

<http://montesquieu.ens-lyon.fr/spip.php?article2636>



V.19 Other consequences of the principles of the three governments

- The Spirit of Law - Book V. That the laws made by the legislator must be relative to the principle of the government -

Date de mise en ligne : mercredi 22 août 2018

Copyright © Montesquieu - Tous droits réservés

I cannot resist, before concluding this book, making a few more applications of my three principles.

FIRST QUESTION. There is a question whether the laws should force a citizen to accept public functions. I say they should in a republican, and not in a monarchical, government. In the former, magistracies are testimony to virtue, trusts which the country delegates to a citizen, who should live, act and think only for the republic ; hence he cannot refuse them. [1] In the latter, magistracies are testimony to honor ; but such is the oddity of honor that can choose to accept none except when it wishes, and in the manner it wishes.

The late king of Sardinia [2] would punished those who refused the dignities and functions of his state ; he was, unbeknownst to him, following republican ideas. His manner of governing, moreover, sufficiently proves that that was not his intention.

SECOND QUESTION. Is it a good maxim that a citizen can be obliged to accept in the army a position lower than one he has occupied ? Among the Romans, a captain often served the following year under his lieutenant. [3] That is because in republics virtue requires a continual sacrifice of oneself and of one's aversions to the state. But in monarchies, honor true or false cannot bear what it calls the lowering of oneself.

In despotic governments, where honor, positions, and ranks are equally abused, it is indifferent to make of a prince a churl, or of a churl a prince.

THIRD QUESTION. Shall civilian and military functions be placed on the same head ? They must be combined in the republic, and separated in the monarchy. In republics it would be quite dangerous to make the profession of arms into a particular estate, distinguished from that which holds civilian functions ; and in monarchies there would be no less peril in assigning the two functions to the same person.

In the republic you take up arms only as defender of the laws and the homeland ; it is because you are a citizen that you become a soldier for a time. If there were two distinct estates, you would make the man who thinks of himself as a citizen under arms aware that he is merely a soldier.

In monarchies, men of war have no objective besides glory, or at least honor or fortune. Care must be taken not to give civilian functions to such men ; they must on the contrary be contained by the civilian magistrates, and the same men must not have at the same time the confidence of the people and the force with which to abuse it. [4]

Observe, in a nation where the republic hides under the form of monarchy, how much they fear a particular estate of men of war, and how the warrior remains still a citizen, or even a magistrate, so these functions will be a token for the country, and that one never forget it.

That division of magistracies made by the Romans into civilian and military after the loss of the republic was not something arbitrary. It was a consequence of the change in the constitution of Rome ; it was in the nature of the monarchical government ; and what was begun under Augustus [5] to temper the military government, the emperors following [6] were required to complete.

Thus Procopius, a rival of Valens for the empire, was oblivious to this when, giving to Hormisdas, prince of the royal blood of Persia, the dignity of proconsul, [7] he turned over to that magistracy the command of the armies it used to have, unless he had reasons of his own. A man who aspires to sovereignty is looking less for what is useful to the state than what is useful to his cause.

V.19 Other consequences of the principles of the three governments

FOURTH QUESTION. Is it a good thing for positions to be venal ? This they must not be in despotic states, where subjects must be placed or removed in a moment by the prince.

This venality is good in monarchical states because it causes something which a person would not wish to undertake for virtue to be exercised as a family profession ; because it destines each person for his duty, and makes the orders of the state more permanent. Suidas [8] states quite rightly that Anastasios, by selling all the magistracies, had made the empire into a sort of aristocracy.

Plato [9] cannot abide this venality. It is, he says, "as if on a ship you made someone a pilot or a sailor for his money. Could that rule possibly be bad for every other position in life, and good only for running a republic ?" But Plato is speaking of a republic founded on virtue, and we are speaking of a monarchy. Now, in a monarchy where if the positions are not sold by public requirement, the indigence and avidity of courtiers would sell them all the same, chance will yield better subjects than the prince's choice. In short, the manner of promoting oneself by wealth inspires and supports industry, [10] something which this kind of government greatly needs.

Fifth Question. In which government should there be censors ? They are required in a republic, where the principle of the government is virtue. It is not crimes alone that destroy virtue, but also omissions, mistakes, a degree of tepidness in the love of homeland, dangerous examples, seeds of corruption : that which does not offend the laws, but eludes them ; does not destroy them, but weakens them : all this must be corrected by the censors.

We are surprised at the punishment of that Areopagite who had killed a sparrow which, pursued by a hawk, had taken refuge in his bosom. We are surprised that the Areopage sent to his death a child who had put out his bird's eyes. We must note that the issue here is not the condemnation for crimes, but a moral judgment in a republic based on morality.

In monarchies there must be no censors : monarchies are founded on honor, and the nature of honor is to have the whole world as censor. Every man who fails in that is subject to the reproaches of those very persons who have none.

There, censors would be spoiled by the very persons whom they should correct ; they would not be effective against the corruption of a monarchy, but the corruption of a monarchy would be too strong against them.

It goes without saying that there is no need for censors in despotic governments. The example of China seems an exception to this rule, but we shall see later in this work the singular reasons for that institution.

[1] Plato, in his *Republic*, book VIII, includes such refusals among signs of corruption in a republic. In his *Laws*, book VI, he would have them punished merely by a fine ; in Venice they are punished by exile.

[2] Victor Amadeus.

[3] Some centurions having appealed to the people to request the function they had had : "It is just, my companions, said a centurion, that you should regard as honorable every position in which you shall defend the republic." (Livy, book XLII.)

[4] *Ne imperium ad optimos nobilium transferretur, senatum militia vetuit Gallienus, etiam adire exercitum.* ['Lest power be passed to the best of the nobles, Gallienus forbade the senate military service, and even entry to the army.'] (Aurelius Victor, *De viris illustribus* [Of the greatest men].)

V.19 Other consequences of the principles of the three governments

[5] Augustus deprived senators, proconsuls and governors of the right to bear arms. (Dio, book XXXIII.)

[6] Constantine : see Zosimus, book II.

[7] Ammianus Marcellinus, book XXVI. *[[Et civilia] more veterum et bella recturo* ('In keeping with old custom, he put him in charge of civil and military affairs').

[8] Fragments drawn from the *Embassies* of Constantine Porphyrogenitus. [The passage from Suidas can be found directly in his *Opera historica* of 1581 (*Catalogue*, <http://montesquieu.huma-num.fr/bibliotheque/fiche/brede/2534>">no. 2534], [p. 77](#)), or in his encyclopedia (called the *Suda*) itself (*Catalogue*, [no. 2533](#), [p. 251](#)). There was perhaps some confusion with the *De legationibus* of Polybius, one of many texts compiled in the 10th century under Constantine Porphyrogenitus, and parts which had been published in several versions.]

[9] *Republic*, book VIII.

[10] The indolence of Spain : all functions are so allotted.