

Moral Reasoning 74:
The Theory and Practice
of Republican Government

Lecture 12:
Montesquieu and Republican Arrangements

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Bicameral Legislature

[160]: “In a state there are always some people who are distinguished by birth, wealth, or honors; but if they were mixed among the people and if they had only one voice like the others, the common liberty would be their enslavement and they would have no interest in defending it, because most of the resolutions would be against them. Therefore, the part they have in legislation should be in proportion to the other advantages they have in the state, which will happen if they form a body that has the right to check the enterprises of the people, as the people have the right to check theirs.”

Bicameral Legislature

[160]: “Thus the legislative power will be entrusted both to the body of the nobles and to the body that will be chosen to represent the people, each of which will have assemblies and deliberations apart and have separate views and interests.”

IV. Executive Power

“The executive power should be in the hands of a monarch, because the part of the government that almost always needs immediate action is **better administered by one than by many**, whereas what depends on legislative power is often better ordered by many than by one.” [162]

“If there were no monarch and the executive power were entrusted to a certain number of persons drawn from the legislative body, **there would no longer be liberty**, because the two powers would be united, the same persons sometimes belonging and always able to belong to both.”

Same principle leads to proposal for continuous legislative sessions.

Importance of Veto Power

“If the executive power does not have the right to check the enterprises of the legislative body, the latter will be despotic, for it will wipe out all the other powers, since it will be able to give to itself all the power it can imagine.” [162]

“But the legislative power must not have the reciprocal faculty of checking the executive power. For, as execution has the limits of its own nature, it is useless to restrict it; besides, executive power is always exercised on immediate things. And the power of the tribunes in Rome was faulty in that it checked not only legislation but even execution; this caused great ills.”

Montesquieu and Republican Arrangements: Major Themes

I. Idea of a Republic

II. Fundamentality of Virtue and Institutions for Maintaining It (Senate, Censors)

III. Sumptuary Laws

I. Montesquieu's Lawful Republic

A. Idea of a Democratic Republic; Part I, Book 2, Ch 2, "On republican government and on laws relative to democracy," p. 10:

"In a republic when the people as a body have sovereign power, it is a democracy. When the sovereign power is in the hands of a part of the people, it is called an aristocracy.

In a democracy the people are, in certain respects, the monarch; in other respects, they are the subjects.

They can be the monarch only through their votes which are their wills. The sovereign's will is the sovereign himself.

Therefore, the laws establishing the right to vote are fundamental in this government. Indeed, it is as important in this case to regulate how, by whom, for whom, and on what issues votes should be cast, as it is in a monarchy to know the monarch and how he should govern."

I. Montesquieu's Lawful Republic

B. Control over elected officials is critical.

"A people having sovereign power should do for itself all it can do well, and what it cannot do well, it must do through its ministers.

Ministers do not belong to the people unless the people name them; therefore it is a fundamental maxim of this government that the people should name their ministers, that is, their magistrates." [p. 11]

I. Montesquieu's Lawful Republic

C. People are incapable of self-rule, but very capable of choosing meritorious leaders. [p. 12]

"The people are admirable for choosing those to whom they should entrust some part of their authority. They have only to base their decisions on things of which they cannot be unaware and on facts that are evident to the senses.

They know very well that a man has often been to war, that he has had such and such successes; they are, then, quite capable of electing a general. They know that a judge is assiduous, that many people leave the tribunal satisfied with him, and that he has not been convicted of corruption; this is enough for them to elect a praetor.

...But will the people know how to conduct the public business, will they know the places, the occasions, the moments, and profit from them? No, they will not.

"If one were to doubt the people's natural ability to perceive merit, one would only have to cast an eye over that continuous series of astonishing choices made by the Athenians and the Romans; this will doubtless not be ascribed to chance."

I. Montesquieu's Lawful Republic

C. Optimal Size of Republic is Small

"It is in the nature of a republic to have only a small territory; otherwise, it can scarcely continue to exist. In a large republic, there are large fortunes, and consequently little moderation in spirits: the depositories are too large to put in the hands of a citizen; interests become particularized; at first a man feels he can be happy, great and glorious without his homeland; and soon, that he can be great only on the ruins of his homeland." [Part I, Book 8, Chapter 16, "Distinctive properties of the republic," p. 124]

"In a large republic, the common good is sacrificed to a thousand considerations; it is subordinated to exceptions; it depends upon accidents. In a small one, the public good is better felt, better known, lies nearer to each citizen; abuses are less extensive there and consequently less protected."

II. VIRTUE

"In order to understand the first four books of this work, one must note that what I call virtue in a republic is love of the homeland, that is, love of equality. It is not a moral virtue or a Christian virtue; it is political virtue, and this is the spring that makes republican government move, as honor is the spring that makes monarchy move. Therefore, I have called love of the homeland and of equality, *political virtue*." [From author's foreward, p. xli.]

"Virtue, in a republic, is a very simple thing; it is love of the republic; it is a feeling and not a result of knowledge; the lowest man in the state, like the first, can have this feeling. Once the people have good maxims, they adhere to them longer than do those who are called honnetes gens. Corruption seldom begins with the people; from their middling enlightenment they have often derived a stronger attachment to that which is established." [p. 42]

II. VIRTUE

[p.23]: "When that virtue ceases, **ambition** enters those hearts that can admit it. Desires change their objects: that which one used to love, one loves no longer. Each citizen is like a slave who has escaped from his master's house. What was a maxim is now called severity; what was rule is now called constraint; what was vigilance is now called fear. There, frugality, not the desire to possess, is avarice. Formerly the goods of individuals made up the public treasury; the public treasury has not become the patrimony of individuals. The republic is a cast-off husk, and its strength is no more than the power of a few citizens and the license of all."

III. IDEA OF SUMPTUARY LAWS

Explicit aim of a republic must be to establish frugality.

“Love of frugality limits the desire to possess to the mindfulness required by that which is necessary for one’s family, and even by that which is superfluous for one’s homeland. Wealth gives a power that a citizen cannot use for himself, for he would not be equal. It also procures delights that he should not enjoy, because these would likewise run counter to equality.

Thus by establishing frugality in public life, good democracies opened the gate to public expenditures, as happened in Athens and in Rome. Magnificence and abundance had their source in frugality itself; and, just as religion requires unsullied hands so that one can make offerings to the gods, the laws wanted frugal mores so that one could give to one’s homeland.” [43]

III. IDEA OF SUMPTUARY LAWS

...in republics where wealth is equally divided, there can be no luxury; and, as one has seen in Book 5 that this equality of distribution is made the excellence of a republic, it follows that **the less luxury there is in a republic, the more perfect it is**. There was none among the first Romans; there was none among the Lacedaemonians; and in republics where equality is not altogether lost, the spirit of commerce, of work, and of virtue makes each one there able and willing to live from his own goods; consequently, there is little luxury.

Laws divided the fields anew, demanded with such insistence in certain republics, were salutary by their nature. They are dangerous only as a sudden action. ...

So far as luxury is established in a republic, so far does the spirit turn to the interest of the individual. For people who have nothing but the necessities, there is left to desire only the glory of the homeland and one’s own glory. **But a soul corrupted by luxury has many other desires; soon it becomes an enemy of the laws that hamper it.** [Book 7, Chapter 2, p. 96]

Questions

- (1) What sort of “sumptuary laws” ought a republic to have, if any?
- (2) Ought a republic to prevent extreme inequality?
- (3) Should republics prevent or limit luxury?
- (4) What are modern-day analogs of the sumptuary law?

First Papers

Early feedback:

- Most papers showed good core knowledge of mixed regime theory or relationship between religion and stability in *Discourses*
- Typographical errors kept to minimum; few if any students lost points on this
- Each question had two parts; not every paper gave due weight to the second part (i.e., how the mixed regime breaks cycling, or how religion would operate in Madison's legislature)
- Avoid sweeping generalizations made without citations ("Democracy is now the principal means of organizing politics around the globe, but its origins are murky and its instances infrequent until the Enlightenment.")

Overall: Better than in previous years; reflects better attendance and engagement in class. Average Grade: B to B-plus.
