

Commercial Society and Liberty in *The Spirit of the Laws* Concerning the Notion of “Independence”

Ryo Sadamori

To address the new historical phenomenon, the framework Montesquieu introduced in his project was his particular distinction between “political” and “civil.” The former implies the relation between the governor and the governed, and the latter the relation “all citizens have with one another.” In *The Spirit of the Laws*, corresponding to this distinction, there are two important chapters on England. One is Book 11, Chapter 6, on the constitution, in which the famous definition of “political liberty” is demonstrated as “the right to do everything the law permits.” The other is Book 19, Chapter 27, on mores, manners and the character of a nation.

The problematic of the “civil” is supposed to lie between the two above-mentioned chapters. Especially in Book 18, the importance of the role of mores is found where liberty is not necessarily considered with existence of laws. There emerges a need to re-evaluate the notion of “independence,” which has been neglected all through the research on Montesquieu. All the questions

concerned here lead us to position Montesquieu’s understanding of Tacitus’ *On the Mores of Germans* as central to *The Spirit of the Laws*. “Independence” is considered in relation to the governor, and the geography, especially the mountain, enables the people to defend themselves without his guard. That is how mountain people generate republican government through their mores, and Montesquieu found there the “spirit of liberty.”

In England, this type of independence of citizens had been established by the possession of movable property. Thus, the development of commercial society through centuries make the realm of the “civil” itself autonomous and divided from that of the “political.” In short, the spirit of liberty could historically generate the very condition of “political liberty” while both types of liberty heterogeneously maintain their mutual correlation.

JEL classification numbers: B 31, N 01.