Montesquieu’s *The Spirit of Laws*

As you read note the reasons Montesquieu gives in favor of separation of powers. The following words may be new to you: abrogates, apprehensions, tyrannical, oppressor. You may want to use a dictionary to look them up.

In every government there are three sorts of power: the legislative; the executive, in respect to things dependent on the law of nations; and the executive, in regard to matters that depend on civil law.

By virtue of the first, the prince or magistrate enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies, establishes the public security, and provides against invasions. By the third, he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other simply the executive power of the state.

The political liberty of the subject is a tranquillity of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor.

There would be an end of every thing were the same man, or the same body, whether of the nobles or of the people to exercise those three powers...
that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals . . .

The executive power ought to be in the hands of a monarch; because this branch of government, which has always need of expedition, is better administered by one than by many: Whereas, whatever depends on the legislative power, is oftentimes better regulated by many than by a single person.

But if there was no monarch, and the executive power was committed to a certain number of persons selected from the legislative body, there would be an end then of liberty; by reason the two powers would be united, as the same persons would actually sometimes have, and would moreover be always able to have, a share in both.

Source: Modern History Sourcebook, www.fordham.edu/halsall/mod/Montesquieu-spirit.html

WHAT DID YOU LEARN?

1. **Identify** What three sorts of power does each government have?

2. **Explain** According to Montesquieu, what is necessary for political liberty?

3. **Make Inferences** How do you think Montesquieu’s ideas influenced the Framers of the Constitution?