince, that the lives of the least subject should be safe, and the pauper's head ever in danger. We cannot mention these monstrous governments without laments. The Deth of Parthe, delivered in our days by Alphonse, the son of Mirabeau, saw the constitution subverted before his revolution, because he had been too sparing of himself.

History informs us that the hard-hearted Cadiam struck such a terror into the governors that the people recovered themselves a little during his reign. Thus a torrent overflows one side of a country, and on the other leaves fields untouched, where the eye is refreshed by the prospect of fine meadows.

10. Difference of Obedience in Monarchic and Despotic Governments. In despotic states, the nature of government requires the most passive obedience; and when once the prince's will is made known, it ought insensibly to produce its effect.

Here they have no limitations or restrictions, no medium, terms, equivalents, or re

1 As it often happens in a military administration.
2 Rough on the Ottoman Empire. (1.)
3 See the history of this revolution by Father Du Corrèze.
4 Monarchies, life of Damiel, will, life was a military constitution, which is one of the species of despotic government.
be composed of States of the same Nature, especially of the republican kind. The
Caresses were derived in reason that they were petty states, that had no union or
confederacy for their common defense; and, indeed, a confederacy is not agreeable to the
natur of petty monarchies.
As the confederate republic of Germany consists of free cities, and of petty states subject
to different princes, experience shows us that it is much more imperfect than that of
Holland and Switzerland.
The spirit of monarchy is war and enlargement of dominion; peace and moderation are
the spirit of a republic. These two kinds of government cannot naturally subsist in a con-
 federate republic.
Thus we observe, in the Roman history, that when the Vetuloni chose a king,
they were immediately abandoned by all the other petty republics of Tuscany. Greece was
undone as soon as the kings of Macedon obtained a seat among the Amphiktyons.
The confederate republic of Germany, composed of princes and free towns, subsists by
means of a chief, who is, in some respects, the magistrate of the union, in others, the mon-
arch.
3. Other Requisites in a confederate Republic.
In the republic of Holland one province cannot convene an alliance without the con-
sent of the others. This law, which is an excellent one, and even necessary in a confederate
republic, is wanting in the German constitution, where it would prevent the misfor-
tunes that may happen to the whole confederacy, through the imprudence, ambition, or
averseness of a single member. A republic, united by a political constitution has given itself
entirely up, and has nothing more to resign.
It is difficult for the United States to be all of equal power and extent. The Lycurgus
republic was an association of twenty-three towns; the large ones had three votes in the
common council, the middling ones two, and the small towns one. The Dutch republic con-
tained of seven provinces of different extent of territories, which have each one voice.
The cities of Lycurgus contributed to the expenses of the state, according to the propor-
tion of their riches. The provinces of the United Netherlands cannot follow this proportion:
they must be directed by that of their power.

Chapter 5.
The Spirit of Laws

From association by means of further associations, till they arrive at such a degree of power as to be
able to provide for the security of the whole body.
It was these associations that so long contributed to the prosperity of Greece. By these
the Romans attacked the whole globe, and by
there alone the whole globe withstood them
for when Rome had arrived at her highest
pitch of greatness, it was the associations be-
 past the Danube and the Rhine—associations
formed by the terror of her arms—that en-
abled the barbarians to resist her.

Hence it proceeds that Holland, Germany,
and the Swiss cantons are considered in Eu-
ropes as perpetual republics.
The associations of cities were formerly
more necessary than it is our times. A weak,
defensive town was exposed to greater danger.
By conquest it was deprived not only of the
executive and legislative power, as at present,
but moreover of all human property.

A republic of this kind, able to withstand an
external force, may support itself without
any internal corruption; the form of this so-
ciety prevents all manner of inconveniences.

If a single member should attempt to usurp
the supreme power, he could not be suppos-
ed to have an equal authority and credit in all
the confederate states. Were he to have too
great an influence over one, that would alarm
the rest; were he to unite a part, that which
would still remain free might oppose him with
forces independent of those which he had
loosed, and overpower him before he could
be settled in his usurpation.

Should a popular insurrection happen in
one of the confederate states, the others are
able to quell it. Should abuses creep into one
part, they are reformed by those that remain
sound. The state may not be destroyed on one
side, and not on the other; the confederacy
may be discredited, and the confederates pre-
serve their sovereignty.

As this government is composed of petty re-
publics, it enjoys the internal happiness of
each, and with regard to its external situation,
by means of the association, it possesses all the
advantages of large monarchies.

1. That a confederate Government ought to

1: M. Jansen, "On the Dutch Republic.
2: The duties of women, wives, children, temples, and even stepping-stones.

Book IX. Of Laws in the Relation They Bear to a
Defensive Force

1. In what manner Republics provide for their Safety. If a republic be small, it is de-

scribed by foreign force; if it be large, it is ruined by an internal imperfection.

To this twofold inconvenience democracies and monarchies are equally liable, whether
they be great or bad. The evil is in the very thing itself, and no form can reduce it.

It is therefore, very probable that mankind
would have been, at length, obliged to live
republics under the government of a single
person, had they not contrived a kind of con-
stitution that has all the internal advantages of
a republican, together with the external
force of a monarchial government. I mean a
confederate republic.

This form of government is a convention by
which several petty states agree to become
members of a larger one, which they intend to
establish. It is a kind of assimilation of soci-
eties that constitute a new one, capable of in-

See the order of Themistocles for filling the land,
in the Edifying Letters, col. xvi.
In Lutetia the judges and town magistrates were elected by the common council, and according to the provision already mentioned, in the republic of Holland they are not chosen by the common council, but each town names its magistrate. Were I to give an annual of an excellent confederate republic, I should pitch upon that of Lutetia.

In what manner despotic Governments provide for their Security, and republics provide for their security in writing, despotic governments did not separate, and keeping themselves as it were single. They sacrificed a part of the country for the province, and the country that they reigned the heart of the empire inseparable. It is a principle in geometry that the greater the extent of bodies, the more their circumference is relatively small. This practice, therefore, of laying the frontier waste is more intolerable in large than in middle sizes.

A despotic government does all the mischief to itself that could be committed by a real enemy, whose arms it was unable to resist. It preserves itself likewise by another kind of precaution, which is by putting the most distant provinces into the hands of a great noble. The baron, the king of Persia, and the emperor of China have their frontiers guarded by the lords who have been intrusted with the command of the provinces.

In a Monarchical Government, provided for its Security. A monarchy may resemble itself like a despotic government. But a kingdom of a moderate extent is liable to sudden invasion; it must therefore have fortresses on its frontiers, and troops in garrison there. The least topic of discord is munition with military skill and resolution. Despotic states make inroads against one another; it is monarchies only that have war.
5. Of the Slavery of the Negroes. Was it reasonable to make slaves of the negroes? These should be my arguments:

The Europeans, having exterminated the Americans, were obliged to make slaves of the Africans, for clearing such vast tracts of land.

Sugar would be too dear if the planters which produce it were cultivated by any other than slaves.

These creatures are all over black, and with such a flat nose that they can scarcely be piqued.

It is hardly to be believed that God, who is wise, should place a soul, especially a good soul, in such a black ugly body.

It is natural to look upon colour as the criterion of human nature, that the Asiatics among whom cunning are employed, always deprive the blacks of their resemblance to us by a more opprobrious distinction.

The colour of the skin may be determined by that of the hair, which, among the Egyptians, the best philosophers in the world, was of such importance that they used to dye all the red-haired men who fell into their hands.

The negroes prefer a glass necklace to this gold which polite nations so highly value. Can there be a greater proof of their want of common sense?

It is impossible for us to suppose these creatures to be men, because, allowing them to be men, a suspicion would follow that we ourselves are not Christians.

Weak minds exaggerate too much the wrong done to the Africans. For were the case as they state it, would the European powers, who make so many needless conventions among themselves, have failed to enter into a general one, in behalf of humanity and compassion?

11. Of savage and barbarous Nations. There is this difference between savage and barbarous nations: the former are dispersed clans, which, for some particular reason cannot be joined in a body; and the latter are constantly small nations, capable of being united. The savages are generally hunters; the barbarians are herders and shepherds.

This appears plain in the north of Asia. The people of Siberia cannot live in bodies, because they are unable to find subsistence; the Tatars may live in bodies for some time, because their huts and flocks may for a time be assembled. All the clans may then be reunited, and this is effected when one chief has subdued many others; after which they may do two things—either separate, or set out with a design to make a great conquest in some southern empire.

12. Of the People of Africa. The greatest part of the people on the coast of Africa are savages and barbarians. The principal reason is, because the small countries capable of being inhabited are separated from each other by large and almost uninhabitable tracts of land. They are without industry or arts. They have gold in abundance, which they receive immediately from the hand of nature. Every civilized state is therefore in a condition to traffic with them to advantage, by raising their esteem for things of no value, and receiving a very high price in return.