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MONTESQUIEU IN AMERICA

1760-1801



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PAUL MERRILL SPURLIN  
DEPARTMENT OF ROMANCE LANGUAGES  
LOUISIANA STATE UNIVERSITY

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*To*  
*Alix and Paula*



## PREFACE

In 1797 life-size waxen figures of Voltaire and Rousseau were exhibited in Philadelphia as part of a traveling collection. For a fee citizens of the good and gay capital city gazed at the mute features of these giants of the "Age of Enlightenment." Had it been possible for the two *philosophes* themselves to hear the remarks of the American spectators, they would have been amused and perplexed. By some they would have heard their memories execrated; by others, highly praised. It all depended upon one's politics and religion.

Montesquieu's effigy was not included in this unusual collection.

As an evidence of interest in Voltaire and Rousseau as writers, no importance can be attached to the curiosity of Americans in such an exhibition. One's attention, nevertheless, is engaged by the knowledge that images of celebrated French authors were paraded about American cities at the close of the eighteenth century. Up to this time there had indeed been a slowly developing interest in America in the language and literature of France. This interest, furthermore, had been quickened by contacts with French soldiers, French travelers, and, after the middle of the century, by the introduction of French into college curricula.

Montesquieu, Voltaire, and Rousseau were the most important writers in eighteenth-century France. Just how

important were they in America in this same century? No comprehensive studies of their importance in this period have as yet appeared.

In the following pages an attempt has been made to establish the position of Montesquieu in America in the last half of the eighteenth century.

Much information has been accumulated on the general culture and reading matter of eighteenth-century Americans. On a given point, however, this information is often scanty, uncoordinated, and sometimes even inaccurate. But the patient efforts of investigators have resulted in a clearer conception of the nature of that culture. Critical and unbiased research by scholars in more recent years has given us a better notion of certain literary and intellectual connections existing in that century between America and Europe.

The work done by literary historians in the last half century has promoted the growth of a certain methodology. This methodology, however, is not infallible, and we have learned to be exceedingly cautious in the matter of influences. Therefore, in these pages a narrower and safer course has been followed. Rather than discuss the influence of Montesquieu on American thought, I have preferred to examine closely the dissemination of his writings in America, the judgments of Americans upon him, and the use they made of him in the forty critical years of American history between 1760 and 1801. The wider knowledge which the present book may bring to moot questions of long standing is relative. An effort has been made, however, to achieve representative completeness.

In its original form this study, which has since undergone revision and to which additions have been made, was presented as a doctoral dissertation in the Johns Hopkins University under the title of *Montesquieu and American Opinion*.

To Professor Gilbert Chinard, of Princeton University, who first proposed the subject of this investigation, I wish to express my grateful appreciation. To him I am indebted for generous guidance, many valuable ideas, and advice as to division of the matter. I alone, however, assume all responsibility for the development of the subject and, of course, for the conclusions which emerge from the treatment of the matter. While it is impossible to acknowledge one's obligation to all who, in book or conversation, suggested ideas and started trains of thought, I must declare my particular obligation to Professor William Stull Holt, of the University of Washington, for stimulating suggestions and bibliographical indications in the field of American history. I wish also to thank the members of the staffs of the following libraries, who by their aid and many courtesies have greatly facilitated my research: the Historical Society of Pennsylvania, the Maryland Historical Society, the Maryland State Library, the Peabody Library, the Ridgway branch of the Library Company of Philadelphia, and the Library of Congress. To my colleagues, Professors Hogue A. Major, Wyatt A. Pickens, Cecil G. Taylor, and John A. Thompson, and also to Mr. William A. Eichengreen, of Baltimore, I am obliged for assistance in reading the proof; and to Professor Lynn Marshall Case, Mr. Jacques Villeré, and Miss Maud Trappey of this University for their kind aid.

To Professor Henry Carrington Lancaster, of the Department of Romance Languages of the Johns Hopkins University, my hearty thanks for friendly counsel and encouragement.

Finally, to Professor James F. Broussard, Head of the Department of Romance Languages of the Louisiana State University, and to Dr. Marcus M. Wilkerson, Director of the Louisiana State University Press, who made the publication of this book possible, I should like to acknowledge my gratitude.

PAUL MERRILL SPURLIN

Baton Rouge, La.  
September 17, 1940.

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## CHAPTER I

### INTRODUCTION

Epoch-making books often produce in their readers and critics widely divergent points of view. Subjected to close scrutiny, the ideas they contain frequently are combated and defended with equal vigor. Occasionally, the authors themselves become targets for abuse or objects of special veneration. Correct evaluations of such books and fair opinions of their authors are by no means easy matters for contemporary men of letters.

When these books, by virtue of their fame and significance, break through national boundaries and penetrate into other countries, still greater differences of opinion of books and authors are obviously not only possible but also highly probable. The task of the literary historian, whose duty it is to judge of their importance years afterward, becomes correspondingly more difficult.

This is especially true of books written in the eighteenth century, a time when new orders and new institutions were rising. New thoughts and theories and systems were going the rounds; old ones reappeared or paraded about in novel disguise. In the covert or open assaults of that time upon every citadel of the established order, authors frequently had recourse to the ammunition box of common intellectual property. It is hardly astonishing, therefore, that opposite convictions, confusion, and uncertainty have sometimes resulted from attempts to render

categorical pronouncements upon literature of that century.

Thus it is with works of Charles Louis de Secondat, Baron de la Brède et de Montesquieu (1689-1755). From the appearance in 1721 of his celebrated *Persian Letters*, and especially following the publication in 1748 of the epochal treatise on the *Spirit of Laws*, the author and his writings have inspired almost countless books, commentaries, articles, speeches, and lectures.<sup>1</sup> The gay and biting *Letters* had been published, anonymously as were all of his works, while he still exercised the grave and important functions of a *président à mortier*, or justice, of the Parlement of Guyenne. Inherited from an uncle in 1716, this magistracy was occupied by Montesquieu for a decade. The tedious routine of judicial duties did not, however, dampen other interests or consume all his en-

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<sup>1</sup> It is possible here only to mention the compendious literature relating to the author. From a wealth of material some selection, nevertheless, must be made. The following works constitute a few of the more important sources for bibliographical and biographical information:

Louis Dangeau (pseud. of Louis Vian), *Montesquieu—Bibliographie de ses Œuvres* (Paris, 1874).

Édouard Laboulaye, ed., *Œuvres complètes de Montesquieu, avec les variantes des premières éditions, un choix des meilleurs commentaires et des notes nouvelles* (Paris, 1875-79). 7 vols.

J.-M. Quérard, *La France Littéraire* (Paris, 1834), VI.

G. Lanson, *Manuel bibliographique de la littérature française moderne* (Paris, 1931).

Lawrence Meyer Levin, *The Political Doctrine of Montesquieu's Esprit des Lois: Its Classical Background* (New York, 1936). Cf. Part V (Bibliography).

Louis Vian, *Histoire de Montesquieu, sa vie et ses oeuvres d'après des documents nouveaux et inédits* (Paris, 1878).

Albert Sorel, *Montesquieu* (Paris, 1887). There is an English translation by M. B. and E. P. Anderson (Chicago, 1888).

H. Barckhausen, *Montesquieu ses idées et ses oeuvres d'après les papiers de la Brède* (Paris, 1907).

François Gebelin and André Morize, eds., *Correspondance de Montesquieu* (Paris, 1914). 2 vols.

ergy. The year of Montesquieu's accession to the *présidence à mortier* also witnessed his admission to the Academy of Bordeaux, to which he contributed from time to time papers on philosophic and scientific subjects. Grave communications to the Academy of Bordeaux, memberships in the Royal Society of London, in the academies of Stanislas, Cortona, and Berlin, however, were only part of the story.

Montesquieu was not only a man of the study but also a man of the world. He had become an associate of the radically inclined Parisian Club de l'Entresol, which numbered among its members Bolingbroke, the Abbé de Saint-Pierre, and d'Argenson. He frequented the Château de Chantilly, where lived Mademoiselle de Clermont, sister of the Duke of Bourbon, Prime Minister of Louis XV. For her he wrote the light and amatory *Temple of Gnidus* (1725) and later, in the same vein, the *Voyage to Paphos*.

In 1728 Montesquieu became a member of the French Academy. Having disposed of his magistracy, he now set out on travels<sup>2</sup> which were to influence greatly his most important works. He visited Austria, Germany, and Hungary. He traveled in Italy. In October, 1729, Montesquieu sailed with Lord Chesterfield, in the latter's yacht, from The Hague for England. The English stay<sup>3</sup> was to last about eighteen months.

After his return to France the author devoted himself anew to study, the interests of his barony, and to society. An indefatigable reader, a thoughtful student, he again found pleasure in the banter of the drawing room, the

<sup>2</sup> Cf. the *Voyages de Montesquieu*, published by Baron Albert de Montesquieu (Bordeaux, 1894-96). 2 vols.

<sup>3</sup> Cf. J. C. Collins, *Voltaire, Montesquieu and Rousseau in England* (London, 1908).

conversation of friends, and the company of ladies such as Mesdames d'Aiguillon, de Tencin, and du Deffand.

The works of Montesquieu reflect this double nature of man of the world and man of the study. In this respect, as well as by his earlier interest in the sciences, he reveals characteristics common to many leading figures of the *Age de la Raison*. Parts of the *Persian Letters*, minor writings such as the two he wrote for Mademoiselle de Clermont, are frankly gallant. On the other hand, the significant part of the *Letters*, other minor works, and especially the two most important works, reveal Montesquieu's earnest and sober nature. The masterpieces, the *Reflections on the causes of the rise and fall of the Roman empire* (1734) and the great treatise on the *Spirit of Laws*, were the products of much reading and thinking, the latter work being written after twenty years of study. His literary renown swept quickly past the frontiers of France, and Montesquieu interested, and continues to interest, innumerable persons.<sup>4</sup> Many translations have been made of his separate works or parts of them.<sup>5</sup>

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<sup>4</sup> Among more recent studies are the following:

H. Knust, *Montesquieu und die Verfassungen der Vereinigten Staaten von Amerika* (Munich and Berlin, 1922).

F. Cattelain, *Étude sur l'influence de Montesquieu dans les constitutions américaines* (Besançon, 1927).

E. Carcassonne, *Montesquieu et le problème de la Constitution française au XVIII<sup>e</sup> siècle* (Paris, 1927).

Muriel Dodds, *Les récits de voyages, sources de l'Esprit des Lois de Montesquieu* (Paris, 1929).

G. Bonno, *La Constitution britannique devant l'opinion française de Montesquieu à Bonaparte* (Paris, 1931).

F. T. H. Fletcher, *Montesquieu and English Politics (1750-1800)*, (London, 1939).

Lawrence Meyer Levin, *op. cit.*

<sup>5</sup> It is sufficient to note, among the translations into English in the last half of the eighteenth century, the following publications:

From the more remote days of the eighteenth century when a volume of Montesquieu occasionally found its way across the Atlantic to a comparatively recent date when an assumption was prevalent that theories contained in his works had found their way into her governmental structure, especially into the Constitution, America has been concerned with Montesquieu.

Various opinions of him have been entertained by Americans. Even from the outset, there were sporadic attacks against him, against his theories, one, indeed, of a long and violent nature near the close of the eighteenth century. Only in somewhat recent years, however, has the general assumption been heavily and repeatedly contested. Thus there have been and are those who have persistently claimed for Montesquieu an important part in the development of American political institutions; others have vigorously disclaimed any importance whatsoever. (The most significant fact of all is that a century

*Complete works.* 4 vols. (Dublin, 1777).

*Complete works.* 4 vols. (London: Evans, 1777).

*The Spirit of Laws.* 2 vols. (London, 1750). First English edition. Translated by Thomas Nugent (English man of letters and translator, 1700?-72).

*The Spirit of Laws.* 2 vols. (London, 1752). 2nd ed.

*The Spirit of Laws.* 2 vols. (London: Nourse and Vaillant, 1758). 3rd ed.

*The Spirit of Laws.* 2 vols. (London: Nourse and Vaillant, 1773). 5th ed.

*The Spirit of Laws.* 1 vol. (London: F. Wingrave, 1793). 6th ed.

*A view of the English constitution. By the late Baron de Montesquieu. Being a translation of the sixth chapter of the eleventh book of his celebrated treatise, intitled L'esprit des loix* (London, 1781).

*Reflections on the causes of the rise and fall of the Roman empire. New edition. To which is prefixed, an account of the life and writings of the author* (Edinburgh, 1775).

*Persian Letters.* 2 vols. (London, 1762). 4th ed.

*The Temple of Gnidus* (London, 1765).

*Miscellaneous Pieces of M. de Secondat, baron de Montesquieu. Translated from the New Edition of his Works in Quarto printed at Paris* (London, 1759).

No work of Montesquieu was ever published in America in the eighteenth century.

and a half after the foundation of the Republic, scholars and critics still disagree as to the place this dominant eighteenth-century thinker occupied in the esteem of Americans of the same century.)

To select from earlier opinions examples representative of each of these two viewpoints, those of a distinguished Frenchman and a scholarly American are apropos. Édouard Laboulaye, member of the Institut de France, professor of comparative legislation in the Collège de France, and the editor of Montesquieu's complete works, expressed, in the following translated passage, his belief, characteristic of the traditional conception:

. . . less notice has been taken of the influence of Montesquieu on the federal Constitution of the United States. If one reads the third chapter of the ninth book [*Spirit of Laws*], he will find the first germ of the Union. Here Montesquieu offers the republic of Lycia as an example of a fine federative republic because in the determination of its suffrage, magistrateships, and taxes attention was paid to the comparative relation of votes . . . ; the authority of the whole people dominated the unnatural sovereignty of the city-states; the Union outweighed the States in importance.

This was the very problem which the Americans had to solve in 1787. Did they consult Montesquieu? Yes, without doubt; the notes of Washington on the different federative constitutions have been preserved; one has been surprised to see that he, so little erudite by nature, had noted the constitution of Lycia. It is too evident that he had taken all his knowledge from Montesquieu.<sup>9</sup>

<sup>9</sup> "Étude sur l'*Esprit des Loix*, de Montesquieu," *Revue de Droit international et de Législation comparée*, I (1869), 171. Cf. *idem* in his edition of the *Œuvres complètes de Montesquieu*, III, xvi-xvii.

Laboulaye's surmise is not supported by the evidence. The notes to which Laboulaye must refer were copied, word for word, from a memorandum prepared by James Madison prior to the Federal Convention. One has only to compare Washington's notes entitled "An Abstract of the General Prin-

Typifying the opposite school of thought is this statement of James Breck Perkins, an investigator in the field of Franco-American relations:

By French literature the colonists were unaffected, because, with few exceptions, they knew nothing about it. The number who could read French was small, the number who did read French to any extent was smaller . . . ; the political theories of Montesquieu and of Rousseau, the wit of Voltaire, the infidelity of the encyclopaedists, had no influence upon men, the most of whom did not know these writers even by name. Our ancestors' modes of thought were essentially English; the political traditions which they inherited, the political institutions which they founded, were unaffected by French thought.<sup>7</sup>

Patriotism, even jealousy, might be advanced in partial explanation of assertions and denials of influence by those who actually aided in establishing the American government. But such factors have no part in the honest opinions of scholars who, from the vantage point of history, have had an opportunity to weigh the matter. Yet between the extreme and contradictory statements of Laboulaye and Perkins, one finds expressed every variety of opinion. At no time has there been any unanimity among scholars as to the influence of Montesquieu in America. There has been a preponderance of opinion in favor of his influence on the separation of powers principle. Even

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cles of Ancient and Modern Confederacies" (Cf. Jared Sparks, ed., *The Writings of George Washington* [New York, 1847], IX, 521-38, App.) with Madison's memorandum "Of Ancient & Modern Confederacies." (Cf. Gaillard Hunt, ed., *The Writings of James Madison* [New York, 1900-10], II, 369-90.) The source of these notes in Washington's handwriting, which are in the Manuscript Division of the Library of Congress, has been pointed out before, but Sparks (cf. *op. cit.*, p. 521 n.) could not give any account of Washington's manuscript although he said that "It could hardly have been drawn up originally by him, . . ."

<sup>7</sup> *France in the American Revolution* (Boston and New York, 1911), pp. 418-19.