A Tocquevillean Polity?
The Mixed Regime in Tocqueville’s *Democracy in America*

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I. Introduction

The central feature of Tocqueville’s study of democracy is the great division he finds between “aristocracy” and “democracy.” Throughout Democracy in America, Tocqueville seems never to stop comparing them: inequality and equality, old world and new, each with its particular vices and virtues. There is no government that is not one or the other, no best regime that is above them. This distinction would seem to be the balance of his “new science of politics,” always weighing aristocracy on one side against democracy on the other.

Yet just before the end of his master work we are told that it would be “unjust” to judge one against the other, “for these societies, differing enormously between themselves, are not comparable.”¹ They are, “as it were, two distinct humanities.”² Each has its “particular advantages and inconveniences, its goods and evils that are proper to it.”³ It is a tradeoff, as we might say: democracy has its ups and downs, and so does aristocracy. We used to have aristocracy, and now we have democracy. Is this the brilliant insight for which Tocqueville is known?

Or is he more like some of his contemporaries, who “undertake to make a choice” of the elements of the former society and hope to “carry them into the new world”?⁴ But if so, then Tocqueville would seem to be his own harshest critic. If he is like them, wishing to retain something of the institutions, opinions,

¹ Alexis de Tocqueville, Democracy in America, trans. Harvey Mansfield and Delba Winthrop (University of Chicago Press, 2002), 675. All citations of Democracy in America are from this edition unless otherwise noted. Future references to this edition will follow this format: DAII, part 4, chap. 8, 675.
² Ibid.
³ Ibid.
⁴ Ibid.
and ideas “born of the aristocratic constitution” of the past, then he must be engaged in “honest and sterile work.” Perhaps the most damning review of *Democracy in America* was written by the author himself!

Today, no one would think of making such an assessment of Tocqueville’s masterpiece. But one of the longest running debates in the literature revolves around the question of how “democratic” or “aristocratic” he was. In a famous passage, Tocqueville declares that the “organization and establishment of democracy” is the “great political problem of our time.” Is “aristocracy” part of the solution, or is it only part of the problem? As one commentator asked more than four decades ago: Behind the “veil of neutrality or objectivity” that conceals his deepest views, “does he favor one social system, aristocracy or democracy, over another?”

Answers have varied widely since the publication of the first part of *Democracy* in 1835. One answer, however, has been notably absent from the debate: Tocqueville favors neither aristocracy nor democracy exclusively, but rather a mix of the two. This is just the one I want to advance. There is a reason, of course, that the most obvious answer has received the least attention. Whatever veil of neutrality he threw over the rest of his work, the part of *Democracy* that addresses the possibility of “mixed government” seems as clear as can be:

The government called mixed has always seemed to me a chimera. There is, to tell the truth, no mixed government (in the sense that

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5 DAI II, part 4, chap. 8, 675.
7 DAI II, part 2, chap. 9, 298.
one gives to this word), because in each society one discovers in the end one principle of action that dominates all the others.9

In this paper, I will attempt to show how Tocqueville judges a mixture of aristocracy and democracy to be, if not the best, the best applicable regime, given the irreversible fact of “equality of conditions” and the indomitable principle of the “sovereignty of the people.”

Tocqueville came to America “to paint and to judge.”10 The painting of the mixed regime would seem to begin with a democratic sketch: the principle of equality, the democratic social state, and the popular political order. Therefore I will first entertain a “democratic reading” of Tocqueville which argues that the problem of democracy can be solved on the level of democracy, without aristocratic elements, inheritances from aristocracy, reconstructions, or reincarnations of aristocracy. This is what Tocqueville seems to suggest when he warns against “reconstructing aristocracy,” prescribes “new remedies for new ills,” and calls for a “new political science for a world entirely new.”

Second, having conceded Tocqueville’s endorsement of democracy, I will attempt to explain his conception of aristocracy. Proponents of the “democratic reading” have often overlooked the richness and variety of the range of meanings of “aristocracy” in Tocqueville’s work. Although there have been studies of the many meanings of “democracy,” I am not aware of any similar project for Tocqueville’s use of “aristocracy.” Aristocracy may not persist in its precise historical form, Tocqueville indicates, but “aristocracy” is not merely a thing of

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9 DAI, part 2, chap. 7, 240.
the past. A better understanding of Tocqueville’s conception of aristocracy will reveal how aristocracy can persist in democracy, and what role it can play.

Third, having considered Tocqueville’s embrace of democracy and suggested how it might be qualified by his conception of aristocracy, I will elaborate on the problem of democracy. Before turning to the “new remedies” of Tocqueville’s political science, we must diagnose the “new ills” for which they are prescribed. Tocqueville perceives the greatest threat to democracy, I argue, as a democratic reconstruction or reincarnation of absolute monarchy. Some scholars have noted the broad similarities between the “soft despotism” described in the second volume of * Democracy and the despotism of * The Old Regime. But the particular ways in which democratic despotism preserves the spirit of absolute monarchy in new forms have not been explored. I also suggest that for Tocqueville, the typical solution of modern political science to the problem of democracy – representation – fails as a remedy for tyranny of the majority and soft despotism.

Fourth, having shown that the “new ills” of democracy are perhaps not so new, and not curable by representation, I turn to the puzzle of the “new remedies.” If the greatest threat to democracy is a democratic reincarnation of absolute monarchy, and if Tocqueville conceives of aristocracy as the traditional safeguard against royal power, one might expect aristocracy to play a role in solving the problem of democracy.

Although some scholars have labeled Tocqueville an “aristocratic democrat” or “aristocratic liberal,” I know of none who attempt to bring together
and analyze all the subtle ways in which Tocqueville indicates that “aristocracy” can counteract the natural defects of democracy.\textsuperscript{11} Some who have attempted to come to terms with Tocqueville’s “new kind of liberalism,” especially those who have challenged Tocqueville’s claim to originality by assimilating him to the tradition of his liberal contemporaries or predecessors, have failed to recognize the distinctiveness of his largely pre-modern, aristocratic outlook.\textsuperscript{12}

At a theoretical or conceptual level, I will argue, aristocracy remains the key to the new political science, which aims to secure “liberty and human greatness” against the “dangerous instincts” of democracy. Through the comparative analysis of aristocracy and democracy, we discover the vulnerabilities of democracy and the strengths of American practice. At a minimum, democracy must imitate certain features of the aristocratic way of life, such as its decentralized structure, to counteract the new forms of despotism that democracy tends to develop.

Throughout *Democracy*, many features of American democracy are described as aristocratic in character or origin. Tocqueville does not add all of

\textsuperscript{11} The most perceptive treatment of the function of aristocracy in Tocqueville’s “new political science,” however, is Sheldon Wolin’s study in *Tocqueville Between Two Worlds*. See Sheldon S. Wolin, *Tocqueville Between Two Worlds: The Making of a Political and Theoretical Life* (Princeton University Press, 2003). Although Wolin exaggerates Tocqueville’s “reactionary” fear of democracy, he sees that Tocqueville’s judgment of modern democracy is informed by a unique “feudal sensibility” (238).

them up in one place, but on close observation, the sum of aristocratic features turns out to be quite substantial. Lawyers are described as an “aristocratic element,” and some parties in democracy have “aristocratic passions” at the bottom of their souls. Religion, rights, local liberty, juries, justices of the peace, and the Constitution are all variously described as inheritances from aristocracy.

Thus, in addition to imitating certain features of aristocracy, democracy can mix with aristocratic elements and make use of aristocratic inheritances. The aristocratic features are democratized to varying degrees, but this very adjustment allows them to provide an aristocratic moderation of democracy. Even when Tocqueville upholds remedies that do not appear to be “aristocratic” in origin or character, he frequently resorts to the language of aristocracy as if to imply that something of the spirit of aristocracy must persist in new democratic forms. For instance, associations in democracy may be based on self-interest, but they are expected to function as a reincarnation of the “powerful persons” who resisted royal power in aristocratic times. The aristocratic elements and inheritances also elevate “plain citizens” to quasi-aristocratic heights of pride, love, and grandeur.

The Tocquevillean polity may be built on a democratic foundation, I argue, but it is a mixture of aristocracy and democracy. Not all its materials are taken from democracy. Moreover, those materials that may be drawn from democracy seem to be democratic reconstructions or reincarnations of aristocracy; they must preserve the natural structure or spirit of aristocracy in new, artificial forms. Features of American practice that are aristocratic in origin or character persist in democracy to form a mixed regime.
Finally, having illuminated Tocqueville’s implicit endorsement of a mixed polity, I briefly address Tocqueville’s explicit rejection of “mixed government.” I argue that this rejection of mixed government is narrower than is commonly assumed, and leaves open the possibility of a Tocquevillean polity.
II. Tocqueville’s Embrace of Democracy

The political world is changing; henceforth one must seek new remedies for new ills.

--Tocqueville

I perceive many of my contemporaries who undertake to make a choice among the institutions, the opinions, the ideas born of the aristocratic constitution of the former society; they willingly abandon some, but they would wish to retain others and carry them into the new world with them. I think that they are consuming their time in an honest and sterile work.

--Tocqueville

Tocqueville’s friend Ampère had a simple but perceptive reading of Democracy: “To exorcise the evils of equality, you tell us, cherish liberty!”

Whatever Tocqueville thought of his literary friend’s politics generally, this eloquent summary pleased him very much. Among contemporary interpreters of Tocqueville, the idea of the equal liberty of all human beings is often seen as the “principled resolution to the problem of democracy.” Democracy is not much of a problem after all because equality and liberty can be reconciled.

The “democratic reading” of Tocqueville argues that he strongly embraces democracy, strongly rejects aristocracy, and solves the problem of democracy on the level of democracy. The best representative of the “democratic reading” in the secondary literature is the eminent historian Seymour Drescher, who has been

13 DAII, part 4, chap. 7, 672.
14 Ibid.
15 Brogan, Alexis de Tocqueville, 370.
called “arguably the finest Tocqueville scholar writing in English.”\(^{18}\) Drescher has long had a democratic interpretation of Tocqueville, but the most concentrated and explicit statement of his democratic reading can be found in an article aimed in part at Sheldon Wolin’s recent study of Tocqueville’s life and work, *Tocqueville Between Two Worlds*.\(^{19}\)

Drescher rejects the notion that Tocqueville’s life and thought ever retreated into “archaic retrieval” in order to revive what Wolin describes as “aristocratic *ancienneté*” against democratic modernity.\(^{20}\) According to Drescher, Tocqueville’s “new remedies for new ills” are fundamentally disengaged from the aristocratic past. The “new” political science “announces the utter pastness of aristocracy” as of “limited relevance to the world’s present and future.”\(^{21}\) One need only apply democratic solutions to democratic problems. We must begin with a democratic canvas and paint from a democratic palette.

On this view, democracy does not owe aristocracy any debt for the preservation of liberty. If anything, the more immediate the legacy of aristocracy, as in France, the more difficult the establishment of liberal democracy will be. In the United States, Drescher contends, liberty is fortunately “linked to a *point de


\(^{19}\) See Drescher, “Who Needs Ancienneté?” Drescher’s response to Wolin is a full-length scholarly article that integrates Drescher’s extensive scholarship on Tocqueville over the past several decades. Wolin’s book presents an often critical, aristocratic reading of Tocqueville as a repressed reactionary yearning for a mythologized aristocratic past. If Drescher is the best representative of the “democratic reading” in the literature, Wolin is perhaps the best representative of the “aristocratic reading.” Although my interpretation of Tocqueville differs substantially from Wolin’s, his reading is also opposed to the “democratic reading” and sheds considerable light on how aristocracy informs Tocqueville’s perception of democracy at a broad theoretical level. Therefore it may be useful to address objections to Wolin’s thesis which might also apply to my thesis.


\(^{21}\) Ibid. See also 628.
départ divorced from Europe’s aristocratic institutions and social hierarchy.”

The American polity was a “slice of pre-modern communal liberty” and moderate equality, “surgically excised” from the “multi-class, feudal and authoritarian nexus” of European politics.

It might be better to say, as Tocqueville does, that America’s free institutions were “transplanted.” This would emphasize the natural continuity with aristocratic and Puritan England as opposed to an artificial cut with the European past. But Drescher’s general point about Tocqueville’s opposition to aristocracy is plausible given all of the apparent confirmation that this view receives in the text of Democracy, letters, and public speeches.

Tocqueville starts and ends Democracy by declaring the inevitable triumph of democracy to be a “providential fact.” The democratic social state “will not change.” The American Revolution, as Tocqueville later wrote, was “like the voice of John the Baptist” crying from the wilderness that “new times are coming.”

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22 Ibid, 626.
23 Ibid.
24 DAI, Intro., 12.
25 DAI, Intro., 6. See also DAI, part 4, chap. 8, 676. Although Zetterbaum argues that Tocqueville uses the “inevitability thesis” as a “salutary myth” to convince his contemporaries to make the best of their circumstances, Drescher ably refutes this. It is unlikely that Tocqueville would have perpetuated this “myth” so assiduously in his private notes and letters, and nothing he says indicates that the democratic social state is reversible. See Dilemmas of Democracy, 1-15. On the other hand, Zetterbaum is surely correct to suggest that Tocqueville’s particular context may have led him to exaggerate his criticism of aristocracy in order to ensure that he would not be dismissed as a legitimist or a reactionary. Tocqueville’s private conversations and correspondence indicate a harsher view of democracy and greater praise of aristocracy than his major published works. See especially Nassau William Senior, Correspondence & Conversations of Alexis de Tocqueville with Nassau William Senior from 1834 to 1859 (H.S. King & co., 1872).
26 DAI, part 4, chap. 8, 675.
As Tocqueville was quick to remind his electors in France whenever he was accused of aristocratic bias, he became one of the leading evangelists of this prophecy in Europe with the publication of his master work.

Tocqueville wrote in a letter in 1835 that he believed his hard-headed, forward-looking impartiality put him in “a category altogether different” from theorists of democracy such as Théodore Jouffreys, who accepted democracy’s inevitability but sought to hold on to the old social and political order as long as possible. These critics of democracy rowed desperately against the current, their backs to the precipice, trying to postpone the inevitable instead of facing it head on “like a strong man… who exposes himself to dangers without regret and without misgivings, as the necessary requirement of his undertaking.”

Facing democracy would seem to require turning one’s back on aristocracy. This turn from reactionary opposition to gradual moderation is what Tocqueville refers to as the “premise,” the “fundamental idea,” of Democracy in America. Those who govern must erect “dikes” to channel the democratic current, not dams to block its natural flow. This belief in the “progressive organization of democracy” provides the context for his criticism of the “natural tendencies” of the democratic social state.

If Tocqueville accepts the democratic revolution as a fact, despite an occasional shudder at its irresistible force, he seems to embrace it just as strongly in principle. He endorses the justice of the principle of equality, and its corollary

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29 Ibid.
30 Ibid.
31 Ibid, 136.
in the sovereignty of the people, over the unjust aristocratic principle of
inequality. He compares feudalism to barbarism, and he condemns slavery as
degrading to master and slave alike.\textsuperscript{32} He may “admire the flower,” as one
commentator suggests, but he seems to abhor the “seed from which it grows.”\textsuperscript{33}

As Drescher notes, Tocqueville reserves some of his harshest criticism of
aristocracy for the last chapter of the first \textit{Democracy}.

\begin{quote}
An aristocratic corps is composed of a certain number of
citizens who, without being placed very far from the crowd,
are nevertheless elevated above it in a permanent manner; [a
corps]… with which one mixes daily and cannot intermingle.
It is impossible to imagine anything more contrary to the
nature and the secret instincts of the human heart than a
subjection of this kind.\textsuperscript{34}
\end{quote}

Aristocracy, at least in its main historical incarnation, is “so strongly repugnant to
natural equity” that to endure it must “found inequality in principle” and “legalize
it in advance” by coercion and conquest.\textsuperscript{35} Purely legal inequalities are “fictitious”
and permanent differences established among people evidently alike are “contrary
to the instinct of man.”\textsuperscript{36}

In the aristocratic era that includes the ancient republics of Greece and
Rome, the simple idea of natural equality had not yet penetrated minds. The
“most profound and vast geniuses of Rome and Greece” could scarcely perceive
the “similarity of men” – the notion of “those like oneself” or \textit{semblables} – and
the “equal right to freedom that each bears from birth.”\textsuperscript{37} Instead, the great writers

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\textsuperscript{32} DAI, part 2, chap. 10, 315.
\textsuperscript{33} Zetterbaum, 23.
\textsuperscript{34} DAI, part 2, chap. 10, 383.
\textsuperscript{35} Ibid.
\textsuperscript{36} DAI, part 2, chap. 10, 328.
\textsuperscript{37} DAILI, part 1, chap. 3, 413.
\end{flushright}
of antiquity “did their utmost to prove that slavery was natural.” Aristocracy was perceived as legitimate, even by slaves who had won their freedom, because the proper understanding of justice was obscured by convention and false doctrine. Before the foundation of justice in natural equality could be understood, a religious transformation had to take place. It was “necessary that Jesus Christ come to earth” to “make it understood that all members of the human species are naturally alike and equal.” This revelation is at the core of the democratic revolution and perhaps explains its providential character. When Tocqueville strives to “enter into the point of view of God” at the conclusion of Democracy, he repeats that equality is “perhaps less elevated, but it is more just.”

Tocqueville seems to take nearly the opposite view to that of Burke, the traditionalist, who defended the old hierarchical order as a divinely sanctioned way of life. If anything, the new order is divinely sanctioned as revealed in the teachings of Christ. Burke, following Aristotle, nearly equated democracy with tyranny. Democracy is in a sense a rejoinder to the reactionary romanticism of Burke’s Reflections, aiming to replace despair with hope and “salutary fear of the future.”

It is important to recognize that for Tocqueville, aristocracy was “legitimate” in its time. Though “often contrary to the freedom of particular persons,” aristocratic political institutions nevertheless served to “maintain the

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38 Ibid.
39 Ibid.
40 DAI, part 4, chap. 8, 675.
love of freedom in souls.” Religion, love of subjects, the goodness of the prince, honor, family spirit, provincial prejudices, custom and public opinion “bounded the power of the kings” and “confined their authority within an invisible circle.”

Aristocracy upheld the spirit of freedom even in servitude. Constitutions were despotic and “mores were free.” Burke made a similar point in the Reflections, and with more feeling than Tocqueville ever mustered for the regime of his own ancestors:

But the age of chivalry is gone! … That of sophisters, economists, and calculators has succeeded; and the glory of Europe is extinguished forever. Never, never more shall we behold that generous loyalty to rank and sex, that proud submission, that dignified obedience, that subordination of the heart which kept alive, even in servitude itself, the spirit of an exalted freedom. The unbought grace of life, the cheap defense of nations, the nurse of manly sentiment and heroic enterprise, is gone! 

So what is Tocqueville but Burke without exclamation points? Burke lamented the fall of the old order, but Tocqueville has come to terms with democracy in fact and principle.

Traditional aristocracy is dead. The loss of the beautiful manners of aristocracy is regrettable, but not reversible. Burke had denounced the French Revolution and wept for Marie Antoinette. Tocqueville claims that he can be “strongly attached only to the living.” And whereas Burke never dwelled on the injustice of the traditional order, Tocqueville prompts us to remember the

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42 DAI, part 2, chap. 9, 299.
43 DAI, part 2, chap. 9, 299.
44 DAI, part 2, chap. 9, 299. Tocqueville defines “mores” as “habits of the heart” and “habits of the mind,” including ideas, opinions and sentiments. See DAI, part 2, chap. 9, 275.
45 Burke, Reflections, 170.
46 On the manners of aristocracy, see DAI, part 3, chap. 13, 578-581. We are “permitted to regret” the loss of these manners, but not to attach too much importance to it.
harshness and cruelty of the old aristocracy. If he is charmed by the “beautiful illusions” of the old aristocracy, he is not mesmerized. We may pity the plumage, but we cannot forget the dying bird.⁴⁸

Although aristocracy played a useful role historically in counteracting despotism and resisting the central power, Tocqueville seems to think that these functions can be fulfilled by democratic substitutes such as associations. As Christian revelation belied Aristotle’s defense of natural slavery, American practice seems to dispense with Plato’s critique of democracy in The Republic.

“All excess,” Plato argues, “is wont to bring about a corresponding reaction to the opposite” in the natural world and “most especially in political societies.”⁴⁹ Democracy is the most likely of the regimes to degenerate into tyranny because “the probable outcome of too much freedom” is only “too much slavery in the individual and the state” – from the “height of liberty” to the “fiercest extreme of servitude.”⁵⁰ But Tocqueville, noting the extreme freedom of association in the United States, finds that sometimes “extreme freedom corrects the abuses of freedom” and “extreme democracy prevents the dangers of democracy.”⁵¹

Tocqueville seems to want to “use democracy to moderate democracy,” as he wrote in an unpublished fragment; we must discern sentiments, ideas, and laws which “without being hostile to the principle of democracy,” or having a “natural

⁴⁸ I allude here to Thomas Paine’s famous rebuke of Burke: “He pities the plumage, but forgets the dying bird.” See Paine, The Rights of Man (Digireads Publishing, 2007), 18. The “dying bird” refers to the social body as a whole, but especially to the starving peasants and jailed dissenters of the Old Regime.
⁵⁰ Ibid.
⁵¹ DAI, part 2, chap. 4, 186.
incompatibility,” will “blend with it while moderating it.” As a politician in France, Tocqueville advocated the use of two national legislatures as a democratic, rather than aristocratic, expedient and linked his recommendation of bicameralism with one of his strongest disavowals of aristocracy:

Some people claim that bicameralism is an aristocratic institution... This is a mistake. I do not favor aristocracy. I recognize that our society is deeply democratic and that any attempt to introduce the merest trace, the least atom, of aristocracy would be disastrous.  

Although Tocqueville never rejects aristocracy so strongly in *Democracy*, his understanding of bicameralism as a democratic expedient is consistent with his general reliance on essentially democratic institutions to secure liberty.

Would it not then be necessary to consider the gradual development of democratic institutions and mores, not as the best, but as the sole means that remains to use to be free; and without loving the government of democracy, would one not be disposed to adopt it as the best applicable and the most honest remedy that one can oppose to the present ills of society?  

Would it not be better, Tocqueville asks, “to let oneself be leveled by freedom than by a despot?” The problem of democracy can be solved, at least in principle, by the idea of leveled freedom or equal liberty. This is where it must be solved, it seems, because there is “no question of reconstructing an aristocracy,” but of “making freedom issue from the bosom of the democratic society in which God makes us live.”

53 Tocqueville, “Speech on Bicameralism,” in Olivier Zunz, ed., *Alexis de Tocqueville and Gustave de Beaumont in America: Their Friendship and Their Travels*, trans. Arthur Goldhammer (University of Virginia Press, 2010), 649. It is possible that in this public speech Tocqueville was especially anxious to affirm his democratic credentials, given the revolutionary context of 1848.
54 DAI, part 2, chap. 9, 301.
55 Ibid.
56 DAIIL, part 4, chap. 7, 666.
Tocqueville often seems more sympathetic to aristocratic principles and more concerned about the consequences of their loss in private than in public. But he was no “secret legitimist” or reactionary, as some charged in his day, and as others insinuate today. Even in his private correspondence with his legitimist friend Kergorlay, Tocqueville is ambivalent about the consequences of the democratic revolution but resolute about embracing its principles. He seems to worry that the inheritance law requiring equal division would “bring about the destruction of families and family spirit and the complete annulment of aristocratic principles” as France moves towards an “unrestricted democracy.” He continues, “I don’t say that it is a good thing; what I see in this country has persuaded me, on the contrary, that it would not suit France at all.” Yet he reconciles himself to the new order, unlike the legitimists who strained to “uphold an aristocratic principle” that is “moribund in France” instead of accepting the sovereignty of the people and moderating it with laws and mores.

Conclusion

Tocqueville clearly rejected the old form of aristocracy in fact and in principle. But for Drescher, unlike Tocqueville, the hereditary ruling class is the full extent of “aristocracy”; there is no broader understanding of aristocracy as a

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57 See Brogan, *Alexis de Tocqueville*, 380. Brogan himself seems to revive the “legitimist slur” when he dubs Tocqueville a “new kind of legitimist,” instead of a “new kind of liberal,” and charges that the 1840 volume of *Democracy* is the work of a man who “regards the egalitarian phantom which he has conjured with great dread and wants to rally his caste to control, if not defeat it” (358-359). See also William Doyle, *Aristocracy and its Enemies in the Age of Revolution* (Oxford University Press, 2009), 336. Doyle calls Tocqueville a “sentimental Legitimist.”


59 Ibid.

60 Ibid.
distinct chapter of history or a way of life. Thus Drescher rejects attempts to
describe features of American practice such as decentralization and scattered
power as “feudal” or “aristocratic.” The “aristocratization” of decentralization,
Drescher argues, would imply that democracy is “chained, like Prometheus, to the
centralized state.”61

Drescher’s rigid conception of aristocracy as a class leads him to conclude
that Tocqueville thinks of aristocracy as unjust, obsolete, and irrelevant. For
Drescher, aristocracy is a “social class distinguished by special privileges or
corporate status.”62 Aristocracy must be “corporate, geographical, traditional,
proprietary, vertical, horizontal and coercive.”63 This demanding set of criteria,
while consistent with the parts of Democracy that refer to “an aristocracy” as a
hereditary landed class, virtually ignores Tocqueville’s division of history into
“aristocracy” and “democracy” as ancient and modern ways of life which arise
from different generative facts and principles. Drescher’s “aristocracy” is chained,
like Prometheus, to the feudal lord.

The idea of the “social state,” despite important differences, is much
closer to the ancient concept of the “regime” than to a social class.64

“Aristocracy” and “democracy” each constitute a comprehensive social and
political order. Once we appreciate that aristocracy is not merely a sociological
category of “elites,” but a way of life with certain natural features, the

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63 Ibid.
64 For a comparison of the “social state” and the ancient “regime,” see Harvey Mansfield and
Delba Winthrop, “Tocqueville’s New Political Science,” in The Cambridge Companion to
“aristocratization” of an apparently neutral concept such as decentralization begins to make more sense.

Drescher’s precise, historical definition of aristocracy is helpful in that it clarifies Tocqueville’s embrace of democracy, against the range of critics past and present who have questioned Tocqueville’s fidelity. But what are we to make of Tocqueville’s well-known love of “grandeur,” his appeals to the friends of “freedom and human greatness,” his injunction that democracy should think more of making “great men,” his insistence on the necessity of forming “great citizens,” his admiration for aristocratic England, his use of the language of aristocracy to describe features of American practice, his clear preference for many of the “natural” features and tendencies of aristocratic societies, and his overriding concern with the effects of the political order on the soul? While he acknowledges that we must sacrifice some of the greatness of aristocracy for the justice of democracy, Tocqueville does not seem as ready as Drescher to leave all of aristocracy on the altar.

Drescher dismisses or depreciates Tocqueville’s concern with greatness because *Democracy* is “quite pessimistic” about the possibility of “preserving the aristocratic ‘spirit’ of grandeur and independence.” Tocqueville may “nostalgically” regret the loss of aristocratic sentiment and ambition, Drescher argues, but such “nostalgia” is “incontrovertible into the new political science or the public spirit of the new world.” Tocqueville does not rummage among the

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65 DAII, part 4, chap. 7, 670.
66 DAII, part 4, chap. 7, 672.
68 Ibid.
debris of the old aristocracy to salvage remedies for democracy. He represses his warm feelings for aristocracy, Drescher implies, in favor of the cool logic of democratic science. He swallows his aristocratic pride and humbly accepts his fate.

But this notion of Tocqueville as vanquished sentimentalist is somehow unsatisfying. Does he not wish to face democracy as a “strong man”? Is it only nostalgia, a weakness for aristocratic sentiment, that prevents him from fully turning his back on aristocracy? As against Drescher’s assertion that aristocratic “greatness” cannot be converted into Tocqueville’s science of politics, the “new science of politics” seems partly aristocratic. Not only is it rooted in Tocqueville’s quasi-aristocratic “new kind of liberalism,” it frames itself through the dichotomy between aristocracy and democracy and aims to preserve some of the spirit of aristocratic greatness.

Tocqueville’s primarily political and participatory conception of liberty, as several scholars have noted, is closer to the liberty of the ancients than to the modern liberty of consent. But the new political science aims to do more than secure a minimum baseline of liberty and equality. Equal liberty is only the beginning of the answer to the problem of democracy. Tocqueville seems to ascend from this democratic footing in his reach for individual greatness, especially “moral greatness,” and the aristocratic “spirit of resistance” which must be preserved as much as possible in democracy. The art of moderating democracy is to elevate the individual without disturbing, or appearing to disturb, its egalitarian essence.
Tocqueville’s rejection of “reconstructing aristocracy,” I suggest, need not be interpreted as implying the irrelevance of aristocracy. One could plausibly reject the particular forms and public principle of the old aristocracy in order to preserve some of the spirit and general way of life of aristocratic times. Yet we need to distinguish better between Tocqueville’s different uses of “aristocracy” before we continue to explore what form or spirit of “aristocracy” may persist in the era of democracy.
III. Tocqueville’s Conception of Aristocracy

Every form of Government… has been tried and discarded. Absolute monarchy, constitutional monarchy, oligarchy, and democracy. Perhaps the most important element in a mixed Government, aristocracy, has suffered the most.

-- Tocqueville

The picture that American society presents is, if I can express myself so, covered with a democratic finish, beneath which from time to time one sees the old colors of aristocracy showing through.

-- Tocqueville

Unlike the democratic theorists of our day, who talk about “elites” but not about “aristocracy,” Tocqueville seems to have assumed that democracy could only be understood in juxtaposition to an alternative social and political order. Dividing Tocqueville’s thought into aristocratic “nostalgia” and democratic “science,” as Drescher and many others seem to do, provides little insight into Tocqueville’s ambivalence about democracy. The common portrayal of Tocqueville as a “political man of old noble stock” who “made a resolute choice for democracy in his head” while “his heart remained filled with aristocratic nostalgia,” as another commentator notes, is plausible and pleasantly dramatic but leaves many questions unanswered. Even if we grant that Tocqueville was “committed to the inevitable triumph of the egalitarian principle,” as Drescher

69 Quoted in Senior, Correspondence & Conversations, 203.
70 DAI, part 1, chap. 2, 45.
71 Wolin makes the same mistake as Drescher, Brogan, and Doyle, in effect, when he attributes Tocqueville’s criticism of democracy to ingrained “class snobbery” (473) and charges him with the self-delusion of a “broken man” in writing The Old Regime (498).
72 Pierre Manent, “Tocqueville, Political Philosopher” in The Cambridge Companion to Tocqueville, ed. Cheryl B. Welch (Cambridge University Press, 2006), 116-117. As Manent notes, to adopt this view would be to underestimate Tocqueville as a thinker: “An author capable of succumbing to such a weakness would not be worthy of interest as a guide to understanding modern democracy and acting within it.”
73 Drescher, Dilemmas of Democracy, 14.
argues, the dichotomy between democracy and aristocracy remains at the heart of understanding Tocqueville’s particular judgment of democracy.

Tocqueville’s praise for aristocracy, contra the “sentimental” reading, seems to be as much a product of careful reflection and close study as his praise for democracy. One indication of this is the extraordinary scholarship that went into the making of The Old Regime, which has recently been brought to light in Robert Gannett’s study of Tocqueville’s sources.\(^7^4\) The popular image of Tocqueville as half-repressed romantic also neglects his passionate and sometimes religiously tinged praise for the equal liberty and justice of democracy, while trying to explain away his praise for the greatness of aristocracy with the notion that his (irrational) aristocratic instinct occasionally overtakes (rational) reflection. The more charitable picture, and perhaps the more accurate one, would be the view of himself that Tocqueville presents in Democracy: an impartial umpire. He may have had his doubts about “philosophy” but he took the philosophic ideal of detachment no less seriously for it. Aristocracy is as much a part of Tocqueville’s “science” as democracy, even if only as democracy’s necessary theoretical foil.

**The Meanings of Aristocracy**

If Tocqueville never embraced a single definition of democracy (some scholars have counted as many as nineteen different meanings throughout his

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we see a similar variety in Tocqueville’s conception of aristocracy. As Cheryl Welch notes, the more attentively we read Tocqueville, the more he “disconcerts by apparent disregard for terminological consistency.” Words such as “liberty,” “equality,” “democracy,” and “aristocracy” do not carry a “completely stable set of meanings”; they are often used in different ways to “present some new insight in a particularly striking way.”

I will not try to tabulate all of the uses of “aristocracy” in Tocqueville’s work, but I will attempt to show that the meaning of “aristocracy” is not as fixed as Drescher makes it out to be. Drescher historicizes aristocracy and distills its ambiguity into a single formula. While this simplifies the task of the historian, and clarifies Tocqueville’s embrace of democracy, what it gains in precision it loses in accuracy. Drescher’s rigid definition of “aristocracy” looks suspiciously like a coffin. It would be more faithful to the text of Tocqueville’s works to try to come to terms with his diverse conception than to clean up his apparent confusion by prematurely consigning aristocracy to the grave.

Marvin Zetterbaum is the only scholar to have attempted an explicit “typology” of Tocqueville’s conception of aristocracy. The very notion of “types” of aristocracy is misleading, because it suggests precise sociological categories rather than a full-fledged regime or way of life, perhaps the most important sense in which Tocqueville uses “aristocracy.” As opposed to Drescher’s definition of aristocracy as “corporate, geographical, traditional,

77 Ibid.
78 Zetterbaum, 32. Zetterbaum only briefly discusses Tocqueville’s conception of aristocracy and identifies three “types”: natural aristocracy, feudal aristocracy, and caste.
proprietary, vertical, horizontal and coercive,“79 Tocqueville describes aristocracy as a way of life marked by decentralization, local liberty, hierarchy, individuality, reciprocal obligations, secondary powers, religion, manners, family spirit, pride, and greatness. 80 Nevertheless, in order to gain a broader understanding of Tocqueville’s conception of aristocracy and how “aristocracy” might persist in democracy, we must come to terms with several of the more specific components of his usage.

Aristocracy-Democracy as a Continuum

Scholars have often overlooked the fact that Tocqueville explicitly describes the dichotomy between aristocracy and democracy as a continuum, not a black-and-white opposition. In a footnote to his discussion of the English aristocracy, he draws a line from “aristocracy of birth” to “pure democracy” with “aristocracy of money” in the middle.

Aristocracy of birth and pure democracy are at the two extremities of the social and political state of nations; in the middle is aristocracy of money; this comes close to aristocracy of birth in that it confers great privileges on a few citizens; it is connected to democracy in that the privileges can be acquired by all in turn; it often forms almost a natural transition between these two things, and one cannot say whether it ends in the reign of aristocratic institutions or whether it is already opening the new era of democracy. 81

Although Tocqueville may condense this continuum in various contexts to make a point, such as when he says that there is “no aristocracy” in America to convey that there is no aristocracy in its primary historical form, there is no clear-cut division between aristocracy and democracy. “Aristocracy” is not merely a

80 See for example DAI, part 2, chap. 9, 299.
81 DAII, part 2, chap. 19, 699n.
hereditary, landed elite. The feudal lord and the plain citizen are at two ends of a spectrum.

*Aristocracy of Birth (Nobility)*

The “aristocracy of birth,” which should already be familiar from Drescher’s definition, is a hereditary landed class with exclusive rights or privileges:

Now, aristocracy takes to the land; it attaches to the soil and leans on it; it is not established by privileges alone, nor by birth; it is landed property transmitted by heredity. A nation can offer immense fortunes and great miseries, but if these fortunes are not territorial, one sees poor and rich within it; there is, to tell the truth, no aristocracy.  

This is perhaps Tocqueville’s most explicit definition of aristocracy in *Democracy*. But it functions primarily as a foil for the lack of a conventional, hereditary, landed aristocracy in America, not as an authoritative definition that puts all other conceptions of aristocracy to rest. Drescher also asserts that the only advantages of the old aristocracy were “grandeur above, loyalty and coarseness below.” But if Tocqueville acknowledges the vices of the European model of aristocracy, he also idealizes the old aristocracy as an incarnation of virtue, greatness, pride, honor, family spirit, and love of liberty restrained by *noblesse oblige*.

Drescher lumps the “master class” of the South together with this historical form of aristocracy, but Tocqueville insists on the distinction between “legitimate” old aristocracy and “illegitimate” American slavery. Although the

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82 DAI, part 1, chap. 2, 30.
84 See for instance DAI, part 2, chap. 2, 483. See also DAI, part 3, chap. 19.
European model of aristocracy included the callousness of the French nobility in the centuries prior to the Revolution, exemplified in Democracy by Madame Sevigne, it also sustained a duty to govern and protect the lower classes. There was “reciprocal benevolence” between lord and serf, who regarded themselves as part of an “immutable order of nature.” There was ignorance and coarseness, even misery among the lower classes, but “souls were not degraded.” In the hearts of the crowd there were “energetic passions, generous sentiments, profound beliefs, and savage virtues.” What depraves men, Tocqueville says, is not the exercise of power or the habit of obedience, but “the use of a power they consider illegitimate, and obedience to a power they regard as usurped and oppressive.”

Justice is permanent, but it was not always properly understood; the recognition of justice as the natural equality of the human species has changed the character of servitude.

Even though slavery in America appears to be an aristocratic anomaly, it belongs to the era of democracy because it is an instance of majority tyranny. Tocqueville also describes it in similar language as the despotism that he later associates with centralized administration. It “enervates the forces of the intellect” and “puts human activity to sleep.” American slavery, as opposed to European serfdom, is a particularly democratic despotism in part due to the degradation that results from coercion not recognized as legitimate. Thus we must distinguish between a legitimate aristocracy of birth and an illegitimate aristocracy of slave

86 See DAII, part 3, chap. 1, 536-537.
87 DAI, Intro., 8.
88 Ibid.
89 Ibid.
90 DAI, part 1, chap. 2, 31.
masters. Tocqueville is much more critical of the latter than the former, though he rejects both as unjust.

_Aristocracy of Money (Open Aristocracy)_

In _The Old Regime_, Tocqueville uses the word “nobility” or “caste,” to distinguish aristocracy of birth from the “open” aristocracy of England. The “aristocracy of money” described in _Democracy_ is the same as the “open aristocracy” portrayed in _The Old Regime_ because both describe the English model. As Zetterbaum notes, Tocqueville praises the English aristocracy for its “worthy,” “enlightened,” and “liberal” rule although he worries that it will sacrifice the common good to the good of the rich.

I do not know if an aristocracy as liberal as that of England has ever existed, which without interruption has furnished men as worthy and enlightened to the government of the country. It is, however, easy to recognize that in English legislation the good of the poor has in the end often been sacrificed to that of the rich, and the rights of the greatest number to the privileges of some.  

This is consistent with Tocqueville’s general skepticism that any dominant class can be counted on to govern in the common good. Aristocracy is “more skillful in the science of the legislator than democracy can be” and it is “doubtless important” that those who govern have “virtues or talents,” but it is more important that those who govern do not have “interests contrary to the mass of the governed.”  

In that case, the virtues could become “almost useless” and the

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91 DAI, part 2, chap. 6, 224.
92 DAI, part 2, chap. 6, 223.
talents “fatal.” Here Tocqueville seems to fear that aristocracy will slide into something like classical “oligarchy”: rule of the few in the interest of the few.

As Zetterbaum concedes, Tocqueville quickly revised his criticism of the English “aristocracy of money” after his trip to England in 1833, and seems even to take the opposite view in his Memoir on Pauperism of 1835. In The Old Regime, Tocqueville notes approvingly that there has long been “no nobility, strictly speaking” in England in the “old limited sense” which it has kept everywhere else. In England, “that admirable power,” the different classes were “solidly connected to each other by common interests” even though they “still often differed in mind and mores.” The political liberty which they possessed created “the necessary relations and mutual links of all subordination” without making everyone the same. Aristocratic England seems to combine particularity and common interest, the greatness of the few and the well-being of the many.

Although the English aristocracy is ultimately unjust, it is more just and more desirable than the aristocracy of birth. The English aristocracy will fall, Tocqueville predicts, but unlike the French nobility or the American slave-owning class, it is worthy of being preserved.

While you preserve your aristocracy, you will preserve your freedom... if that goes you are in danger of falling into the worst of tyrannies—that of a despot appointed and controlled, if controlled at all, by a mob.

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93 Ibid.
96 ORI, book 2, chap. 9, 152.
97 ORI, book 2, chap. 9, 152.
98 Senior, Correspondence and Conversations, 69.
Tocqueville’s support for the English aristocracy suggests that justice, the superior quality of democracy, is not his only criterion for judging a regime. Tocqueville later qualified his statement that England would fall into despotism if it lost its aristocracy, but still only rephrased it less deterministically: The abolition of aristocracy in England would not “necessarily” lead to despotism if their power were diminished gradually, but the maintenance of aristocratic institutions remained “very desirable.”

The English aristocracy of money must be distinguished from an aristocracy which preserves its financial immunities while losing its political power. In Democracy, Tocqueville says that in aristocracies “the rich are at the same time those who govern.” A class that maintains its exclusive privileges and “immense leisure” but does not govern is a corruption of true aristocracy.

There is nothing more miserably corrupt than an aristocracy that preserves its wealth while losing its power and which, though reduced to vulgar enjoyments, still possesses immense leisure. The energetic passions and great thoughts that formerly animated it then disappear, and one encounters scarcely more than a multitude of gnawing little vices that attach themselves to it like worms to a cadaver.

This is similar to what Tocqueville calls a “caste” in The Old Regime, also a perversion of “true” aristocracy.

**Aristocracy as a Caste**

Tocqueville recounts that when the feudal system was established in Europe, “what has since been called the ‘nobility’ did not immediately form a caste” but was initially composed of “all the leading people in the nation” and

99 Ibid.
100 DAII, part 2, chap. 19, 527.
101 DAII, part 3, chap. 11, 572.
was thus at first “nothing but an aristocracy.”\textsuperscript{102} It was not until the Middle Ages that the “nobility” became a “caste,” which means that “birth was its distinguishing feature.”\textsuperscript{103} Even then, throughout most of Europe, the nobility preserved the “true mark of an aristocracy,” that of being “a group of citizens who govern.”\textsuperscript{104} Only now “birth alone” decided who could lead the governing body.\textsuperscript{105}

In France, the nobility lost its old political rights and degenerated into a particularly decadent form of caste. More than anywhere else in feudal Europe, it “ceased… to govern and lead the people,” while retaining its financial immunities and other hereditary privileges.\textsuperscript{106} It became “less and less an aristocracy” and “more and more a caste.”\textsuperscript{107} By the time of the Old Regime, it had largely lost the true mark of an aristocracy. Aristocrats indulged in their privileges and abandoned the village of the countryside for the pleasures of Versailles, “the only place which could supply any aliment to their ambition.”\textsuperscript{108} Early feudal aristocracy as rule of the “leading people” was perhaps not so different from the classical “rule of the best,” but it eventually devolved into an impotent oligarchy.

The isolation of the French aristocracy from other classes was “the crime of the old monarchy,” a product of royal centralization.\textsuperscript{109} Tocqueville’s autopsy

\textsuperscript{102} ORI, book 2, chap. 9, 152. Italics in original. This specific sense of “caste” does not make an appearance in Democracy, perhaps because a book about democracy need not be as precise in this regard as a book about the Old Regime. In Democracy, “caste” seems to be used more or less interchangeably with “class,” though with a connotation of greater rigidity.

\textsuperscript{103} Ibid.

\textsuperscript{104} Ibid.

\textsuperscript{105} Ibid.

\textsuperscript{106} ORI, book 3, chap. 8, 241.

\textsuperscript{107} ORI, book 3, chap. 8, 241.


\textsuperscript{109} ORI, book 2, chap. 10, 170.
of the Old Regime reveals the monarchy as the culprit, with the aristocracy itself as an accessory. Stripped of the right to command and the duty to govern, proud aristocrats became base courtiers enjoying hated privileges. The “energy,” “communal patriotism,” and “fertile and manly virtues” that aristocracy had inspired disappeared. The aristocracy contracted a “senile incapacity” and ancient forms “lost their vitality.” The old provincial assemblies were “foreign bodies virtually closed to the new spirit of the age.” An egalitarian, centralizing spirit attracted the people to a government which “no longer had anything in common with the medieval monarchy.” A “hierarchy of government officials” gradually replaced the “government of the nobility,” and the natural slope toward centralization in times of equality steepened. The democratic revolution began to accelerate as it found reason to destroy both the privileges of the nobility and the tyrannical administration of the monarchy.

The English Mixture

In England, as we have seen, the flow of democracy was channeled by the transformation of the feudal system into an “open aristocracy.” Starting in the seventeenth century, the feudal system was substantially abolished, classes were mixed, and the nobility was displaced. The exclusively hereditary system had been “not merely changed but really destroyed.” The classes not only mixed in

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110 ORI, book 1, chap. 5, 104.
111 ORI, book 1, chap. 5, 104.
112 ORI, book 1, chap. 5, 104.
113 ORI, book 1, chap. 5, 104-105.
114 ORI, book 2, chap. 9, 153.
business and professional life but intermarried. Wealth had “become power” and new principles such as free press, free speech, and equality under the law had “reanimated” the old feudal order without risking its dissolution and “filled it with fresh strength while leaving the ancient forms intact.”

A mix of democratic elements on an aristocratic foundation allowed the English to preserve their freedom against the encroachments of absolute power. The English aristocracy held aloft the spirit of greatness amidst the democratic deluge.

By incorporating democratic elements, the English aristocracy avoided the fate of the French “cadaver,” and kept alive the principle of the early feudal aristocracy as rule of the “leading people.” Although Tocqueville suggests in *Democracy* that England is not a “truly” mixed government, but an essentially aristocratic state, it includes “large democratic elements.” The English regime may not balance aristocracy and democracy such that the government is “equally divided between contrary principles,” but it is a mixture of aristocracy and democracy on an aristocratic foundation.

Tocqueville almost certainly had England in mind when he told his English friend Nassau Senior that “aristocracy is the most important element of a mixed government” and lamented that “wherever the French went they attacked its wealth and destroyed its principles,” retaining only those institutions which were opposed to the aristocracy.

In England, the new colors of democracy blended harmoniously with the old colors

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116 ORI, book 1, chap. 5, 105.
118 Ibid.
119 Senior, *Correspondence & Conversations*, 203.
of aristocracy on an aristocratic canvas. In France, the canvas was destroyed, the colors ran together, and all turned to bourgeois gray.

Notably, Tocqueville’s description of England in Democracy suggests that it has what Aristotle calls the “defining principle of a good mixture of democracy and oligarchy.”

The defining principle of a good mixture of democracy and oligarchy is that it should be possible for the same polity to be spoken of as either a democracy or an oligarchy, and it is clear that it is because the mixture is a fine one that those who speak of it do so in this way. The mean too is of this sort: each of the extremes is revealed in it…. In a polity that is finely mixed, [the regime] should be held to be both—and neither.120

Recall Tocqueville’s remark in Democracy that “one cannot say whether [English-style aristocracy] ends in the reign of aristocratic institutions or whether it is already opening the new era of democracy.”121 Tocqueville identifies England’s regime as an aristocracy in Democracy, rather than a truly mixed government, but his description closely resembles the classical ideal of the “finely mixed” polity.

A thorough democrat might celebrate the death of aristocracy in France, but Tocqueville seems rather to mourn it. He neither despairs, like Burke, nor attempts to resurrect the dead body, like the legitimists, but he extols its spirit. Towards the end of The Old Regime he says that one must “still regret” that instead of “bending the nobility under the yoke of the law,” as in England, “we have slaughtered it and alienated it.”122 The French have “deprived the nation of a

121 DAIL, part 2, chap. 19, 699n.
122 ORI, book 2, chap. 11, 173.
necessary part of its substance” and “given liberty a wound which can never be healed.”

A class which led for centuries had acquired, during that long, uncontested experience of greatness, a certain pride of heart, a natural confidence in its strength, a habit of being respected, which made it into the most resistant part of the social body. It not only had manly mores, it increased the virility of other classes by its example. In destroying it, its enemies weakened themselves.

The English case “seems exceptional,” as Tocqueville says in *Democracy*, and perhaps only “transitory.” It is not a viable model for France, where revolution has created an “incoherent mixture of just and unjust,” “true and false,” “right and fact.” France has a democratic social state and a despotic political order, whereas England has an aristocratic social state and a free political constitution. But the evolution towards an English-style aristocracy, with its combination of greatness and concern for the common good, is the road Tocqueville seems to wish France had taken.

Zetterbaum argues that in view of Tocqueville’s pronouncements on the defects of aristocracy, “it would be truer of aristocracy than of democracy that Tocqueville by his criticism sought to carry the reader to the point of wishing for its destruction.” But which aristocracy? This statement is surely correct in the case of slavery, and perhaps more generally aristocracy as a hereditary landed elite or a privileged caste. But it does not seem to apply to the English “open aristocracy,” which retains both the “true mark of aristocracy” as a governing
body and the original sense of feudal aristocracy as rule of the leading men or gentlemen.

Drescher, who has written a book on Tocqueville and England,\textsuperscript{128} concedes that England “clearly inflected Tocqueville’s meditations” upon aristocracy and democratization but maintains that “nothing ever inclined Tocqueville to idealize the English aristocracy.”\textsuperscript{129} What was best in England was “attributable to its democratic elements,” among which Drescher includes its decentralized, free institutions. Drescher argues that Tocqueville saw England’s aristocracy as a “dangerous anomaly” that would endanger its political stability. There was “hardly a breath of archaism” here, “either in retrospect or prospect.”\textsuperscript{130}

Is it Tocqueville, one might wonder, or Drescher who is “surgically excising” democratic elements from the harmonious mixture? If scholars today have often underestimated Tocqueville’s esteem for the English aristocracy, his contemporaries were closer to making the opposite mistake. Particularly after The Old Regime, as another historian has observed, Tocqueville was known to Bonapartists and republicans as “the most extremist of those ‘manic wits who, needing to write the history of France, always seem sorry not to have to write the history of England’”\textsuperscript{131} It was the English aristocracy that had prevented centralization and resisted royal absolutism, allowing decentralized democratic liberty to flourish.

\textsuperscript{128} See Drescher, Tocqueville and England.
\textsuperscript{129} Drescher, “Who Needs Ancienneté?” 641
\textsuperscript{130} Drescher, 644.
\textsuperscript{131} Mélonio, 105.
Tocqueville seems to have no real, lasting quarrel with England’s open aristocracy or “aristocracy of money” in his major works and private correspondence. He certainly does not impel the reader to wish for its speedy destruction. He writes in an unpublished note that the English aristocracy “will fall, but it will fall gloriously” with, if not a “breath of archaism,” a distinct lack of enthusiasm for its demise. If he does not advise “those who govern” to imitate England’s mixture, this is only because it is too late. Royal centralization had turned the French aristocracy into a closed and eventually lifeless “caste,” and the democratic revolution buried it. Ultimately, despite its modern veneer, England represents “the old aristocracy, the old institutions of Europe, the old world.” France and the rest of Europe must turn to the lower but more solid ground of democracy in America.

**Natural Aristocracy**

The concept of “natural aristocracy,” neglected by Drescher and overlooked by many scholars, is nonetheless a key component of Tocqueville’s conception of aristocracy. In his 1836 essay on the political and social condition of France, Tocqueville says that there exists among men, “in whatsoever form of society they live,” a certain amount of “real or conventional advantages” which

134 See Tocqueville’s criticism of Burke on this point. ORI, book 2, chap. 3, 106-107. Note that Tocqueville criticizes Burke for failing to appreciate the inevitability of democracy, not for being unjust in his support for the old order.

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“from their nature” can only be possessed by a “small number.” Advantages such as birth, wealth, and knowledge are “always the lot of a few” and they give those who possess them ideas and tastes that are “peculiar and exclusive.” They form “so many aristocratic elements” which are to be found “amongst every people” at “every period in history,” even in democracy.

These “aristocratic elements” recall the “leading people” of the early feudal aristocracy. A good aristocracy must allow all of these elements to govern, as in England’s “open aristocracy.” When political power is “shared by all those who possess any of these exclusive advantages,” the result is a “stable and powerful aristocracy.” The French nobility of the eighteenth century, however, contained only a portion of the “natural elements” of an aristocracy. In isolating themselves from the natural aristocracy of “wealth” and “intellect,” they thought they were carrying on a tradition. But in fact they were “missing the aim of their ancestors,” for whom the aristocracy of birth mixed with that of wealth and intellect in the governing body. The exclusion of the natural aristocracy weakened the French nobility.

Scholars have often failed to notice that Tocqueville has a conception of an ideal aristocracy, perhaps because it is largely implicit. The proper role of aristocracy is to govern and the ideal aristocracy is comprised of “all the leading people.” The natural aristocracy and the open aristocracy of England, as

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137 Ibid.
138 Ibid.
139 Ibid.
140 Ibid.
141 Ibid.
142 Ibid.
Tocqueville indicates in his 1836 essay, are closer to this original sense of aristocracy than the nobility that emerged in France. The open aristocracy combines natural aristocracy and conventional aristocracy, while the caste excludes natural aristocracy.

Natural aristocracy is very desirable in theory, but without the protection of the loathsome “legal inequalities” of conventional aristocracy, real inequality may not be able to assert itself in government. The word “natural aristocracy” first appears in Democracy by way of favorable contrast with the extreme freedom and equality of the states of the West.\textsuperscript{143} The West is not only the geographical frontier but the democratic frontier, where democracy is “reaching its furthest limit.”\textsuperscript{144} Everyone is alike, equal, and isolated; it is “individualism” incarnate. As if in a state of nature, “society does not yet exist.”\textsuperscript{145} The West seems to manifest what Tocqueville later calls the “ideal” toward which democracy tends, the “extreme point” or “imaginary state” at which everyone will be perfectly equal and perfectly free.\textsuperscript{146} It is so devoid of the influence of particular persons that it escapes even that “natural aristocracy” of “enlightenment and virtue.”\textsuperscript{147}

If this is the democratic ideal, it does not seem to be Tocqueville’s ideal. He detests the old-style conventional aristocracy of the South, but he prefers the natural aristocracy of New England to the near-perfect democracy of the West. Among the Americans of the West, “passions are more violent, religious morality

\textsuperscript{143} DAI, part 1, chap. 3, 50.
\textsuperscript{144} Ibid.
\textsuperscript{145} Ibid.
\textsuperscript{146} DAIL, part 2, chap. 1, 479–480.
\textsuperscript{147} DAI, part 1, chap. 3, 50.
less powerful, ideas less fixed.” Tocqueville seems to favor New England, where “intellectual and moral superiorities” retain some influence. In the new states of the West, there is no one who exercises the “respectable power” that men accord to the “memory of an entire life occupied in doing good before one’s eyes.” The founders of New England all came from the “well-to-do classes” of the mother country and the people were “in the habit of revering certain names as emblems of enlightenment and virtue.”

While some scholars argue that Tocqueville does not conceive of natural aristocracy as a “true” aristocracy, because it is not precisely hereditary, we have seen that aristocracy of birth is only one sense of “aristocracy.” When Tocqueville declares that there is “no aristocracy” in America he does not mean that America is a perfect, unalloyed democracy; this is to emphasize that the social state is “essentially democratic” – that there is no “precisely aristocratic” influence “as it is understood in Europe.” Once he lays this democratic foundation, he relaxes the criteria for “aristocracy” in the rest of Democracy. This is why he can say it is “difficult to assign the aristocratic element any influence” and later claim that American lawyers are a very influential “aristocratic element.” At the end of each volume of Democracy, he seems to revert to his initial, European usage of “aristocracy” in order to reiterate his

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148 DAI, part 2, chap. 9, 295.
149 DAI, part 2, chap. 5, 191.
150 DAI, part 1, chap. 3, 50.
151 DAI, part 1, chap. 2, 36.
152 For instance, see Zetterbaum, 34. Drescher’s definition of “aristocracy” would also exclude natural aristocracy.
153 DAI, part 1, chap. 3, 46.
154 DAI, part 1, chap. 3, 51.
155 DAI, part 2, chap. 8, 251.
rejection of “aristocracy” as a hereditary ruling class, just in case the interceding chapters had created any doubt.

Tocqueville distinguishes more explicitly between “aristocracy” as commonly understood and his own understanding of proper aristocracy in The Old Regime. He makes it clear that the “true mark of an aristocracy” is governing. He calls the early feudal rule of the leading people “nothing but an aristocracy,” as opposed to the hereditary “caste.” England’s open aristocracy approximates the original meaning and principle of “aristocracy” better than the caste system that developed in most of Europe. Similarly, natural aristocracy may be nearer to the original notion of “true” aristocracy than the European understanding of “aristocracy” as a closed caste.

In Democracy, Tocqueville lauds the “great characters” that led the American Revolution, framed the Constitution, and set the course for the fledgling republic. Notably, he says that almost all democratic movements have been led by nobles.¹⁵⁶ The Federalists, the American analogue to the “great men of 1789” that Tocqueville eulogizes in The Old Regime, counted in their ranks “almost all the great men” of the War of Independence. Afterwards, against the increasingly “violent” democratic current, they could maintain themselves only by “artificial means.”¹⁵⁷ They had talent, virtue, and extensive “moral power,” but they could wield political power only temporarily because “their theories” were “inapplicable” to the society they wanted to rule.¹⁵⁸

¹⁵⁶ DAI, part 2, chap. 8, 253.
¹⁵⁷ DAI, part 2, chap. 2, 168.
¹⁵⁸ DAI, part 2, chap. 2, 168.
Tocqueville sides with the Federalists, the proponents of “natural aristocracy” and “national greatness,” over the anti-federalists who feared “great men.” The rise of the Federalists is “one of the most fortunate events that accompanied the birth of the great American Union” precisely because they “struggled against the irresistible inclination of their century and of their country.”\(^\text{159}\) They wanted to “restrict popular power” and they fought the democratic doctrines of the Republicans. But America is the “land of democracy,” and the Federalists were eventually “enveloped” as if in the midst of a “sudden flood.”\(^\text{160}\) Only the Constitution, like a great ark, remains as a “lasting monument to their patriotism and their wisdom.”\(^\text{161}\)

As a statesman of the Constituent assembly in France, Tocqueville himself advocated the adoption of bicameralism and indirect elections. Though most famous for his celebration of participatory democracy in the New England township, Tocqueville embraced the ideal of the Burkean representative in theory and in practice. In the *Recollections*, Tocqueville denounces the “ultra-democratic newspapers” who say that representatives are only “agents of the people”\(^\text{162}\) and scoffs at the pure, democratic sensibility of his colleague Carnot who says “One must always trust the people.”\(^\text{163}\) No theorist of direct democracy, Tocqueville refused to accept the notion of the representative as instantaneous executor of the general will.

\(^{159}\) DAI, part 2, chap. 2, 168.
\(^{160}\) DAI, part 2, chap. 2, 168.
\(^{161}\) DAI, part 2, chap. 2, 169.
\(^{163}\) Ibid, 129.
Earlier in *Democracy*, Tocqueville describes the “electoral double stage” as one of the “laws whose nature is democratic” which nonetheless partly succeeds in correcting the “dangerous instincts” of democracy that keep “distinguished men” out of power. The rich have a “secret opposition to democracy” and even a “great disgust” for democratic institutions, but perhaps it is for this very reason that they should not be excluded from power; they moderate democracy, and democracy moderates them. Tocqueville goes as far as to say that indirect election is the “sole means of putting the use of political freedom within the reach of all classes of the people,” which suggests that otherwise democracy will become the rule of the poor and middle class. If the nature of the indirect election is democratic and universal, its result seems aristocratic and particular; it aims for distinction. Tocqueville seems to favor the “illustrious” men of the Senate, “the elite of the nation,” over the “vulgar assembly” of the House of Representatives. Based on a democratic foundation of universal suffrage, indirect election may enable men of “talents and enlightenment” to rule as part of a judicious mix of classes that can govern in the common interest.

Tocqueville seems to admire natural aristocracy wherever he sees it in action. Yet he is only enamored of it when it combines intellectual superiorities (enlightenment) with moral superiorities (virtue), and even then he is not

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164 DAI, part 2, chap. 5, 193.  
165 DAI, part 2, chap. 2, 172.  
166 DAI, part 2, chap. 5, 194. Tocqueville also states that universal suffrage "really gives the government of society to the poor." See DAI, part 2, chap. 5, 201.  
167 DAI, part 2, chap. 5, 191-192.  
168 DAI, part 2, chap. 5, 192. This is one of several places where Tocqueville notes the importance of mixing classes in the government. See also *Recollections*, 41.
optimistic about its chances for survival in democracy. He notes that he has seen few politicians in America who show that “virile candor” and “manly independence of thought” that distinguished the Federalists.\textsuperscript{169} Natural aristocracy is desirable in theory but feeble and susceptible to perversion in practice.

If the natural aristocracy does not combine virtue and enlightenment, it may come to be like the “manufacturing aristocracy” that is based solely or primarily on talent and intellect.\textsuperscript{170} It may become like an aristocracy of administrators of the sort that Tocqueville deplores in \textit{The Old Regime} and the second \textit{Democracy}.\textsuperscript{171} Just as the non-governing caste is a corruption of true aristocracy, the manufacturing aristocracy and the aristocracy of administrators are degraded forms of aristocracy. They are natural elites because they arise from natural inequality, but they are not an aristocracy of enlightenment and virtue.

\textit{Manufacturing Aristocracy}

Manufacturing aristocracy, like American slavery, belongs to the era of democracy. American slavery is an instance of tyranny of the majority, which derives from the sovereignty of the people, while the development of industry is strongly favored by the destruction of landed aristocracy and the progress of equality.\textsuperscript{172} Unlike the old aristocracy, there is no fixed “class” or “corps” of the rich and there are no “genuine bonds” between industrialists and workers.\textsuperscript{173} The

\textsuperscript{169} DAI, part 2, chap. 7, 247.
\textsuperscript{170} See DAI, part 2, chap. 20.
\textsuperscript{171} See, for instance, ORI, book 3, chap. 3, 213. See also DAI, part four, chaps. 2-6.
\textsuperscript{172} DAI, part 4, chap. 5, 656. See also DAI, part 2, chap. 20, 530. Democracy “favors developments in industry and multiplies the number of industrialists without measure.”
\textsuperscript{173} DAI, part 2, chap. 20, 532.
territorial aristocracy had *noblesse oblige*, but the manufacturing aristocracy impoverishes, brutalizes, and finally abandons the men it uses.

With the new “axioms of industrial science,” division of labor and mass production, the master does more and the worker does less.\(^{174}\) Wealthy and enlightened men come forward to exploit and modernize old artisanal industries. The worker’s intelligence is reduced to the study of a “single detail,” while the master casts his eye over a “far-reaching ensemble.”\(^{175}\) The “man” in the artisan is degraded as the “worker” is perfected.\(^{176}\) The mind of the worker shrinks as the master’s mind extends, and the worker becomes “weaker, more limited, and more dependent.”\(^{177}\) The one resembles the “administrator of a vast empire,” the other a “brute.”\(^{178}\) Manufacturing aristocracy arises from and perpetuates the intellectual inequality that “comes directly from God.”\(^{179}\)

The manufacturing aristocracy is brutal, but the scope of its power is limited. Though “one of the hardest” aristocracies in history, it is also one of the “most restrained” and “least dangerous.”\(^{180}\) It stays within its sphere, its oppression is bounded by self-interest, and the rich compete as individuals instead of cooperating as a class. The principal danger of manufacturing aristocracy, then, is a side effect of its brutality: the need or desire for regulation that “contributes

\(^{174}\) Ibid, 530.
\(^{175}\) Ibid, 531.
\(^{176}\) Ibid, 530.
\(^{177}\) DAI, part 2, chap. 20, 530.
\(^{178}\) Ibid, 531.
\(^{179}\) DAI, part 1, chap. 3, 51.
\(^{180}\) DAII, part 2, chap. 20, 532.
constantly” to the prerogatives of government. The rise of industry helps to empower a different sort of aristocracy: the aristocracy of administrators.

**Aristocracy of Administrators**

The aristocracy of administrators is humane, but its power is extensive. Like the manufacturing aristocracy, its development is singularly favored by the democratic social state. The ideas, sentiments, and needs of democratic peoples lead them to centralize public power. As the prerogatives of the central power increase, the number of officials that represent it rises until they form a “nation within each nation.” As the government remains the “sole immovable point” in democracy, these officials “more and more replace the aristocracy.” The bureaucracy forms a “class” with its own character and its own ideas. This hierarchy of government officials is more cohesive than the manufacturing aristocracy because it is more unified, centralized, and immobile. It becomes the “aristocracy of the new society.”

This aristocracy of the new society is like the manufacturing aristocracy, but as applied to government. It too arises from the intellectual inequality that comes “directly from God.” It substitutes the science of administration for the science of industry. Its business is the mass production of citizens. It aims to “form the citizen’s mind” according to a “particular model,” and it strives for

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181 DAI, part 4, chap. 5, 656.
182 DAI, part 4, chap. 5, 661.
183 DAI, part 4, chap. 5, 661.
184 DAI, part 4, chap. 5, 652n.
185 Ibid.
186 ORI, book 2, chap. 6, 139.
187 ORI, book 1, chap. 5, 104-105.
188 ORI, book 2, chap. 6, 139.
189 DAI, part 1, chap. 3, 51.
“mechanical order” in the activity of individuals.\(^{190}\) The mind of the citizen 
shrinks as he is drawn into “strict dependence” and “carefully deprived of all of 
the faculties” for self-government, while the official more and more oversees a 
far-reaching administration.\(^{191}\) The state becomes the “first of industrialists,” and 
the sovereign may even seek to “make his country into his factory and its 
inhabitants into its workers.”\(^{192}\)

Yet whereas the manufacturing aristocracy was “hard,” the aristocracy of 
administrators is “soft.”\(^{193}\) The aristocracy of administrators does not brutalize 
like the manufacturing aristocracy or tyrannize like the emperors of old. But it 
may develop into a despotism that is “more extensive and milder,” which would 
“degrade men without tormenting them.”\(^{194}\) Mild despotism “hinders,” as 
Tocqueville says of democracy itself in the first *Democracy*,\(^{195}\) until it reduces 
each citizen to “impotence.”\(^{196}\) Instead of inflicting pain, it seeks to remove the 
“pain of living” and the “trouble of thinking.”\(^{197}\) It leaves the sovereignty of the 
people intact but subtly enslaves them “in the details.”\(^{198}\) The manufacturing 
aristocracy was harsh, but relatively harmless. The aristocracy of administrators is 
mild, but more dangerous.

This rule of an administrative elite is a long way from New England’s 
natural aristocracy of “enlightenment and virtue” with its fortunate combination

\(^{190}\) ORI, book 3, chap. 3, 212-213.  
^{191} DAIL, part 4, chap. 5, 657. See also ORI, book 3, chap. 3, 213.  
^{192} DAIL, part 4, chap. 4, 648.  
^{193} DAIL, part 4, chap. 4, 662.  
^{194} Ibid.  
^{195} DAI, part 2, chap. 3, 180.  
^{196} DAIL, part 4, chap. 6, 663.  
^{197} DAIL, part 4, chap. 6, 663.  
^{198} Ibid, 664.
of religion, morality, and freedom. Administrative despotism has for a religion “only philosophy” and for an aristocracy “none but intellectuals.” 199 The aristocracy of administrators seeks to extend public power, but unlike true aristocracy, it does not “govern” so much as it administers “independent of political power.” 200 Paradoxically, it is a populist aristocracy with a passion for equality and uniformity – just the opposite of the old aristocracy with its penchant for greatness and distinction. The administrators and intellectuals “hate all of the old powers” and fixed ranks of feudalism, along with the decentralized administration, local liberty, and religion of the aristocratic way of life. 201 Whereas traditional aristocracy was sustained by inequality, the administrative elite gains power by identifying with the egalitarian ideal. It forms the crest of the wave of democracy as it advances toward the horizon of “perfectly equal” and “perfectly free.”

Aristocracy as Restricting Public Power

The “aristocracy” that arises most naturally out of democracy favors equality, centralization, and expansion of the social power. Tocqueville predicts that “nearly all the ambitious and capable minds” will “work without respite to extend the prerogatives of the social power,” because “all hope to direct it one day.” 202 It is no use trying to show them that extreme centralization can harm the

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200  DAII (Nolla), part 4, chap. 6, 1252n. Whereas Rousseau opposed *bourgeois* to citizen, Tocqueville seems to oppose “administrator” to “citizen.” See ORI, book 3, chap. 7, 240. “Their business was less to be citizens than to be good administrators and good officials.”
201  See ORI, book 3, chap. 3, 212.
202  DAII, part 4, chap. 3, 703n.
State because they “centralize for themselves.” Only “very disinterested” or “very mediocre” public men in democracy want to limit the central power. But if the former are “rare,” the latter are “powerless.” So in what sense is this motley crew who want to restrict public power “aristocratic”?

Before we can apprehend “aristocracy” as restricting public power, we must understand the distinction between the various “powers” that Tocqueville seems to use interchangeably: social, central, public, and popular. In aristocracy, these powers were divided. When a few powerful persons reigned, they used their “social power” (association) to resist the central power (king), and they used “public power” (government) to limit “popular power” (the people). Aristocrats formed “natural associations,” intermediary bodies that resisted the king and ruled the people. In democracy, the social, public, and popular powers all tend to coalesce in the central power. This is why Tocqueville can refer to them interchangeably when speaking of democracy.

Nevertheless, the old idea of “aristocracy” as limiting the power of the people persists in democracy. Even in America, where the sovereignty of the people is “dogma,” politics is marked by a contest over the extent of popular power. The Federalists wanted to “restrict popular power,” their opponents to “extend it indefinitely.” Although these “great parties” faded, their opinions

203 Ibid.
204 Ibid.
205 DAI, part 2, chap. 4, 183.
206 DAI, part 2, chap. 2, 167. One might object that the Federalists (aristocratic party) wanted to centralize and extend public power, while the anti-federalists (democratic party) wanted to decentralize and restrict government. But by creating a strong Union under the Constitution the Federalists sought to restrict the power of the states over individuals, thus limiting public and popular power. Once the central power became a means for extending public and popular power, the party for extending popular power came to support centralization.
were “as old as the world,” and they can always be discovered in “different forms” and “reclouted with diverse names” in all free societies. The “secret instincts” and “innermost thoughts” of factions in America are linked to one or the other of the two great parties. Although hidden, the fundamental distinction in politics is still between aristocracy and democracy. Some seek to “narrow the use of public power,” others to extend it. Thus, “aristocratic or democratic passions” are “readily found at the foundation of all parties.” If parties that want to restrict public power do not “always” seek to make aristocracy prevail, aristocratic passions form the “sensitive spot” and “soul” of them.

Now that popular power and public power are virtually one and the same, aristocratic passions manifest themselves most clearly in attempts to restrict government. The “aristocratic” party in democracy does not challenge the sovereignty of the people directly, but seeks to elevate the individual against government by the people. It does not necessarily try to resurrect inequality as a public principle, but it is has a lofty idea of the individual that is more natural to the era of aristocracy. The new aristocratic party is covered with a “democratic finish,” it seems, but if one looks closely one may see the old ideas of aristocracy showing through.

Despite the triumph of the sovereignty of the people and the principle of equality, the old aristocratic opinion persists in democracy. If aristocracy and democracy once clashed in broad daylight, they now struggle in “secret” at the

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207 Ibid.
208 Ibid, 170.
209 Ibid.
210 See DAI, part 4, chap. 1.
bottom of souls. Democracy pervades all public institutions with its “essence,” the sovereignty of the people, and turns “aristocratic peoples” into “democratic peoples.” Yet it does not completely efface the aristocracy in the soul, it seems. Under the “apparent unanimity” in American politics, deep divisions and real opposition are “still hidden.” Even in the new land of democracy, we find ideas and opinions “as old as the world.”

The example of the aristocratic party in democracy suggests that if aristocracy is to persist in democracy – as an idea, opinion, sentiment, spirit, or structure native to the aristocratic way of life – it must be clothed in the forms of democracy. The party of aristocratic passions seems to have little choice but to channel democracy, to set it against itself with checks and balances, for aristocratic ends. Detective Drescher, as he dubs himself, misses this clue because he takes Tocqueville’s testimony too literally; he thinks that the “new political science” announces the “utter pastness” of aristocracy in an “altogether new world.” He does not see that aristocracy is only clothed under new forms – a dead man walking! Drescher, the honest democrat, falls for the disguise. He does not confront the possibility that one might want to “moderate democracy with democracy” for aristocratic ends.

Tocqueville does not speak of the “utter pastness” or “irrelevance” of aristocracy, because the “new world” is not yet so brave that it can dispense with human nature. Even in a chapter on how equality divides democracy into

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211 DAI, part 2, chap. 2, 171.
212 See Drescher, “Who Needs Ancienneté?” 641 (Drescher playfully refers to himself as a “Sherlock Holmes” who must correct a “Dr. Wolin.”)
213 See Drescher, “Who Needs Ancienneté?” 628
214 See Drescher, “Who Needs Ancienneté?” 628
“small coteries,” as opposed to the “vast precincts” which forced people to intermingle in aristocracy, Tocqueville suggests that many of these private associations are formed for partly aristocratic ends.\(^\text{215}\) A multitude of “artificial and arbitrary classifications” are created with which each individual seeks to “set himself apart” for fear of being “carried away into the crowd.”\(^\text{216}\) This can “never fail to be so” because “one can change human institutions, but not man.”\(^\text{217}\) The “particular pride of individuals” will “always seek to escape the [common] level” and “form an inequality somewhere from which it profits.”\(^\text{218}\) None of these private associations will have aristocratic manners, but “whatever the progress of equality” they will try to “escape the hand of the legislator” and distinguish themselves by education, fortune, and tastes.\(^\text{219}\) Character may be malleable by the laws and the social state, but human nature is permanent. If aristocracy cannot always control the public power, it must ward it off or escape it. Inequality finds an outlet in private association.

So-called “democratic expedients” may be democratic by nature, like indirect elections, while aiming for distinction. Even bicameralism, which does not contain the “least atom” of aristocracy according to Tocqueville, may serve aristocratic ends by breaking up the flow of the democratic current. Without challenging the sovereignty of the people directly, it may stay the hand of the legislator. We might expect the party with aristocratic passions to support indirect elections, bicameralism, federalism and other essentially democratic instruments.

\(^{215}\) DAII, part 3, chap. 13.  
\(^{216}\) Ibid, 577.  
\(^{217}\) Ibid, 578.  
\(^{218}\) Ibid, 578.  
\(^{219}\) Ibid, 577-578.
which can serve their purposes.\footnote{220} This party might also befriend religion, even the democratic and republican religion of the Puritans, because it limits the “impious maxim” that anything is permissible in the name of society.\footnote{221} Like the checks and balances of the old political science of The Federalist, but more central to Tocqueville’s new political science, religion can function as a check on democracy. Without seeming to confront popular power, it thwarts the omnipotence of the majority.

Individual opposition to popular power is also concealed, but Tocqueville often praises it and looks for ways to bring it out. Democracy is “on the march” in America, as Tocqueville says in one letter, and its opponents “hide their true colors if they wish to make their way in the world.”\footnote{222} The rich in America have a “secret opposition” to democracy, a “great disgust” for democratic institutions, and they fear the power of the people.\footnote{223} Yet Tocqueville advocates indirect elections to ensure that the rich are not excluded from politics, and worries that universal suffrage will “give the government of society to the poor.”\footnote{224} Lawyers, too, “secretly scorn” the government of the people and conceive “great disgust” for the actions of the multitude.\footnote{225} Far from condemning them for this, Tocqueville commends the “American aristocracy” of lawyers that can “even by

\footnote{220} Tocqueville differs from Aristotle in that he does not view “election” itself as aristocratic or oligarchical in nature (as opposed to selection by lot, which is more democratic because it does not assume anyone is better than anyone else), but he seems to indicate that the electoral double stage can be used for aristocratic ends to empower those whose “secret instincts” oppose democracy.
\footnote{221} DAI, part 2, chap. 7, 240.
\footnote{222} Alexis de Tocqueville, “Letter to Louis de Kergorlay, Yonkers, June 29, 1831,” in Letters from America, 94.
\footnote{223} DAI, part 2, chap. 2, 172.
\footnote{224} DAI, part 2, chap. 5, 201.
\footnote{225} DAI, part 2, chap. 8, 252.
its defects” neutralize the vices of popular government.²²⁶ Towards the end of *Democracy*, Tocqueville notes approvingly that landowners and farmers are still of all citizens those who “escape the control of the social power” most easily.²²⁷ Finally, he seems to sympathize with the few “disinterested” public men who occupy themselves with setting limits to the central power.

Is Tocqueville one of the opponents of democracy, then, hiding his “true colors”? Proponents of the democratic reading overlook Tocqueville’s strong affinity with the aristocratic party, while critics of Tocqueville who paint him as a reactionary attribute his “elitism” to inbred snobbery and instinctive fear of the *demos*. The first fail to see that Tocqueville is not a thorough democrat. The latter forget that the heroes of *Democracy* are the “plain citizens” of the township, not the “opulent citizens” who “abandon the lists.”²²⁸ If anything, America bolstered Tocqueville’s confidence in the competence of ordinary people. “There is one thing that America proves conclusively and which I had previously doubted,” he declared in his diary a year after arriving: “It is that the middle classes can govern a state.”²²⁹ He may side with the aristocratic party in democracy, but he does not share the “great disgust” of their would-be constituents.

Tocqueville opposes centralization because it reins in the latitude for individual greatness. Yet what is good for greatness, in his view, is also good for democracy. He worries less that democracy is the vehicle of the vulgar, more that its instincts push it down the slope to centralization, where it may be hijacked by

²²⁶ Ibid, 256.
²²⁷ DAII, part 4, chap. 5, 656.
²²⁸ See DAI, part 2, chap. 2, 171.
²²⁹ Quoted in Wolin, 75.
its immoderate friends. Like the American lawyers that he praises so much, Tocqueville does not seem to want to “overturn” democracy, but to “direct it according to a tendency that is not its own” and in some cases “by means that are foreign to it.”230 Lawyers like democratic government “without sharing its penchants” and “without imitating its weaknesses.”231 As lawyers are the “natural liaison” between the aristocracy and the people, Tocqueville is our theoretical liaison between aristocracy and democracy. He accepts democracy but seeks to restrict public power in its most concentrated form.

This yields a potentially new and interesting way of answering the classic question of Tocqueville’s preference for aristocracy or democracy; he favors democracy, but he favors the aristocratic party in democracy. This is how he embraces democracy while holding it at arm’s length. He is for *aristocracy in democracy*. He rejects the aristocratic party from the era of aristocracy, the legitimists, but he supports a regime with a democratic foundation and a party with an aristocratic foundation. This is how he hopes to have, if not the best of both worlds, some of the best: a mix of justice and greatness. It is not simply a “moderate democracy” that Tocqueville wants but an *elevated* democracy. Moderation is a means for elevation.

*Conclusion*

Tocqueville’s primary understanding of aristocracy, as I have mentioned, is not merely a sociological class but a way of life. This is what it means to speak of “two distinct humanities.” Tocqueville talks about “aristocratic peoples,” not

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230 DAI part 2, chap. 8, 254.
231 Ibid.
only aristocratic persons. To repeat what he said of aristocracy in France: “it increased the virility of the other classes by its example.”\textsuperscript{232} The social state and political constitution, which are interdependent, mold the character of the whole society. Aristocracy in general “lifts all souls.”\textsuperscript{233}

Ancient Greece and ancient Rome were “aristocratic,” perhaps not merely because they had slavery, but because they aimed for excellence and greatness. Consider Thucydides’ Pericles on the “principles of action” of Athens, for instance:

\begin{quote}
I should like to point out by what principles of action we rose to power, and under what institutions and through what manner of life our empire became great It is true that we are called a democracy, for the administration is in the hands of the many and not of the few. But while there exists equal justice to all and alike in their private disputes, the claim of excellence is also recognized; and when a citizen is in any way distinguished, he is preferred to the public service, not as a matter of privilege, but as the reward of merit.\textsuperscript{234}
\end{quote}

Excellence as a “principle of action,” a phrase which Tocqueville himself uses in his apparent rejection of “mixed government,” cannot be dominant in democracy. Tocqueville seems to distinguish between aristocracy and democracy not merely by the extent of free participation in government but by their dominant principle of action and what they aim to produce in the soul. Inequality in Athens was recognized in fact and respected in principle.

Tocqueville is “aristocratic” in part because, like the Athenians, he respects natural inequality. Rather than aiming for real equality, he prefers to “grant privilege to no one” and to “leave to each the care of marking out his own

\textsuperscript{232} ORI, book 2, chap. 11, 173.
\textsuperscript{233} DAII, part 1, chap. 10, 436.
place,” so that natural inequality may “see the light of day.”\textsuperscript{235} The claim of excellence, especially moral excellence, is reflected in Tocqueville’s praise for the natural aristocracy of enlightenment and virtue. Elsewhere, he condemns “base and common souls” for putting “equality before the master” ahead of “equality before the law,” which “allows social inequalities to persist” while safeguarding against oppression and still “[obliging] one to have respect.”\textsuperscript{236}

But although Tocqueville’s aspiration for democracy may not be so unlike that of Pericles, he knows that the solution to the problem of democracy will have to rest on a broader foundation than natural aristocracy. Without the protection of the loathsome “legal inequalities” of conventional aristocracy, natural inequality may not be able to assert itself. Democracy should “think a little more of making great men,” but the natural aristocracy of enlightenment and virtue will not simply spring from the earth. Greatness must be cultivated, elevated against the instincts of democracy which wear down the “prominent points.” The natural aristocracy of enlightenment and virtue is something to be achieved, not relied upon. The new science of politics must be opposed to the natural tendency of democracy, which would prefer to strive for an “imaginary state” than a world in which real inequality is exposed in broad daylight.

The art of moderating democracy begins with accepting the democratic canvas, so to speak: equal liberty under law. The beginning of the answer to the problem of democracy, its organization in a way that comports with “liberty and human greatness,” is indeed the foundation of a leveled freedom that reflects the

\textsuperscript{235} DAIL, part 1, chap. 9, 431.
\textsuperscript{236} ORII, book 3, part 2, section 2, 249.
natural equality of the human species. But in practice, the fact of equality of conditions and the idea of equality create additional problems: materialism, envy, individualism, apathy, uniformity, and centralization. Increasing equality leads to greater passion for equality; formal equality cannot stave off demands for a real equality that is pursued through the concentrated efforts of the central power. Thus, “when a people destroys its aristocracy,” it “runs towards centralization as if self-impelled.”\textsuperscript{237} It attempts to extend public power and centralize it.

Much of \textit{Democracy in America} is a guide for the aristocratic-souled party in democracy. It improves on the political science of the Federalists, the original aristocratic party in democracy, by applying the idea of checks and balances to democracy as a comprehensive way of life. Democracy must imitate the aristocratic way of life to counteract the defects of the democratic social state, which lead it to centralize and extend public power. Even seemingly democratic forms, like decentralized administration and associations, are modeled on the aristocratic way of life. The new political science is not a handbook for legitimists and reactionaries who wish to turn back the tide of democracy; it is a manual for those who wish to erect “dikes” to contain it. And not all of the materials used to construct the dikes, as we will see, are taken from democracy; aristocratic inheritances, such as rights and religion, are often integral parts.

Of all the “aristocracies” that Tocqueville discusses, the aristocracy of administrators is most dangerous to liberty. The old aristocracy is dead; democracy has little to fear from it, and perhaps much to learn. Natural aristocracy is good when it combines enlightenment and virtue, but it is weak in

\textsuperscript{237} ORI, book 2, chap. 5, 137.
democracy and susceptible to perversion. Manufacturing aristocracy is harsh but
not especially dangerous. The aristocracy of administrators, however, can
degenerate into a “new kind of despotism” more extensive than any the world has
seen.

That said, this “new” despotism seems to have a precedent in the
eighteenth-century French monarchy. In the preface to *The Old Regime*,
Tocqueville says that the monarchy and its agents were constantly “helping,
hindering, permitting” – just as he describes the despotism of administrators in
*Democracy*.

Before returning to the puzzle of the “new remedies,” we must examine Tocqueville’s diagnosis of the “new ills” more closely.

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238 ORI, preface, 84.
IV. Democratic Despotism and Representation

The master fell, but what was most substantial in his work remained; his government dead, his bureaucracy still lived, and every time that we have since tried to bring down absolute power, we have limited ourselves to placing liberty’s head on a servile body.

--Tocqueville²³⁹

A constitution that would be republican at the head, and ultra-monarchical in all the other parts has always seemed to me an ephemeral monster. The vices of those who govern and the imbecility of the governed would not take long to lead them to ruin; and the people, tired of its representatives and of itself, would create freer institutions, or would soon return to stretching out at the feet of a single master.

--Tocqueville²⁴⁰

No two forms of government seem more opposed than democracy and absolute monarchy. One promises unprecedented freedom, the other extreme servitude. One says “We the people,” the other “L’etat c’est moi.” But Tocqueville suggests that they can be joined at the neck: “liberty’s head on a servile body.” The road to understanding the future of democracy leads backward through the Old Regime.

Given the striking parallel between the despotism of the second *Democracy* and the despotism of *The Old Regime*, crystallized in the quotations at the heading of this chapter, it hardly seems necessary to argue that Tocqueville linked the absolute monarchy of the Old Regime to modern democracy, not to the traditional way of life of aristocracy. But perhaps because it is so contrary to modern sensibilities (how could Louis XIV be closer to democracy than aristocracy?), scholars often miss this connection.

²³⁹ ORI, book 3, chap. 6, 245.
²⁴⁰ DAII (Nolla), part 4, chap. 6, 1260.
Democratic Despotism

Drescher asserts that Tocqueville “associated French centralization with its aristocracy.” What we have seen so far suggests that Tocqueville saw the aristocratic way of life as the very antithesis of royal centralization, but according to Drescher, Tocqueville “conceptualized medieval history as a struggle between a monarchical, aristocratic, and centralized France, and a democratic, decentralized, and communal France.” Drescher links together aristocracy and absolute monarchy as part of a “multiclass, feudal, and authoritarian nexus.”

Is this Tocqueville’s view of history, one might wonder, or Drescher’s? Whereas Drescher welds together feudalism and absolute monarchy in a “nexus” of evil, Tocqueville seems to think of them as distinct periods of French history. What part of The Old Regime suggests that Tocqueville conceptualized medieval history as a struggle between democratic local liberty and aristocratic centralization? It is telling that Drescher cites nothing in defense of this view but Tocqueville’s letter to Kergorlay arguing that the Bourbons should not have tried to resurrect the “aristocratic principle.” That letter, cited previously, is useful testimony against the reactionary reading of Tocqueville exemplified by Wolin, who interprets The Old Regime as the work of a “broken man” or desperate “mythmaker.” But Drescher construes that letter as a rejection of everything “aristocratic” and neglects the royal elephant in the room, which is not the hapless Bourbon dynasty but the old absolute monarchy.

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242 Ibid, 625.
243 Ibid, 626.
At one point Drescher concedes that one of the benefits of aristocracy is “protection from remote royal tyranny,” sustained by “grandeur above” and “loyalty below.” But he quickly adds that the “comparative benefits” of aristocracy are “limited.” For Drescher, the aristocratic way of life amounts to “luxury, refinement, and cultivation” on one side and “labor, coarseness, and ignorance” on the other. But Tocqueville does not seem to take liberty and grandeur so lightly. He once wrote, “I passionately love liberty” from the “depth of my soul,” but “not democracy.” If the benefits of aristocracy were so limited, there would seem to be no need for ambivalence about aristocracy and democracy; even in theory the choice would be obvious.

Of course, there is no real choice if democracy is inevitable, and it must be conceded that Tocqueville thought so. But Drescher goes farther; not only is the old aristocracy dead, but “grandeur” must be buried with it. Even the perspective of aristocracy is hopelessly anachronistic. A “feudal sensibility,” Drescher suggests, would obscure more than it reveals. But he argues that Tocqueville does not have any such sensibility and should not be understood as a “prophet of despotism,” because this would imply that there is no way to “see beyond the iron cage of democratic despotism, except backwards, through the

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245 Ibid.
246 Ibid.
247 Quoted in Brogan, Alexis de Tocqueville, 348.
248 See DAI, part 2, chap. 6, 234-235. Tocqueville discusses the “choice” between aristocracy and democracy, but seems to conclude that there is no choice, at least not any more: “If there is no longer time to make a choice and if a force superior to man already carries you along toward one of the two governments without consulting your desires, seek at least to derive from it all the good that it can do.”
foreclosed path of aristocracy.”

Tocqueville is forward-looking enough, Drescher suggests, to recognize the “osmotic exchanges with political pluralism” in democracy. But somehow that phrase does not have a Tocquevillean ring. Tocqueville sees the despotism of the future through a pre-modern aristocratic lens, not a modern pluralistic kaleidoscope. The greatest threat to liberty, in his view, is a reconstruction or reincarnation of absolute monarchy – the old bane of feudalism and the arch-nemesis of aristocracy.

For Drescher, absolute monarchy is joined with aristocracy, and thereby safely relegated to “utter pastness”; absolutism ended with the guillotine, and so did aristocracy. Tocqueville’s text “slams the door shut on nostalgic dreams of retrieval.” But this begs the question: Is all “retrieval” nostalgia and fantasy, or can it be reasonable and realistic? If it were only fantasy, Tocqueville’s excavation of the Old Regime would be thoroughly baffling, and perhaps only explicable by Wolin’s “broken man” hypothesis. Why would Tocqueville dig in this dustbin of history if not to retrieve something, even if only a certain sensibility? If the world is really “altogether new,” why bother looking in the past? Drescher seems to forget that Tocqueville was only tempted to “burn [his] books” so as to apply “new ideas” to a “social state so new.”

Tocqueville’s study of pre-revolutionary France in The Old Regime unearthed the process by which royal centralization had extinguished the medieval flicker of freedom,

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250 Ibid, 645.
251 Ibid, 646.
252 Ibid, 637.
253 DAI, part 2, chap. 9, 289.
destroyed the aristocratic keepers of the flame, and laid the groundwork for democratic despotism.

Tocqueville even uses the term “democratic despotism” to describe the intellectual impetus behind the extension of royal power. The physiocrats, economists of the Old Regime, imagined a particular form of tyranny “which we call democratic despotism,” of which “the Middle Ages had no idea.” They conceived an “immense social power” (like the “immense tutelary power” in *Democracy*) that would be “representative,” “impersonal,” and “not at all attached to tradition.” The “rights of each” would bend before the “will of all.” Instead of hierarchy and fixed ranks there would be a “jumbled mass” recognized as the “sole legitimate sovereign.” Drescher cites the preface to *The Old Regime* many times, but he seems not to have absorbed Tocqueville’s key lesson: “[O]f all forms of society, the one where aristocracy does not and cannot exist is just the one which will have the most difficulty escaping absolute government for long.”

Associations can replace the old aristocracy to some extent, as Tocqueville shows in *Democracy*, but aristocracy had provided “natural obstacles” and democratic association requires “art.” Zetterbaum claims that it would be wrong to conclude that Tocqueville “believes aristocracy indispensable,” given

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254 ORI, book 3, chap. 3, 212.
255 DAII, part 4, chap. 6, 663.
256 Ibid.
257 Ibid.
259 ORI, preface, 87.
260 DAII, part 4, chap. 6, 661.
261 DAII, part 2, chap. 4. [Italics added.]
that its functions can be served by voluntary social and political associations.\textsuperscript{262} But if one reads Tocqueville closely, he indicates that democratic associations are not perfect substitutes. Associations are essential in democracy, but “such a combination is not always met with.”\textsuperscript{263} It will take “great skill” to keep from sliding down the slope towards centralization in democracy.\textsuperscript{264} Tocqueville may be an “anti-fatalist to the bone,” as Drescher says,\textsuperscript{265} but he also speaks of the “slaughter” of aristocracy in France as a wound to liberty that “will not heal.”\textsuperscript{266}

The inability of associations to completely replace the liberty and grandeur of aristocracy is partly why Tocqueville admires England so much; it retains the “most important element of a mixed government.” Nowhere is his stronger love of liberty than of democracy more evident than in his advice to England to preserve its aristocracy. Democratic despotism is in fact the perfect antithesis of the mixed regime in England, which Montesquieu notably praised as a nation where “the republic hides under the form of a monarchy.”\textsuperscript{267} Tocqueville’s nightmarish vision is exactly the opposite: monarchy hides under the form of a republic. The greatest of the “new ills” that afflicts democracy is a tendency toward absolutism that preserves the spirit and structure of absolute monarchy under free forms.

The greatest safeguard against despotism was the old aristocracy, the “natural obstacles” of inequality of conditions which “above all” resisted the

\begin{footnotes}
\item[262] Zetterbaum, 29-30.
\item[263] DAI, part 1, chap. 3, 52. (The self-interest of weak individuals replaces the strength of aristocrats and the “natural” unity of great families.)
\item[264] ORI, book 2, chap. 5, 137.
\item[266] ORI, book 2, chap. 11, 173.
\end{footnotes}
central power. But the democratic revolution paved the way for a reincarnation of absolute monarchy with unprecedented power. The Old Regime contained a “whole ensemble of institutions of modern date” which were “not at all hostile to equality” and could therefore “easily take their place in the new society,” offering “unique facilities to despotism.” After the Revolution, the French “sought for them again amidst the debris of all other institutions,” and found them. The French failed in their aspiration to “abolish their entire past.”

We returned to centralization in its ruins and restored it; and since, at the same time that it was revived, all that had formerly been able to limit it remained destroyed, from the very bowels of a nation that had just overthrown the monarchy suddenly surged forth a power more extensive, more detailed, more absolute than that which any of our kings had exercised.

The Revolution began with great and “noble” intentions, but its main innovation was to improve on the old administrative machine. The absolute monarchy had the “same nature,” the “same procedures,” and the “same ambitions” as this new despotism, “but not yet the same power.” Far from being destroyed, despotism was only momentarily suppressed during the early stage of the Revolution. It soon reared its head again, this time wearing a mask of democratic liberty. With each passing revolution the “administration was decapitated,” but its body “stayed alive” and the same officials “transported their

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268 DAll, part 4, chap. 6, 661.
269 ORI, book 3, chap. 8, 245.
270 ORI, book 3, chap. 8, 245.
271 ORI, preface, 85.
272 ORI, book 3, chap. 8, 245.
273 ORI, preface, 86.
274 ORI, book 2, chap. 11, 171.
spirit” to new political systems. The old spirit of administrative despotism returned in new forms.

Centralization and omnipotence, the key features of royal absolutism, are also the two pillars of democratic despotism, whether it manifests itself in the tyranny of a proud majority or the servitude of a timid herd. The latter form of despotism bears an especially close kinship to absolute monarchy. Over the course of The Old Regime Tocqueville describes “administrative centralization,” “tutelary government,” and “bureaucratic habits,” each with its own full-length chapter. In his notes on the “omnipotence of the royal intendants” he warns that “it is much less through the evil committed by arbitrary [power] than by the good it produces that one may judge the extent of arbitrariness,” because “one hides the evil and highlights the good.” This is the same phenomenon that Tocqueville describes in the second volume of Democracy: the rule of a bureaucracy that is “absolute, detailed, regular, far-seeing and mild,” which would “resemble paternal power” except that it aims to “keep [men] fixed irrevocably in childhood.”

Yet even in the case of tyranny of the majority, which might seem to be a wholly democratic phenomenon, Tocqueville perceives the danger to liberty in democracy as a reincarnation of absolute monarchy. Tocqueville introduces the

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275 ORI, book 3, chap. 8, 240.
276 ORI, book 2, chaps. 2-3, 6.
277 ORII, “Notes on Turgot,” 301.
278 ORII, part 4, chap. 6, 663. Tocqueville’s portrait of democratic despotism might be chilling enough to make the “true friends of liberty and human greatness” wish for a return to aristocratic times, but Tocqueville does not want a literal return to the old aristocratic body politic. It may not be accidental that the most anti-aristocratic statements of Democracy come at the end of each volume, following several chapters that criticize democracy, as if to anticipate and warn against a reactionary interpretation. After showing how important aristocracy is, and even to some extent indispensable, Tocqueville must clearly disclaim “aristocracy” so as not to leave any doubt about his intentions.
idea of the “omnipotence of the majority” by analogy to absolute monarchies, which had “dishonored despotism.”279 The friends of democracy must “be on guard” lest they “rehabilitate it” under new forms that might “remove its odious aspect and its demeaning character in the eyes of the greatest number.”280

In democratic republics, there is usually more virtue in the people at large than in their representatives. There is “genuine patriotism in the people” of America, but it is rare among those who flock to a political career.281 This can be easily explained because despotism always “depraves the one who submits to it more than the one who imposes it.”282 Those who aspire to govern democracy behave more like courtiers than rulers. The proud king is reincarnated in democracy as the proud majority; the base courtiers are reincarnated as the depraved representatives of the people.

But of course, because the people rule themselves, the king and the courtier are joined in every citizen. By identifying with the omnipotent majority and conforming to the general will of his semblables, democratic man simultaneously rises to the level of sovereign and sinks to the level of courtier. The “spirit of a court” penetrates the mass of the nation because democracy enthrones the majority.283 It is all the more degrading because the dogma of the sovereignty of the people that has replaced the divine right of kings rests on the mundane strength in numbers of those like oneself. Thus there is a “much more

279 DAI, part 2, chap. 7, 245.
280 DAI, part 2, chap. 7, 245.
281 DAI, part 2, chap. 7, 247.
282 DAI, part 2, chap. 7, 247.
283 DAI, part 2, chap. 7, 246.
general abasement of souls” in democracy.\textsuperscript{284} The “particular person,” the individual, debases himself as a subject even as he fancies himself a king. He is omnipotent insofar as he identifies with the social body and impotent as a particular person. This paradox lies at the heart of the “soft despotism” described in the second volume of \textit{Democracy}, in which the people appear to be “more than kings and less than men.”\textsuperscript{285}

The division between the ruling and the ruled seems to contradict the democratic “ideal” of “perfectly equal” and “perfectly free,” and it does.\textsuperscript{286} But it is concealed under new democratic forms which mask the degradation of being ruled by those like oneself. The courtiers of America, Tocqueville notes, do not say “Sire” and “Your Majesty” – a “great and capital difference.”\textsuperscript{287} These manners are what Whitman, the democratic poet \textit{par excellence}, later celebrated as the “unrhymed poetry” of democracy: “the President’s taking off his hat to them, not they to him.”\textsuperscript{288} The triumph of the principle of equality forms democratic manners which disguise the fact that the rulers are also the ruled. The courtiers of democracy “speak constantly of the natural enlightenment of their master” and “prostitute themselves” by sacrificing their opinions to the sovereign.\textsuperscript{289}

Tocqueville does not place much hope in the enlightened class of America’s “moralists and philosophers” either. They surpass even the “flatterers

\textsuperscript{284} DAI, part 2, chap. 7, 246.
\textsuperscript{285} DAII, part 4, chap. 6, 665.
\textsuperscript{286} DAII, part 2, chap. 1, 479. As we have seen, Tocqueville calls the meeting of the extremes of freedom and equality an “imaginary state,” implying that it can never be realized.
\textsuperscript{287} DAI, part 2, chap. 7, 247.
\textsuperscript{288} Walt Whitman, \textit{The Complete Poems} (Penguin Classics, 2005), 742.
\textsuperscript{289} DAI, part 2, chap. 7, 247.
of Louis XIV” in their servility.\textsuperscript{290} This is how Tocqueville can say there is “no freedom of mind in America,” and less genuine freedom of discussion than there was even in centuries of absolute monarchy and inequality of conditions.\textsuperscript{291} The principle has changed along with the forms, but the spirit of a court persists and envelops the soul of a nation. Thus, both new forms of democratic despotism manifest an unmistakable continuity with royal absolutism. The “new ills” of democratic times, it seems, may not be so new.

Despotism in democratic republics is different from royal tyranny, however, in that democratic tyranny “leaves the body and goes straight for the soul.”\textsuperscript{292} Thus it may be hidden from view of the “eyes of the greatest number,” which suggests that the perception of this kind of despotism requires an aristocratic eye. But where are such discerning men to be found? Tocqueville places little faith in what the authors of \textit{The Federalist} called the “great innovation” of modern political science, the principle of representation.

\textit{External Forms of Freedom}

If the Framers did not rely exclusively or even primarily upon the representative principle to combat tyranny of the majority or “majority faction,” emphasizing the importance of “auxiliary precautions,” they repeatedly expressed their expectation that “fit characters,” a natural aristocracy of wisdom and virtue,

\textsuperscript{290} DAI, part 2, chap. 7, 248. Tocqueville adds in the next section of this chapter that “the government of the American republics” appears “as centralized and more energetic than that of absolute monarchies of Europe.”
\textsuperscript{291} DAI, part 2, chap. 7, 244-245.
\textsuperscript{292} DAI, part 2, chap. 7, 244.
would often hold positions of power. Madison called representation “the difference most relied on” between “the American and the other republics.” Even Jefferson declared that the new principle of representation, based on the continuing consent of the governed, had nearly rendered classical political science obsolete.

The introduction of this new principle of representative democracy has rendered useless almost everything written before on the structure of government; and in a great measure, relives our regret, if the political writings of Aristotle, or of any other ancient, have been lost, or are unfaithfully rendered or explained to us.

Tocqueville thought that American politicians were less virtuous than were the people at large. The democratic representative slavishly executes the general will, like a courtier catering to the whims of the king; he lacks the spine to do anything but bow. Representation is a flimsy barrier against majority tyranny. The Federalist, too, ultimately acknowledged the insufficiency of representation in its call for auxiliary precautions such as separation of powers and checks and balances.

Many of Tocqueville’s liberal contemporaries, however, were more confident than The Federalist that representation would be an effective remedy for the new ills of democracy. The French Doctrinaires, led by François Guizot, put their faith in national representative institutions and hoped to create an English-style natural aristocracy in France. The representative, drawn from the

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295 Quoted in Daniel Judah Elazar, Republicanism, Representation, and Consent: Views of the Founding Era (Transaction Publishers, 1979), 72. Although Tocqueville is nearly as dismissive of the ancient political philosophers as Jefferson is here, his call for a “new science of politics” in Democracy suggests that the political science of The Federalist also did not satisfy him.
upper classes, would moderate the rule of the people and prevent it from descending into the tyranny of a mob. Guizot and the Doctrinaires believed that the best means to protect the rights and liberties of the people was “the selection of a body of able watchmen to guard those invaluable possessions.” Guizot’s famous criticism of Tocqueville in 1856 shows how the Doctrinaires intended to rely on the superiority of a representative elite, rather than broader political participation, as the solution to the problem of democracy:

You paint and you judge modern democracy as a vanquished aristocrat, convinced that his conqueror is right. Perhaps you have thought too commonly of the historical aristocracy, which is indeed truly vanquished, and not enough of the natural aristocracy, which can never be for long and always ends up regaining its rights. Perhaps, if you had more consistently distinguished them, you might have had an easier time, while accepting democracy, contesting what is illegitimate and unsocial in its victory.

Tocqueville had, of course, thought of the natural aristocracy, but he is much more skeptical than Guizot of its ability to function as a ruling class that can temper democracy. In the first volume of Democracy, Tocqueville notes the disappearance of the “virile candor and manly independence of thought” that often distinguished Americans in previous times and which “forms the salient feature of great characters.”

Tocqueville evinces as much or more desire than the Federalists for the rule of a natural aristocracy of enlightenment and virtue, but he has less confidence in this outcome. This cannot, I believe, be attributed solely to the benefit of hindsight, since as late as Guizot’s letter of 1856 many of his

296 Craiutu, Liberalism Under Siege, 217.
297 Mélonio, Tocqueville and the French, 106.
298 DAI, part 2, chap. 7, 247.
contemporaries in France still pinned their hopes on the rule of a natural aristocracy.

Rather it is Tocqueville’s foresight, his salutary fear of the future, which leads him to think that “those who govern” must prepare for the Age of Jackson as surely as they must prepare for the age of democracy. The democratic revolution is more an ongoing process, a revolution in progress, than an isolated disturbance in the natural order of things. Without the protection of aristocratic convention, there is no buffer to protect the rights of the natural aristocracy against the demands of equality. This is why Tocqueville does not share Guizot’s optimism that the natural aristocracy will “always end up regaining its rights.”

Guizot and the old Orleanists had not perceived that the sweeping anti-elitism of the Age of Jacksonian democracy was the natural bent and “secret instinct” of democracy, rather than an accident of American circumstances. The beginning of this trend was, for Tocqueville, marked by the disappearance of the “aristocratic party” of the Federalists from national politics. The western frontier of the United States, bereft of the “natural aristocracy of enlightenment and virtue” and the “intellectual and moral superiorities” that still had some influence in New England, represented the dominant tendency of democracy.

Tocqueville finds unconvincing the theory that universal suffrage would “call to the direction of affairs men worthy of public confidence” to represent a population incapable of governing themselves properly. Rather, he was struck by how little merit he found among those who governed and how much he found

\[299\] Ibid.
\[300\] DAII, part 2, chap. 5, 188.
among the governed. In practice, it seemed, remarkable men stayed out of
democratic politics. This is a consequence not of American circumstance but of
democracy itself; the “natural instincts of democracy” bring the people to keep
such men away from power.\textsuperscript{301}

Nor could standardized education significantly attenuate these instincts.
To “instruct democracy” is one of the first duties of “those who direct society,”
Tocqueville says in the introduction to \textit{Democracy}.\textsuperscript{302} But the kind of practical
political education that Tocqueville idealizes as “little schools” or “great schools”
of democracy is not a program of national education as understood by John Stuart
Mill and others.\textsuperscript{303} Literary instruction is no substitute for the leisure of the old
aristocratic class, because people “never find the time and means” to distinguish
between “charlatans” and “genuine friends.”\textsuperscript{304}

Mill’s very different vision is also apparent, ironically, in his review of the
first \textit{Democracy}. Although Tocqueville himself praised the review when it was
published, Mill reveals an un-Tocquevillean contempt for the “mere everyday
business of politics”:

\begin{quote}
When no great public end is to be compassed; when no great
abuse calls for remedy, no national danger for resistance, the
mere everyday business of politics is an occupation little
worthy of any mind of first-rate powers, and very little
alluring to it. In a settled state of things, the commanding
intellects will always prefer to govern mankind from their
\end{quote}

\textsuperscript{301} Ibid, 189.
\textsuperscript{302} DAI, Intro., 7.
\textsuperscript{303} See John Stuart Mill, \textit{Utilitarianism} and \textit{On Liberty}: Including ‘Essay on Bentham' and
Selections from the Writings of Jeremy Bentham and John Austin, ed. Mary Warnock, 2nd ed.
(Wiley-Blackwell, 2003), 172. For example, Mill asks in \textit{On Liberty}: “Is it not almost a self-
evident axiom, that the State should require and compel the education, up to a certain standard, of
every human being who is born its citizen?”
\textsuperscript{304} See DAI, part 2, chap. 5, 188.
closets, by means of literature and science, leaving the mechanical details of government to mechanical minds.\(^{305}\)

Nowhere in *Democracy* do we find this image of a class of “commanding intellects” who are to “leave the mechanical details of government to mechanical minds.”\(^{306}\) The one possible exception, the portrait of democratic despotism in the second volume, is not encouraging. If anything, Tocqueville worries that “mechanical minds” will be the result of an administrative tyranny causing people to fall “below the level of humanity” and lose the faculty of thinking for themselves.\(^{307}\)

National education, centralization, and rational administration were linked in the program of the physiocrats. The Old Regime’s myriad secondary powers and provincial assemblies had maintained a kind of “irregular freedom” for much of the eighteenth century. The men of letters and economists shared contempt for the old aristocracy, but it is the physiocrats, Tocqueville argues, who embody the Revolution’s “true nature.” Centralization was closely linked, if not “chained,” to the democratic revolution. Indeed the centralization so ardently desired by the physiocrats was “itself the beginning of the Revolution and its sign.”\(^{308}\)

The physiocrats were “mild-mannered” men whose vision of social progress facilitated by a new science of administration ran up against the “outdated” forms, spirit, and principles of the Middle Ages.\(^{309}\) The State would have to “form the citizen’s mind” to comport with a new regime of rational


\(^{306}\) Ibid.

\(^{307}\) DAII, part 4, chap. 6, 664.

\(^{308}\) ORI, book 2, chap. 5, 137.

\(^{309}\) ORI, book 3, chap. 3, 212.
control based on egalitarian principles. Modern economics and the science of administration, they thought, had rendered the old, scattered counterweights against the abuse of power “absolutely useless.” Only public education could be “truly effective.” Public enlightenment, not a complicated system of “checks and balances,” would make despotism impossible. The physiocrats, Tocqueville explains, believed in the economics of laissez faire but not in the politics of liberty. Political liberty, being unquantifiable and unpredictable, literally did not enter into their calculations.

Tocqueville has little confidence in an educational panacea as a substitute for the protection of political guarantees. The “only efficacious remedy” for the ills that equality produces is “political liberty.” Tocqueville’s idea of liberty, closer to that of the ancients than that of On Liberty, demands action, participation, pride, assertion, and cooperation. Governing must occur not from the closets of the “commanding intellects,” but in broad daylight by “plain citizens” who associate to play the role of aristocrats.

Intellectual superiorities can help a nation preserve its freedom, but only when joined to “moral superiorities.” Natural aristocracy marked by the “talents and virtues of those who govern” can only arise where education and freedom are the “children of morality and religion,” as in New England. Intellectual instruction must be combined with moral education and political action.

One cannot doubt that in the United States the instruction of the people serves powerfully to maintain a democratic republic. It will be so, I think, everywhere that the instruction

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310 Ibid.
311 DAII, part 2, chap. 4, 488.
312 See DAII, part 4, chap. 7, 668.
313 DAI, part 2, chap. 5, 191.
that enlightens the mind is not separated from the education that regulates mores. But I by no means exaggerate this benefit, and I am still further from thinking, as do a great number of people in Europe, that it suffices to teach men to read and write to make them citizens immediately.314

“Genuine enlightenment,” Tocqueville argues, “arises principally from experience.”315 If the Americans had not been gradually habituated to self-government, their literary knowledge “would not greatly help them today to succeed in it.”316 Tocqueville emphasizes a combination of practical political education and religious upbringing – New England’s fortunate combination of “morality, religion, and freedom”317 – over literary education and standardized schooling.

In stark contrast to the confidence of the physiocrats in the state-prescribed “educational medicine” of universal public education, Tocqueville is skeptical to the point of believing it “impossible, whatever one does,” to “raise the enlightenment of the people above a certain level.”318 If democracy does not always lack the capacity for choosing “men of merit,” it often lacks the “desire and taste.”319 Education could even undermine freedom if it became a “national affair,” as in the power of soft despotism which “takes the child from the arms of his mother” so that “uniformity reigns in studies as in all the rest” and “diversity

314 DAI, part 2, chap. 9, 291.
315 DAI, part 2, chap. 9, 291.
316 DAI, part 2, chap. 9, 291.
317 DAI, part 2, chap. 5, 191.
318 DAI, part 2, chap. 5, 188. Mill, though not one of the physiocrats, seems to share their faith in universal public education and rational administration. Both also promote a kind of liberty that does not capture the primacy that political liberty has in Tocqueville’s thought.
319 Although Mill was not insensitive to this problem, which he hoped to solve with a scheme of unequal voting, Tocqueville seems to throw cold water on the notion of taming democracy with a meritocratic elite.
like freedom disappears from them each day."\textsuperscript{320} This is important because Tocqueville says elsewhere that “it is women who regulate mores.” Whereas education and freedom were once the “children of morality and religion,” the immense tutelary power comes to replace maternal power. And whereas the “paternal power” tries to prepare children for adulthood, soft despotism seeks to infantilize them. It is not “tyrants” that democratic nations must fear in the end, Tocqueville warns, “but rather schoolmasters.”\textsuperscript{321}

If the combination of literary instruction and representation offers little bulwark against majority tyranny, it is even less protection against the greater threat of a despotism looming “in the very shadow” of the sovereignty of the people.\textsuperscript{322} National representation can “diminish the evil” produced by extreme centralization, but not destroy it.\textsuperscript{323} Although elections offer citizens the opportunity to intervene in the “most important” affairs, Tocqueville cautions, it is “above all dangerous to enslave men in the details.”\textsuperscript{324} Freedom in the most important affairs cannot compensate for subjection in small ones. “Liberty’s head” cannot long be nourished by a “servile body.”

The great discovery of the “science of despotism” in democracy is a hybrid of representative liberty and rational administration which feeds on the “mother passion” of equality.\textsuperscript{325} A “regulated, mild, and peaceful servitude” could be combined more easily than one might expect with “some of the external forms

\textsuperscript{320} DAIL, part 4, chap. 5, 652.  
\textsuperscript{321} DAIL, part 4, chap. 6, 662.  
\textsuperscript{322} DAIL, part 4, chap. 6, 664.  
\textsuperscript{323} DAIL, part 4, chap. 6, 664.  
\textsuperscript{324} DAIL, part 4, chap. 6, 664.  
\textsuperscript{325} DAIL, part 4, chap. 4, 650.
of freedom.”³²⁶ People vote in elections, but subjection in small affairs and
dependence on the central power alternately hinders and helps the individual until
the exercise of free will seems useless or unnecessary. It attacks the faith in the
efficacy of freedom that is the root and life of representative institutions. Citizens
are gradually lead to “renounce the use of their free wills,” which extinguishes
their spirits and “enervates their souls.”³²⁷

In vain will you charge these same citizens, whom you have
rendered so dependent on the central power, with choosing the
representatives of this power from time to time; that use of
their free will, so important but so brief and so rare, will not
prevent them from losing little by little the faculty of thinking,
feeling, and acting by themselves, and thus from gradually
falling below the level of humanity.³²⁸

The paradox of democratic despotism is that it doubts the “good sense” and
competence of the people in small things but entrusts “immense prerogatives” to
these same citizens in the most important ones. They are alternately the
“playthings of the sovereign,” under its tutelage, and “its masters,” through
representation.³²⁹

While individuals in democracy are weak and mobile, like an “agitated
and monotonous stream” of social droplets,³³⁰ the lone central power is
“omnipotent” and stationary, even “providential.”³³¹ Although a constitution
“republican at the head” and “ultra-monarchical in all its other parts” might seem
an “ephemeral monster,” Tocqueville qualifies in a note that “the thing can go for

³²⁶ DAIL, part 4, chap. 6, 663.
³²⁷ Ibid, 665.
³²⁸ DAIL, part 4, chap. 6, 665.
³²⁹ Ibid.
³³⁰ DAIL, part 3, chap. 17, 587.
³³¹ DAIL, part 4, chap. 2, 642.
a while this way.”

Amidst upheaval, the idea of uniform, centralized power “stands firm amid the agitation of all other opinions.” Whereas the “cleverest” minds worry that humanity is going to “fall into anarchy forever,” Tocqueville fears that at the end of the earthquake that “makes all thrones tremble,” sovereigns will find themselves “more powerful than ever.”

Surely Tocqueville does not believe, with Rousseau, that “the instant a people chooses representatives, it is no longer free.” Tocqueville derides the notion that representatives are “nothing but agents of the people,” as we have seen, and calls the ultra-democratic party “scoundrels.” He argues for indirect election in matters of national representation. But representation is not a centerpiece of Tocqueville’s political science, and indirect election plays only a minor, supporting role. When a people chooses representatives, it does not necessarily make itself free. Tocqueville fully accepts the quasi-aristocratic ideal of the Burkean representative, while rejecting it as the solution to the problem of democracy. He takes the Burkean view insofar as national representation is necessary in a large republic, but he is ultimately more Rousseauian in his preference for local liberty and the participation of “plain citizens” in politics.

332 DAlI (Nolla), part 4, chap. 6, 1260n. Tocqueville elaborates in an unpublished note (y): “Those who believe they are able to stop for long at a government which is republican at its head and ultra-monarchical at its tail, chambers and a centralized administration, are great fools. But the thing can go for a while in this way.”
333 DAI, part 4, chap. 2, 642.
334 DAI, part 4, chap. 5. 660-661.
335 Jean-Jacques Rousseau, On the Social Contract, ed. Roger D. Masters, trans. Judith R. Masters (St. Martin's Press, 1978), 102. Rousseau also writes that that the English people only “thinks it is free.” It is a “slave” once election of the members of Parliament is complete.
336 Tocqueville, Recollections, 117.
Conclusion

The Federalists, John Stuart Mill, the Doctrinaires, and many other of Tocqueville’s contemporaries hoped to solve the problem of democracy with a combination of education and representation. The framers of the Constitution saw the greatest threat to democracy as volatility: the oscillation of the ancient republics between tyranny and anarchy.\(^{337}\) Tocqueville ultimately worries about too much stability: a form of despotism so enduring that it could outlast not only changes in leadership, but full-scale revolution. This concern is at the heart of the insufficiency of representation as a solution to the problem of democracy. Tocqueville’s insight in the second volume of *Democracy* is that democracy is more likely to reproduce the enlightened despotism of absolute monarchy, at least in the long run, than the turbulence of the classical republic.

Mill admitted that without having been influenced by Tocqueville himself on the dangers of centralization, his own view would have been close to that of the radical utilitarians in England.\(^ {338}\) Guizot and the Doctrinaires, meanwhile, excused the actions of the absolute monarchy because they believed that the destruction of local liberty had paved the way for the unification of the country and the creation of modern representative institutions. In his 1828 lecture series, attended by Tocqueville, Guizot noted how the “blind, unbridled, and ferocious spirit” of the medieval French commune had succumbed to the progress of royal

\(^{337}\) Hamilton, *The Federalist*, No. 9, 37-42. See also No. 14, 62-68.

“It must be understood,” Guizot emphasized, “that this revolution was not only inevitable but beneficial.” Whatever he learned from Guizot, Tocqueville continued to admire the “turbulent virtues” of aristocracy, the “ungovernable” spirit of the Middle Ages, and the instinct of “intractability” in democracy. He is never so sure about the “external forms of freedom.” Representation could not solve the problem of soft despotism, because contempt for local liberty accompanied the rise of centralized representative institutions, as did the modern faith in rational control by administrators. They would more effectively pursue the general will than plain citizens, who did not always see their interests clearly.

Guizot and the Doctrinaires searched for a juste milieu, a just middle between aristocracy and democracy, and thought they found it in natural aristocracy and representation. Tocqueville’s solution to the problem of democracy is more of a mix between two ways of life than a middle between “the many” and “the few.” His political science is both more “feudal” and less “elitist” than that of the thinkers to whom he is most often compared. He does not pin his hopes for “tempering democracy” on a virtuous or talented elite, whether Guizot’s “natural aristocracy” or Mill’s intellectual meritocracy. His compromise between

340 Ibid.
341 See Craiutu, Liberalism Under Siege, 3-4. But see also Craiutu, “Tocqueville's Paradoxical Moderation,” The Review of Politics 67, no. 04 (2005): 614. Tocqueville, as Craiutu concedes, ultimately cannot be assimilated into the political and intellectual tradition of the French Doctrinaires. He was not satisfied with the dominance of the middle classes, the creation of centralized representative institutions, and the bourgeois ethos embodied in Guizot’s appeal “Enrichissez-vous,” which is what the Doctrinaire idea of the natural aristocracy seemed to become in practice. For a summary and critique of attempts to portray Tocqueville as a disciple of the Doctrinaires, see Cheryl B. Welch, “The Beauty of Gray?: Liberal Politics and Theory in Post-revolutionary France,” Political Theory 33, no. 5 (October 1, 2005): 727-734.
aristocracy and democracy, as we will see, is much broader and does not rely primarily on the superior wisdom of a select few.
V. The Tocquevillean Polity

It is not that I believe that in order to preserve freedom one can mix several principles in the same government in a manner that really opposes them to one another. The government called mixed has always seemed to me a chimera. There is, to tell the truth, no mixed government (in the sense that one gives to this word), because in each society one discovers in the end one principle of action that dominates all the others.

– Tocqueville

In order to make myself well understood I have constantly been obliged to depict extreme states, an aristocracy without a mixture of democracy, a democracy without a mixture of aristocracy, a perfect equality which is an imaginary state. Then I come to attribute to one or the other of the two principles more complete effects than those that they generally produce because, in general, they are not alone. In my words, the reader must distinguish what my true opinion is, from what is said in order to make it well understood.

– Tocqueville

We began our inquiry into Tocqueville’s solution to the problem of democracy with his well-known formulation, “new remedies for new ills.” Now we have seen that the “new ills” may not be so new. Democratic despotism is a reconstruction of absolute monarchy which can be traced to an old ill: the centralizing tendency of equality. But it is hopelessly resistant to the new remedy, representation, and the old aristocracy has expired. Must we simply live with a “wound that cannot heal”? The prognosis, I contend, is not so grim. The true friends of liberty and human greatness need not despair. Tocqueville has a new remedy: a mix of aristocracy in democracy.

But surely aristocracy in democracy, this aged elixir in new flask, is a fantasy. How can the aristocratic way of life be made compatible with democracy, a combination of equality and sovereignty of the people? Wouldn’t these

342 DAI, part 2, chap. 7, 240.
343 DAII (Nolla), 694n.
principles, these antibodies to aristocracy, attack the foreign object? This brings us to the task of Tocqueville’s science of politics: the democratic reconstruction or reincarnation of aristocracy to counteract a democratic reincarnation of absolute monarchy. Those who govern must rebuild aristocracy on a democratic foundation, so that it accords with the principles of democracy while counteracting its natural tendencies.

Democracy cannot be as elevated as aristocracy. To demand otherwise would be “unjust.” But while institutions change and shape the character of citizens, Tocqueville indicates, there is one human nature and ultimately one humanity. Even if there are “as it were” two distinct humanities, democracy must not be allowed to fall “below the level of humanity.” Democratic instruments must be put to aristocratic ends. The old forms of aristocracy cannot be revived, but the aristocratic spirit must persist under democratic forms. Aristocracy must remain within the bounds of equal justice under law, but it is the blueprint for liberty and greatness in democracy. The solution to the problem of democracy is what I have called the Tocquevillean polity: a mixture of aristocracy and democracy, as ways of life, on a democratic basis.

Although Tocqueville rejects the possibility of “truly mixed government” as a “chimera,” he refers to several inheritances from aristocracy, elements of aristocracy, and substitutes for aristocracy which act as counterweights to democracy, restrain its natural impulses, or preserve the spirit of aristocracy in democratic form. To counteract a democratic reincarnation of absolute monarchy

344 DAII, part 3, chap. 14, 578.
in the form of “democratic despotism,” Tocqueville constructs a democratic reincarnation of aristocracy that culminates in a “mixed regime” or polity.

*Liberty, Equality, Aristocracy*

The democratic reading, as we have seen, declares that democracy can dispense with aristocracy, and the sooner the better. Aristocracy is unjust, obsolete, and irrelevant. If liberty and equality are native to democracy there is little reason to glance backward, like Lot fleeing Sodom, except perhaps to see how far we have come. We may recall Ampère’s formulation, “Cherish liberty to exorcise the evils of equality,” or Tocqueville’s own remark in *Democracy* that political freedom is the “only efficacious remedy” to “combat the evils that equality can produce.”

The problem of democracy can be boiled down, at least in theory, to equal liberty under law.

Yet the practical problem seems to be the real problem of democracy, the challenge to which Tocqueville directs his new political science. It is true that democracy gives men an “instinctive taste” for freedom, but they have an “insatiable” craving for equality. The first chapter of Part Four of Democracy, titled “Equality Naturally Gives Men the Taste for Free Institutions,” is often cited as evidence of the efficacy of democratic expedients and “new remedies for new ills.” Tocqueville himself says that equality produces a love of independence and a “natural slope” toward “free institutions.”

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For me, far from reproaching equality for the intractability it inspires, I praise it principally for that. I admire it as I see it deposit that obscure notion and instinctive penchant for equality.

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345 DAII, part 2, chap. 4, 488.
346 DAII, part 2, chap. 2, 482.
347 DAII, part 4, chap. 2, 640.
political independence at the bottom of the mind and heart of each man, thus preparing the remedy for the evil to which it gives birth. It is on this side that I cling to it."  

It is clear, however, that the “two tendencies” of democracy are not equally strong. One leads men to independence, but the other conducts them by a “longer, more secret, but surer path toward servitude.” The natural slope of democracy towards centralization and servitude may be shallower than its slope towards independence, but it is also more slippery. Anarchy is “not the principal evil that democratic centuries will have to fear, but the least.” Note well that the “love of independence” in times of equality is submerged “at the bottom” of the soul, whereas the “turbulent virtues” and “virile mores” of aristocracy would have shone at the surface. The problem of democracy is that the penchant for political independence must be elevated by artifice. It must be brought out of darkness into broad daylight.

The destruction of aristocracy poses an unprecedented threat to liberty. This is Tocqueville’s teaching not only in The Old Regime but in Democracy, which culminates in the portrayal of democratic despotism. In nearly every chapter of the section on democratic despotism, Tocqueville shows how the spirit of freedom which reigned in aristocracy was gradually extinguished by centralization. Even when he suggests replacements for aristocracy at the conclusion, he uses aristocracy as a foil for determining what is necessary to preserve liberty in democracy. Democratic instruments (e.g. elections) are put to aristocratic ends, substitutes for aristocracy (e.g. associations) are built on the

\[^{348}\text{Ibid.}\]
\[^{349}\text{Ibid.}\]
\[^{350}\text{Ibid.}\]
aristocratic model, inheritances from aristocracy (e.g. religion) are covered with a
democratic finish, and aristocratic elements (e.g. lawyers) act as a counterweight
to democracy.

“Cherish liberty to exorcise the evils of equality” might seem like a
solution to the problem of democracy on the level of democracy: a new remedy
for new ills. But what if, in practice, liberty is an inheritance from aristocracy?
Whether the prescription is “new” seems to depend on the patient who is to be
treated. In Democracy, Tocqueville notes that “freedom is old” in America and
“equality is comparatively new.” In France, the reverse is true. America has a
fortunate inheritance of institutions and mores from old aristocratic England.
France has an unfortunate inheritance from the old absolute monarchy.

“Unintentionally,” Tocqueville says in the preface to The Old Regime, “they used
the debris of the old regime to construct the framework of their new society.” If
we connect this to what Tocqueville says in Democracy, we may begin to see the
“new remedies for new ills” in a new light. Given that political liberty is the “only
efficacious remedy” for the “evils that equality can produce,” the prescription
of “new” remedies seems much more appropriate for France, which has a legacy
of despotism, than America, which has a tradition of liberty.

Even in France, however, the remedies may only be “new” because they
are so old. Tocqueville shows in The Old Regime that local liberty had flourished
in France prior to royal centralization. He suggests in Democracy that the nations

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351 Elsewhere, Tocqueville clarifies that it is a “great, though a common error” to believe that the
“spirit of liberty” in France “had its birth with the revolution of 1789.” See Alexis de Tocqueville,
“Political and Social Condition of France,” ed. Sir John Bowring and John Stuart Mill, The
352 ORI, preface, 83.
353 DAIII, part 2, chap. 4, 488.
of Europe have never known freedom or have not known it “for a long time,” as if to imply that freedom is old there too, not just in America.\textsuperscript{354} Liberty has appeared in “different times and different forms,” whereas equality of conditions is the “mother idea” and “dominating fact” of democracy.\textsuperscript{355} Liberty has not been “exclusively linked to one social state,” whereas equality is the “distinctive characteristic” of democracy.\textsuperscript{356} So the point of departure for liberty, even in France, is unavoidably aristocratic. The kind of liberty that came of age in aristocracy, not the liberty of the plebiscite or the “private” liberty of \textit{laissez-faire}, is the kind that must persist to counteract the natural defects of the democratic social state. Indeed, Tocqueville’s conception of “democratic liberty” turns out to be a generalized form of aristocratic liberty.\textsuperscript{357} He is not content to divorce “modern liberty” from “ancient liberty” in the manner of Constant, which may be why he is not as satisfied with modern representative institutions as Constant and his liberal contemporaries.\textsuperscript{358} Tocqueville’s understanding of liberty is closer to that of ancient Athens or feudal France.

Nevertheless, the “Tocquevillean polity” is most visible in America, and that is where we must seek its image. Tocqueville came to America to draw lessons for France and the rest of the world, not to develop a theory of American exceptionalism. But what makes American democracy attractive to Tocqueville,
and worth replicating in some form, are the features that are redolent of the aristocratic way of life. The “Anglo-Americans,” as he often calls them, inherited many of their most important institutions, habits, ideas, and tastes from a country in which true aristocracy still thrived. Thus he emphasizes America’s “point of departure,” a combination of English and Puritan influence, which he calls the “key to almost the whole work.”359

While the Puritan reconciliation of the “spirit of religion” and the “spirit of liberty” is crucial for Tocqueville, as we will see, America’s “singular destiny” stems from its singular origin in a functioning aristocracy:

The destiny of the Americans is singular; they have taken from the English aristocracy the idea of individual rights and the taste for local freedoms; and they have been able to preserve both because they have not had to combat an aristocracy.360

This point of departure for liberty is not so much “divorced” from aristocracy in Europe as it is transplanted. America has a tradition of liberty which was cut short in France by royal centralization but continued in the Anglo-American context due to the preservation of aristocracy in England.

Whereas the democratic reading fixates on “new remedies for new ills,” Tocqueville’s analysis of Anglo-American continuity would seem to recommend old, English imports for new, democratic ills. The English who came to America “had all been habituated in the mother country” to take part in public affairs; they “knew the jury, free speech, freedom of the press, individual freedom, the idea of right and the practice of resorting to it.”361 They transported these “free

359 DAI, part 1, chap. 2, 29.
360 DAI, part 4, chap. 4, 648.
361 DAI, part 4, chap. 4, 646.
institutions and virile mores” to America, and these “sustained them against the encroachment of the state.”

To correct the natural defects of democracy, the Americans had made “great and fortunate efforts” to maintain these institutions and mores. Their municipal laws turned the “restive ambitions” and “democratic passions” of citizens to the benefit of the township. Their legislators had managed to “oppose the idea of rights” to the “democratic sentiment of envy.” The immobility of their “religious morality” could counteract the constant movement of the political world. As we will see, all of these features of American practice are aristocratic in origin or character. Tocqueville indicates that the democratic current is channeled, though never directly challenged, by the aristocratic elements and inheritances that persist in democracy.

Religion

Religion, Tocqueville says in a striking passage of Democracy, must be carefully preserved as the “most precious inheritance from aristocratic centuries.” Striking, because at the end of the book, as we have seen, Tocqueville chides those of his contemporaries who wish to retain some of the institutions, opinions, and ideas of aristocracy and carry them into the new world. But the “key to almost the whole work,” Tocqueville indicates at the

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362 DAIL, part 4, chap. 4, 646. The notion of “virile mores” reinforces the connection with aristocracy here, in Democracy, just as it is generally linked to aristocracy in The Old Regime. For a typical example, see ORI, book 2, chap. 11, 173.
363 DAI, part 2, chap. 9, 297.
364 Ibid., 297-298.
365 Ibid., 298.
366 DAIL, part 2, chap. 15, 519.
367 DAIL, part 4, chap. 8, 675.
beginning of *Democracy*, is embodied in America’s largely Puritan “point of departure”: the union of the “spirit of religion” and the “spirit of liberty.”

Puritan legislation holds the “password” to the American “social enigma.” Religion is the point of departure for America, and religion is the point of departure for *Democracy*.

Throughout *Democracy*, Tocqueville extols this inheritance from aristocracy as the “cradle” of freedom, the “safeguard of mores,” the teacher of “true happiness” as virtue, the “divine source” of rights, and the spring of “greatness.” When Tocqueville ranks the factors that are most important for maintaining the democratic republic in America, he places mores above laws, and laws above “circumstances.” Yet if religion is the “safeguard” of mores, and mores are the “guarantee of laws,” this puts religion at the head of the most important factors. This explains why Tocqueville calls the religion of the Americans the “first of their political institutions” while praising their separation of church and state, and suggests that the combination of religion and liberty is the password to the American social enigma. He seems to have religion in mind when he says in the introduction to *Democracy* that those who govern must instruct democracy and “purify its mores.”

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368 DAI, part 1, chap. 2, 43.
369 DAI, part 1, chap. 2, 37.
370 DAI, part 1, chap. 2, 43-44.
371 DAI, part 1, chap. 2, 44.
372 DII, part 2, chap. 15, 517.
373 DAI, part 1, chap. 2, 44.
374 DII, part 2, chap. 15, 520.
375 ("Circumstances" primarily refers to geography.)
376 DAI, part 2, chap. 9, 280.
377 DAI, part 1, chap. 2, 37.
378 DAI, Intro, 7.
one must not “despair of regulating democracy” with “laws and mores,” he implies that one must not despair of regulating democracy with religion.

Yet Tocqueville himself seems to despair when he notes that religion is losing its empire over men’s souls and the very notion of divinity is disappearing.

Do you not see that religions are weakening and that the divine notion of rights is disappearing? Do you not find that mores are being altered… Do you not perceive on all sides beliefs that give way to reasoning, and sentiments that give way to calculations?379

Here Tocqueville seems to echo Burke’s fear that “the age of chivalry is gone” and “that of sophisters, economists, and calculators has succeeded.” The philosophic method of Bacon and Descartes, which is not simply European but “democratic,” attacks “ancient beliefs” and modifies “ancient mores.”380 Equality of conditions gives men an “instinctive incredulity about the supernatural” along with a “very high and often much exaggerated idea of human reason.”381

Democratic equality makes it difficult to place intellectual and moral authority “outside of and above humanity.” Whereas in aristocracy, people were naturally disinclined to recognize the “infallibility of the mass,” equality leads man seeks the source of truth in himself or in his semblables.382 Although religion is not “inherently hostile” to the “essence” of democratic societies, Tocqueville emphasizes in the Old Regime, this only signifies that it is not necessarily hostile in principle to the sovereignty of the people. Even if religion is compatible with the sovereignty of the people in practice, as the example of America indicates, the instincts of democratic equality undermine faith. Religion

379 DAI, part 2, chap. 6, 228.
380 DAI, part 1, chap. 1, 405.
381 DAI, part 1, chap. 2, 408.
382 DAI, part 1, chap. 2, 408.
helped to usher in the age of democracy with the egalitarian revelation of Christ, but the democratic philosopher aspires to replace the democratic messiah.

Thus it is not only an accident that religion is a “precious inheritance” from aristocracy. The aristocratic social state naturally favors the development and maintenance of religion, whereas the “mother passion” of equality in democracy undermines it. Aristocracy “holds society immobile” and “favors the firmness and duration of positive religions.” It “maintains the human mind in faith.” Equality diverts man from the “taste for the ideal” and the “pleasure one takes in seeing it depicted.” Even in poetry and painting, democracy loses sight of “heroes and gods” and turns to depicting “rivers and mountains.” There will be no new religions, Tocqueville predicts, in democratic times.

At the same time that religion is most vulnerable, however, it is most needed. It is “more necessary” to democratic peoples than “all others,” because it counteracts the natural tendencies of the democratic social state. Whereas “contempt for material goods” is natural in aristocracy, democracy favors the taste for material well-being, which makes man more susceptible to the “dangerous malady” of “materialism.” Materialism is not just love of well-being, but a philosophy which states that “all is nothing but matter.”

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383 DAIL, part 1, chap. 17, 459.
384 Ibid.
385 Ibid., 458.
386 Ibid., 460.
387 DAIL, part 1, chap. 2, 408.
388 DAIL, part 2, chap. 15, 519.
389 DAI, part 2, chap. 6, 234.
390 DAIL, part 2, chap. 15, 519.
391 DAIL, part 2, chap. 15, 519.
how Tocqueville can say there is “no materialism” in America,\textsuperscript{392} where religion retains its empire over souls, even as he declares elsewhere that the “passion for well-being” preoccupies Americans “universally.”\textsuperscript{393} Democratic man is brought to believe with Spinoza in the “eternity of the world” and to affirm with physiologists that “the brain secretes thought.”\textsuperscript{394} The belief that nothing is holy is only challenged by pantheism, the belief that everything is holy. But if everything is holy, Tocqueville suggests, nothing is.

Despotism in democracy, as we saw earlier, “leaves the body and strikes at the soul.” Though Tocqueville never says it explicitly, this suggests that democratic despotism is imperceptible without, at minimum, a belief in the soul. Hence the “greatest advantage” that democracy derives from spiritual beliefs is the idea of the “immortality of the soul.”\textsuperscript{395} Whereas democratic philosophers teach that the world is eternal, religion preaches the eternity of the soul. Religion, if it has not dissolved into pantheism, elevates the individual against the social power because the soul is in the individual.

Religion preserves individuality while preventing a decline into individualism or a false ascent into pantheism. It counteracts individualism because it turns man’s attention inside-out, away from “contemplation of himself” and toward the idea of duty to his fellows.\textsuperscript{396} It requires man to submit to an external authority without degrading him, as submission to his semblables might, because God is the very definition of legitimate authority. Religion also

\textsuperscript{392} DAI, part 2, chap. 14, 514.
\textsuperscript{393} DAI, part 2, chap. 10, 506.
\textsuperscript{394} DAI, part 2, chap. 9, 281.
\textsuperscript{395} DAI, part 2, chap. 15, 519.
\textsuperscript{396} See DAI, part 1, chap. 5, 419.
counteracts pantheism to the extent that it divides the world into holy and unholy or immaterial and material. Pantheism has “secret charms” in democracy for the very reason that it “destroys human individuality,” and all who believe in the “genuine greatness of man” must combat it. Religion immunizes the social body against the democratic maladies of individualism and pantheism, thus preserving the unity necessary to combat apathy and the individuality natural to aristocracy.

The idea of the soul, Tocqueville claims, is also what elevates the species as a whole because it makes man capable of “scorning even life,” which beasts cannot imagine. Man can only be thought superior if one affirms the inequality between man and beast; religion, especially Christianity, teaches the natural equality of the human species, not all life. But even the implausible doctrine of reincarnation or “metempsychosis,” Tocqueville argues, is preferable to materialism because it teaches the superiority of “immaterial and immortal principle” over matter. Belief in the soul produces “beautiful effects,” “pure sentiments,” and “great thoughts.” Religion helps democratic man recapture something of the scorn for material well-being and “natural grandeur of thought” in aristocracy, while guarding against the development of new and subtle forms of despotism native to democracy.

The decline of religious self-mastery prepares citizens to accept the mastery of the social power. Without religion, democratic man is “frightened” by

397 DAI, part 1, chap. 8, 426.
398 DAI, part 1, chap. 8, 426.
399 DAI, part 2, chap. 16, 521-522.
400 DAI, part 2, chap. 15, 520.
401 Ibid., 520.
402 DAI, part 3, chap. 14, 579.
his “limitless independence.”  

As everything is moving in the “world of the intellect,” the people want all to be “firm and stable in the material order,” and they “give themselves a master.” Here Plato’s warning about democracy seems to be in effect: from the “height of liberty” to the “extreme of servitude.” Later in *Democracy*, Tocqueville introduces the “firm and stable” master in the form of democratic despotism. The omnipotence of the fixed, immortal God parallels the omnipotence of the fixed, immortal central power. The permanence and false “providential” aspiration of the central power gives it the aspect of a mortal god.

Religion works at the level of the individual and the family, but ultimately strengthens national character, stiffens mores against servitude, and sets limits to the social power. Under any form of government, freedom is “in peril” if the dominant power is unlimited. Montesquieu wrote in *The Spirit of the Laws* that “one thing” can sometimes resist the prince’s will, even in despotic nations. In Persia, one will “forsake one’s father, even kill him” if the prince orders it, but one will not “drink wine”; the laws of religion are of a “higher precept” because they bind the sovereign as well as the subject. When Tocqueville lists the aristocratic mores that “bounded the powers of kings” in *Democracy*, he names “religion” first. In democratic times, religion is at its best when it is the “first of political institutions.” The omnipotence of God must be opposed to the omnipotence of the majority. Perhaps the most important political function of religion is to prevent the “impious maxim” that “everything is permitted in the

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403 DAIL, part 1, chap. 5, 418.
404 Ibid.
405 DAI, part 2, chap. 7, 241.
407 Ibid.
408 DAI, part 2, chap. 9, 299.
interest of society.”

409 Religion prevents the people from “conceiving everything” and “forbids them to dare everything.”

410 While restraining the individual from license and acting as a “salutary yoke on the intellect,” religion serves as a salutary yoke on the social power.

Nevertheless, religion must not intervene in politics directly if it is to preserve its moral empire over politics. It must seem above politics even as it influences politics. Religion enjoys primacy in America precisely because it “never mixes directly” in government.

411 Faith is always in human nature, Tocqueville indicates, but it gains little from alliance with earthly powers. Although faith is “natural to the human heart,”

412 even in democracy, it becomes “more and more dangerous” in democratic times for religion to “unite with authority.”

413 Whereas America placed its religion “outside” the political world where innovation reigned, Christianity in Europe was bound tightly to the “powers of the earth.” Religion fell with the old social and political order and was “buried” under the “debris,” like a “living [thing]” tied to a corpse.

414 One must “cut the bonds that hold it back” so that it will “rise again.”

415 Perhaps like aristocracy itself, the old forms of religion must be discarded to preserve its spirit.

416 Note that Tocqueville calls the spirit of religion and the spirit of liberty two “perfectly distinct” elements that America has somehow succeeded in

409 DAI, part 2, chap. 9, 280.

410 Ibid.

411 Ibid.

412 Ibid., 284.

413 Ibid., 285.

414 Ibid., 288.

415 Ibid.

416 Like religion in America, which retains its political influence indirectly, aristocracy can have the most effect if it does not mix directly in government.
“combining marvelously.” Perhaps the “two distinct humanities” are not as irreconcilable as they seem.417

Tocqueville prefers the Puritans, despite their theocratic excesses, to the self-proclaimed “champions of modern civilization” in Europe who strive to “make men into matter” and “separate well-being from virtue.”418 But perhaps the Puritan reconciliation of liberty and religion is only the key to “almost” the whole work because church and state cannot stay united for long in democracy without undermining religion itself. By diminishing its apparent force, Tocqueville suggests, religion can increase its real power.419 In America, religion influences politics from the bottom up, starting with the family and the “women who regulate mores.” It is woman, the better half of the “conjugal association,” who is master of America’s “first political institution.”

America has been able to preserve its aristocratic inheritance well because religion and equal liberty were united from the beginning. Unlike in Europe, where revolutions buried religion under the debris of the old society, religion “gave birth to the Anglo-American societies” and intermingled with “all national habits and all the sentiments to which a native country gives birth.”420 The dogma of the sovereignty of the people was mixed with religious dogma in the “democratic and republican religion” of the Puritans.421 In America, religious zeal “warms itself at the hearth of patriotism.”422 Religion was democratized from the

417 At minimum, this suggests that the idea of “two distinct humanities” does not necessarily support the democratic reading of Tocqueville.
418 DAI, Intro, 11.
419 DAI, part 2, chap. 9, 285.
420 DAI, part 1, chap. 2, 408.
421 DAI, part 2, chap. 9, 275.
422 DAI, part 2, chap. 9, 280.
very beginning, not bound up with the old aristocratic forms. To stay above the
sovereignty of the people, religion must stay out of its way. By affirming the
“dogma of the sovereignty of the people,” religious dogma can restrict its sphere
of operation. By embracing democracy in principle, it can restrict its reach.
Religion is thus the natural companion of the aristocratic-souled party in
democracy.

Yet religion is not an “anti-demotic force” manipulated by elites \(^{423}\) or an
enemy of all public power. It may stay the hands of the legislator, but it does not
tie his hands behind his back. It is a source of individual and social strength. The
“principal business” of religion is to combat the ardor for material well-being and
the philosophy of materialism that enervates mores. \(^{424}\) National greatness, and the
liberty that sustains democracy, is linked to individual greatness. American
veneration of Plymouth Rock, a stone “touched by the feet of a few miserable
persons” shows that the “power and greatness of man” is “wholly in his soul.” \(^{425}\)
The immaterial principles that this rock embodies make it worthy of the
celebration of a “great people.” \(^{426}\) Notably, Tocqueville describes the loss of
religion in the language of soft despotism: it “enervates souls,” “slackens the
springs of the will,” and “prepares citizens for servitude.” \(^{427}\) Even an “honest”
materialism that does not “corrupt souls” still “softens them” and in the end
“quietly loosens all their tensions.” \(^{428}\) No liberal and “energetic” government,
Tocqueville warns later in *Democracy*, can emerge from the “suffrage of

\(^{423}\) See Wolin, 336.
\(^{424}\) DAI, part 1, chap. 5, 422.
\(^{425}\) DAI, part 1, chap. 2, 34.
\(^{426}\) DAI, part 1, chap. 2, 34n.
\(^{427}\) DAI, part 1, chap. 5, 418.
\(^{428}\) DAI, part 2, chap. 11, 509.
Religion elevates the individual against the social power, but it gives the nation as a whole a “particular strength.”

Religion is an inheritance from aristocracy that provides an aristocratic moderation of democracy. It regulates democracy through individual self-restraint, not external “social control.” This is what allows it to restrict popular power while preserving equal liberty. Liberty is the “source of all human greatness,” but the “reign of freedom” cannot be established with faith. Religion denies the “impious and detestable maxim” of the omnipotence of the social power, but it prevents the impotence of the individual, which in the long run becomes the impotence of society. By moderating the social power of democracy religion makes possible national greatness. For Tocqueville, the greatness of a people must in the long run reflect the greatness of the individual, and religion is “necessary to the greatness of man.”

Rights

Religion alone, however, cannot create “great citizens.” Religion must be partly adapted to self-interest and combined with the aristocratic inheritance of rights. A democratic society that lacks political rights can have “private virtues,” “good family men,” and even some “good Christians,” Tocqueville notes in the preface to The Old Regime, but it will never have “great citizens” or a “great people.” Religion, Tocqueville notes in Democracy, is “weakening” as a basis

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429 DAIL, part 4, chap. 6, 665.
430 DAIL, part 1, chap. 1, 406.
431 DAI, Intro., 11.
432 DAIL, part 2, chap. 15, 520.
433 ORI, preface, 88.
for the “divine” idea of rights.\footnote{DAI, part 2, chap. 6, 228.} The appeal to divinity is not credible enough in democracy to sustain rights.

Moralists in America adapt religion to democracy by joining it to the doctrine of “self-interest well-understood,” which states that man serves himself in serving others, and that his “particular interest is to do good.”\footnote{DAII, part 2, chap. 8, 501.} The democratic doctrine of self-interest well-understood would be “far from sufficient” if not joined to the aristocratic inheritance of religion, but to maintain its empire religion must be willing to speak of the usefulness of religion and its benefits in the next world.\footnote{DAII, part 2, chap. 9, 504.} Similarly, the “divine” idea of rights must be linked with self-interest to persist in democracy. Namely, rights must be given to all citizens to give each a personal stake in the idea of rights. One of the “greatest merits” of democracy in America is that it makes political rights “descend to the least of citizens.”\footnote{DAI, part 2, chap. 6, 228.}

Nevertheless, if the idea of rights is secured on a democratic foundation of formal equality, rights remain aristocratic in origin and character. Rather than emanating from a pre-political state of nature, individual rights in America are “taken from the English aristocracy.” For Tocqueville, rights are primarily political and primarily individual, not economic or social.

Some rights may be natural, such as the right of the father’s authority over the family, but there is no conceptualization of a state of nature prior to politics.\footnote{For a comparison of Tocqueville’s conception of rights with that of the modern natural rights theorists, see Delba Winthrop, “Rights: A Point of Honor,” in Interpreting Tocqueville’s Democracy in America, ed. Ken Masugi (Rowman & Littlefield Publishers, 1991).}
Nor does the idea of rights originate in mere “personal interest.” The idea of rights may be linked to democratic self-interest, but it is the “idea of virtue introduced into the political world.” After the idea of virtue, Tocqueville says, there is “none more beautiful” than that of rights. The idea of equal rights, which binds rights to personal interest, is a democratic capsule that conceals the aristocratic idea of virtue, which connects virtue to beauty.Rights descend to the lowest of citizens in democracy, but they maintain a connection to the supremely beautiful.

Strikingly, Tocqueville asserts that “there are no great men without virtue” and “no great people without rights.” But at the end of Democracy, he implores those who govern not to think more of making a “great people” but to “think more of making great men.” Perhaps democracy is reminded to think more of “great men” because its tendency is to forget the individual. Tocqueville asks us to think more of making “great” men, not virtuous men, but if there are no great men without virtue, it would seem we are stuck with virtue. Perhaps like the democratic moralists who can only preach virtue indirectly, by means of concepts such as self-interest well understood, Tocqueville must exhort virtue by implication. Rights allow democratic man to be virtuous without thinking of virtue.

It is not enough, however, simply to possess equal rights. Rights must be asserted with an aristocratic spirit. Political rights, such as the right to govern or the right to associate for political purposes, must give democratic peoples a

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439 DAI, part 2, chap. 6, 227.
440 Ibid.
441 Ibid.
“political spirit that suggests to each citizen some of the interests that make nobles in aristocracies act.”442 Rights in democracy allow the individual to oppose the dominant social power just as nobles asserted their rights against the king in aristocratic times. Yet they are also closely linked to duty, as in the right and duty to serve on a jury. Thus political rights enable citizens to be independent without individualism. They are a check on the dominant social power, which is typically embodied in the central power in democracy, but they create ties between citizens because they are public rather than private.443 Without rights there is no individuality, and without respect for rights there is almost “no society.” Unity comes out of individuality. If man sees the “greatness of the idea of unity in the means” and “God in the end,” as Tocqueville says elsewhere in Democracy,444 rights seem to retain their divinity in democracy after all.

Tocqueville’s aristocratic conception of rights as an assertion of superiority is particularly evident in his Memoir on Pauperism, in which he argues against the idea of rights as social entitlements.

Ordinary rights are conferred on men by reason of some personal advantage acquired by them over their fellow men. This other kind is accorded by reason of a recognized inferiority. The first is a clear statement of superiority; the second publicizes inferiority and legalizes it. The more extensive and the more secure ordinary rights are, the more honor they confer; the more permanent and extended the right to relief is, the more it degrades.445

442 DAIi, part 3, chap. 26, 634.
443 See DAIi, part 2, chap. 4, 488. Political rights “recall to each citizen constantly… that he lives in society.”
444 DAIi, part 4, chap. 2, 703n.
445 Tocqueville, Memoir on Pauperism, 59.
There is something “great” and “virile” in the idea of right, Tocqueville says, which “removes from any request its suppliant character.” Recall that Tocqueville says the Americans have “opposed rights to the democratic sentiment of envy.” This implies a similar view of rights. Rights equalize not by what they produce materially but in the pride and honor that accompany their assertion. They are an expression of the “manly and legitimate passion for equality” that we encounter early on in Democracy. But ironically, this passion would seem to be rarest in times of equality. The democratic social state is more likely to produce a passion for equal goods than the passion for equal honor that inspires an aristocrat to challenge his peer to a duel.

Tocqueville also seems to view the right of property as an aristocratic inheritance, and he values it primarily for its political effects. In the Recollections he calls it the “last remnant of a destroyed aristocratic world.” The right of property once enjoyed the protection of the “more doubtful and more hated rights” of aristocracy, but once these were destroyed property was exposed to the “direct and incessant impact of democratic opinions.” In The Old Regime, Tocqueville notes that the absolute monarchy of Louis XIV had proclaimed in an edict the theory that “all the lands of the kingdom had been originally leased on terms by the state,” which retained sole ownership. Thus the “mother idea of modern socialism” took root in “royal despotism.” Equality leads to centralization, but socialism is to centralization what the “wild plant” is to the

446 Ibid., 59.
447 DAI, part 1, chap. 3.
448 Tocqueville, Recollections, 84.
449 Ibid.
450 ORI, book 3, chap. 6, 231.
451 ORI, book 3, chap. 6, 231.
“cultivated and grafted tree” – a product of the same soil.\textsuperscript{452} Socialism is a natural outgrowth of democratic equality, Tocqueville suggests, that threatens to strangle democratic liberty because of its tendency to centralize power. In aristocracy, there were many individual rights “linked to the general right of property,” Tocqueville notes towards the end of \textit{Democracy}, which tend to be weakened as the right of property is undermined.\textsuperscript{453} Landowners and farmers in democracy, the counterpart to the landed class of aristocracy, still evade the influence of the social power the most in democratic times.\textsuperscript{454}

As with religion, it is not merely a historical accident that individual rights are an aristocratic inheritance. The natural tendency of aristocracy is to elevate the individual. The “spirit of aristocracy,” Tocqueville says at one point in \textit{Democracy}, is “to individualize,”\textsuperscript{455} whereas the tendency of democracy is to assimilate, conform, and centralize. Democratic man has to strain to see individuality, while he readily conceives a “vast and magnificent image” of the crowd.\textsuperscript{456} He has a “high opinion” of the privileges of society and a “very humble idea” of individual rights, which leads him to believe that the duty and right of the social power is to “take each citizen by the hand and lead him.”\textsuperscript{457} While concentrating duties and rights in the central power, democratic peoples are led to give up their own rights and duties because they “lack the time” and see the exercise of political duties as a “distressing contretemps.”\textsuperscript{458} They are liable to

\textsuperscript{452} ORI, book 3, chap. 6, 408n.
\textsuperscript{453} DAIL, part 4, chap. 5, 655.
\textsuperscript{454} DAIL, part 4, chap. 5, 656.
\textsuperscript{455} DAIL, part 3, chap. 26, 632n.
\textsuperscript{456} DAIL, part 4, chap. 2, 641.
\textsuperscript{457} Ibid.
\textsuperscript{458} DAIL, part 4, chap. 7, 670.
forget that the duty to serve on a jury, for instance, is also a right. Perhaps it is not an accident that jury duty is an inheritance from the English aristocracy, originally enshrined in the Magna Carta as a right against the king, rather than an innovation of democratic times. Whereas aristocratic peoples conceived a “sublime idea of the duties of man,”

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democratic peoples tend to see political rights and duties as unnecessary burdens on themselves as individuals and unnecessary impediments on society as a whole. They are likely to “sacrifice their rights to their tranquility” by withdrawing from politics,

460 just as Tocqueville later worried that France would “sacrifice… its grandeur to its repose” by withdrawing from world politics.

461 The vulnerability of individual rights is what leads Tocqueville to address perhaps his most impassioned appeal in Democracy to the “true friends of freedom and human greatness.” Although he usually refers to “those who govern,” or “those who direct society,” here he calls on the “true friends of freedom and human greatness” and warns that it is “above all in democratic times” that they must “constantly remain on their feet.”

462 They must be ready to prevent the social power from “lightly sacrificing the particular rights of some individuals” to the “general execution of its designs.”

463 The friends of freedom

459 DAIL, part 2, chap. 8, 500.
460 DAIL, part 4, chap. 4, 649
461 Alexis de Tocqueville, “Letter to John Stuart Mill, March 18, 1841,” in Selected Letters on Politics and Society, ed. Roger Boesche, trans. James Toupin (University of California Press, 1986), 151. In a well-known exchange with Mill, Tocqueville argues that France must be prepared to go to war over a dispute between Turkey and Egypt lest it succumb to the “gradual softening of mores” that is the “greatest malady” of democratic times. “One cannot let a nation that is democratically constituted like ours… take up easily the habit of sacrificing what it believes to be its grandeur to its repose, great matters, to petty ones.”
462 DAIL, part 4, chap. 7, 670.
463 DAIL, part 4, chap. 7, 670.
and human greatness would seem to be constituents of the aristocratic-souled party in democracy, which seeks to elevate the individual by restricting public power.

In these times there is no citizen so obscure that it is not very dangerous to allow him to be oppressed, nor are there individual rights of so little importance that one can deliver them with impunity to arbitrariness. … To violate a right like this in our day is to corrupt national mores profoundly and to put society as a whole in peril, because the very idea of these rights constantly tends to be distorted and lost among us.\(^{464}\)

When the spirit of the people is no longer pervaded by the “sanctity of rights,” supplied by religion, men are less attached to individual rights at the very moment that they need them most.\(^{465}\) Rights in democracy must be sustained by religion, self-interest, and perhaps the constant vigilance of the aristocratic-souled friends of individual greatness. But there is another factor influencing the effectiveness of rights in democracy not yet discussed in detail: the particular kind of political right and the sphere in which it is exercised. The baseline of “equal rights” is not enough to solve the problem of democracy’s scorn for individual rights, as we have seen, because the citizen must assert his rights with an aristocratic spirit of pride and honor. But how can we hope to obtain such spirit, even in attenuated form, in democracy?

Religion, or belief in an immaterial principle, is surely a prerequisite. Yet the key seems to lie in local liberty and what Tocqueville calls the “spirit of the city.” Perhaps the best way to inculcate aristocratic sentiment is to put the most traditionally aristocratic of rights, such as the “right to govern,” within reach of ordinary citizens. We saw earlier that representation was insufficient as a solution

\(^{464}\) Ibid.
\(^{465}\) DAII, part 1, chap. 20, 470.
to the problem of democracy, the reconciliation of democracy with freedom and human greatness. The “right to vote” in national elections, the counterpart to representation in the realm of political rights, is therefore a weak defense against democratic despotism. “One man, one vote,” the formula for equal political liberty, does not seem to be as important to Tocqueville as the less quantifiable good of bringing the exercise of political power closer to the individual. Local liberty gives citizens the opportunity to play the role of aristocrats in exercising the “right to govern” and the “right to command” in a context that is most likely to generate powerful notions of duty, pride, and public spirit.

In the chapter of Democracy which contains the “key to almost the whole work,” Tocqueville refers to political freedom as a “field left by the Creator” for the “noble exercise of the faculties of man.”\footnote{DAI, part 1, chap. 2, 43.} In The Old Regime, he emphasizes the importance of the “right to govern,” the defining right of true aristocracy and local liberty.\footnote{ORI, book 2, chap. 3, 124-125.} The nobility retained the “true mark” of an aristocracy until it was transformed into an impotent, self-indulgent caste of exclusive privileges. Perhaps a similar corruption and atrophy of “noble faculties” occurs when plain citizens cannot readily exercise the “right to govern” in democracy.

This may be why Tocqueville specifically mentions the “spirit of the city” in the section on “public spirit,” just before his most extended discussion of rights in Democracy. The “spirit of the city” seems to him “inseparable from the exercise of political rights.”\footnote{DAI, part 2, chap. 6, 226.} Strikingly, he says the number of citizens in Europe will “increase or diminish in proportion” to the extension of these rights.

\footnote{DAI, part 1, chap. 2, 43.}
\footnote{ORI, book 2, chap. 3, 124-125.}
\footnote{DAI, part 2, chap. 6, 226.}
as if the ancient sense of “citizen,” from the era of the polis, remains the true one. The right and duty to govern puts the true mark of aristocracy within reach of the democratic citizen. Local liberty and the decentralized administration natural to aristocracy produce the “duty,” “pride,” and even “cupidity” that animates American citizens. This could be what it means to give to citizens “a political spirit that suggests to each citizen some of the interests that make nobles in aristocracies act.” If the true aristocrat is the hero of The Old Regime, the true citizen is the hero of Democracy.

Local Liberty and Decentralized Administration

Centralization is the “natural government” of democracy, and decentralization is the natural government of aristocracy. Aristocratic decentralization and individuality is the constant counterpart to democratic centralization and uniformity, the causes of which Tocqueville details in the second volume of Democracy. The ideas, instincts, passions, and needs of democratic peoples lead them to excessively centralize and extend public power. From the beginning, Tocqueville praises the “political effects of administrative centralization” and idealizes the New England township as a model of the spirit of liberty.

Representation, on the other hand, is consistently pronounced inadequate to secure liberty in democracy. Just before the extended discussion of the New England township, Tocqueville notes that one can have a “free government” with

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469 Ibid.
470 DAII, part 3, chap. 26, 634.
471 DAII, part 4, chap. 3, 645.
“external forms of independence” but one cannot have the “spirit of freedom” without provincial institutions.\textsuperscript{472} In another section of the first volume devoted specifically to decentralization, Tocqueville remarks that under Louis XIV there was “much less administrative centralization than in our day.” Centralization enervates democratic peoples because it “diminishes the spirit of the city” within them.\textsuperscript{473}

In the second volume, even before the portrait of democratic despotism, Tocqueville foreshadows the weakness of representation as a remedy for individualism, the source of the apathy associated with democratic despotism. Despotism “makes a sort of public virtue of indifference” while denigrating “turbulent and restive spirits.”\textsuperscript{474} Hence Tocqueville upholds a notion of freedom that opposes individualism by “forcing citizens to be occupied with public affairs,” which he links to federalism and local liberty in America.\textsuperscript{475}

The legislators of America did not believe that, to cure a malady so natural to the social body in democratic times and so fatal, it was enough to accord to the nation as a whole a representation of itself; they thought that, in addition, it was fitting to give political life to each portion of the territory in order to multiply infinitely the occasions for citizens to act together and to make them feel every day that they depend on one another.\textsuperscript{476}

\textsuperscript{472} DAI, part 1, chap. 5, 58. When Tocqueville says in the second volume of Democracy that he has “always thought” that despotism could be combined with the “external forms of freedom,” this echoes the phrase “external forms of independence” in the first volume and suggests that he may have had something like democratic despotism in mind before the second volume. (Some scholars divide Tocqueville’s master work into “two Democracies,” arguing that the two volumes are different enough to be considered separate books.) For example, see Jean-Claude Lamberti, Tocqueville and the Two Democracies (Harvard University Press, 1989). Lamberti argues that the “break” between the two volumes comes in part 4 of the second volume of Democracy, with its depiction of democratic despotism.

\textsuperscript{473} DAI, part 1, chap. 5, 83.

\textsuperscript{474} DAIL, part 2, chap. 4, 485.

\textsuperscript{475} DAIL, part 2, chap. 4, 486.

\textsuperscript{476} Ibid., 486-487.
Representation is a weak remedy for individualism, this “fatal malady” of democratic times.

America’s “new remedy” for this democratic ill would seem to be the local liberty embodied in the New England township. The spirit of liberty is the other half of America’s Puritan and aristocratic “point of departure,” and the township is inherited from England. At first there does not seem to be anything remotely “aristocratic” about the township, a model of participatory democracy. Indeed, Tocqueville introduces the township as the “sole association that is so much in nature that everywhere men are gathered, a township forms by itself.”

Township society has been found among all peoples at all times. If man is a political animal, township society is his natural habitat.

But Tocqueville distinguishes between the township itself and “township freedom.” If the township has “existed since there have been men,” the “freedom of the township” is a “rare and fragile thing.” As a general rule, Tocqueville suggests, it is difficult to sow the seeds of municipal liberty in a democratic social climate because the natural tendency of democracy is to centralize. The seed of municipal liberty, it seems, must germinate in aristocratic soil, in an aristocratic social climate, for it to take root in modern democracy.

One might recall Tocqueville’s warning that there is no question of reconstructing aristocracy, but of “making freedom issue from the bosom of the democratic society” in which we are forced to live. Yet the freedom of the

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477 DAI, part 1, chap. 5, 57.
478 Ibid.
479 Ibid.
480 DAII, part 4, chap. 7, 666.
township “develops almost secretly in the bosom of a half-barbaric society.”

The New England township was “transplanted” from aristocratic England.

Township freedom “eludes, so to speak, the effort of man.” If local freedom has not “entered into mores,” the habits of heart and mind, then it will be easy to destroy. It may be preserved as an inheritance from aristocracy and a tradition of liberty, but it is “rarely created.”

Township freedom is a flower of aristocracy, not a natural outgrowth of democracy. It is compatible with a democratic social and political state, but in tension with it. As Tocqueville writes in his 1836 article for the Westminster Review:

> It may perhaps be laid down as a general truth, that there is nothing more favorable to the establishment and durability of a system of municipal and provincial institutions independent of the general government than a territorial aristocracy.

Although this “general truth” refers to territorial aristocracy in particular, the notion that municipal liberty develops “in the bosom of a half-barbaric society” seems to apply as much to the French commune and the Swiss canton as the Anglo-American township.

Tocqueville’s writings on democracy in Switzerland also suggest that these institutions of “pure” democracy “belong to another era.” They are described using a term “borrowed from modern political science” but they live “only in the past.”

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481 DAI, part 1, chap. 5, 57. Tocqueville also links the township to the medieval rural parish in The Old Regime: “Suddenly transported far from feudalism and made absolute mistress of itself, the medieval rural parish became the New England township.” See ORI, book 2, chap. 3, 129.

482 DAI, part 1, chap. 5, 57.

483 DAI, part 1, chap. 5, 57.


The Middle Ages imposed an aristocratic shape even on
democratic liberty. Amid the most republican laws, and even
alongside universal suffrage itself, the religious beliefs,
opinions, feelings, habits, and associations of families that
held themselves aloof from the people took hold, and real
power rested with them. The little Swiss cantons should be
seen as analogs of the democratic governments of the Middle
Ages. They are the honored relics of a world that is no
more.\footnote{486}

Modern, representative democracy is more consistent with the “spirit of
modernity.” The liberty of the township is closer to the ancient liberty of the
Athenian assembly and the “honored relics” of the Middle Ages than modern
liberty.\footnote{487} Public affairs in the township are “treated in the public square and
within the general assembly of citizens, as in Athens.”\footnote{488} Although these affairs
may no longer be dominated by a few distinguished families, the liberty of the
township remains primarily political and participatory; the “right to govern” is
also a kind of duty. The “true mark” of the old aristocracy was governing. The
new democracy at its best reproduces that form on an egalitarian basis and
preserves a little of the spirit, if not the public principle, of aristocracy.

But how can the mundane affairs of the New England township recapture
something of the liberty and greatness of aristocracy?\footnote{489} Tocqueville explains that
it is in the institutions of the township, those “primary schools” of freedom, that
“the force of free peoples resides.”\footnote{490} National representative institutions, the
universities of freedom, are inadequate to the task of forming great citizens. A
nation that lacks local freedom, as we have seen, can give itself a “free

\footnote{486}{Ibid.}
\footnote{487}{See Alexis de Tocqueville, “Political and Social Condition of France,” ed. Sir John Bowring
\footnote{488}{DAI, part 1, chap. 2, 40.}
\footnote{489}{DAII, part 3, chap. 18, 594.}
\footnote{490}{DAI, part 1, chap. 5, 56.}
government” but it does not have the “spirit of freedom.” Without the local liberty that formerly flourished in aristocracy, spirited independence may give way to dispirited dependence.

Fleeting passions, the interests of a moment, the chance of circumstances can give it the external forms of independence; but despotism suppressed in the interior of the social body reappears sooner or later on the surface.

This “suppressed” despotism foreshadows the “mild despotism” that we encounter in the second volume of Democracy. The “external forms of independence” parallel the “external forms of freedom” with which mild despotism can be combined. Tocqueville is consistent about the primacy of local liberty as a bulwark against the enervating encroachments of the central power, whether in the old form of absolute monarchy or the new form of absolute power that is established “in the very shadow of the sovereignty of the people.”

The citizens of the ideal township are animated by the “spirit of the city” which had been strongest in aristocratic centuries. At their best, perhaps, they exhibit a species of the “ardent but local patriotism of the Middle Ages” that Tocqueville describes in The Old Regime. If they are not always motivated by the “disinterested love of one’s native country” that was common in aristocratic times, the “duty” and “pride” fostered by political rights inculcates the “spirit of the city” in them. The hierarchy of intermediary bodies established by

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491 Ibid., 58.  
492 Ibid., 58.  
493 DAI, part 4, chap. 6, 664.  
494 DAI, part 4, chap. 6, 664.  
495 ORII, Notes, 278. [Italics in original.]  
496 DAI, part 2, chap. 6, 226. For the passage in which Tocqueville references a “new form” of “absolute power” see DAI, part 2, chap. 9, 299.
decentralized administration connects the spirit of the city to national pride and national greatness.

Tocqueville’s chapter on the federal form of government, in fact, reads almost like a response to a dilemma posed by Rousseau in *On the Social Contract*:

All things considered, I do not see that it is henceforth possible for the sovereign to preserve the exercise of its rights among us unless the City is very small. But if it is very small, will it be subjugated? No. I shall show later how it is possible to combine the external power of a great people with the ease of regulation and good order of a small State.  

This is exactly what Tocqueville seems to demonstrate with his observations on American practice. In *Democracy* and his later works, Tocqueville connects the quotidian liberty of provincial institutions to the enduring greatness of a nation of citizens acting in “free concurrence of wills.”

Tocqueville does not expect democratic peoples to have the same “unreflective sentiments” for one’s place of birth as aristocratic peoples. But local liberty is linked to the public virtue of patriotism by a “spirit of ownership” and improvement that derives from participation in governing. The feeling of ownership is what distinguishes the “foreigner” from the “patriot” and the “subject” from the “citizen.” Decentralized administration inspires a sense of ownership that seizes the American with concern for “the fortune of his village,

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497 Rousseau, *On the Social Contract*, 103-104. In a footnote, Rousseau explains that “the subject is altogether new” and “its principles have yet to be established” while promising to address the issue in the sequel. But he does not return to the subject in his later work. See 149-150 for editor’s note on this.
498 DAI, part 1, chap. 5, 89.
499 DAI, part 2, chap. 6, 225.
500 DAI, part 1, chap. 5, 88.
the policing of his street, the fate of his church.”501 Centralized administration is “fit only to enervate the peoples who submit to it” because it “constantly tends to diminish the spirit of the city in them.”502 The man who sees himself as a “kind of colonist, indifferent to the destiny of the place that he inhabits,” unaware of what has taken place and (perhaps blissfully) ignorant of political life, sacrifices his free will but defies the law “like a defeated enemy” as soon as force is withdrawn.503

This combination of moral anarchy and administrative centralization, which enervates mores and ultimately weakens the nation against external enemies, is the inverse image of ordered liberty in America. Whereas the spirit of the township extends the defense of the village to the defense of the nation, a nation comprised of “foreigners” in their own land will find few defenders. In nearly any undertaking, the combined energy of “individual forces” far exceeds what the “most concentrated and most energetic administration” could do, especially in the long term. America’s combination of “centralized government” and “decentralized administration” allows it to project power and unity in external or purely national enterprises while preserving the diversity and intimacy of local action.504

Tocqueville thus manages to illustrate with American practice what Rousseau had, in *On the Social Contract*, promised to demonstrate in theory. He refers to the federal form of government as one of the circumstances that

501 Ibid. The example Tocqueville chooses to illustrate this spirit is the way Americans spontaneously organize to catch criminals and deliver them to the courts.
502 Ibid., 83.
503 Ibid., 88-89.
504 DAI, part 1, chap. 5, 82-83. See also DAI, part 2, chap. 10, 351.
contributes most to the success of American democracy, using the same
terminology as Rousseau to describe how the ordered liberty of a “small State” is
combined with the external power of a great people:

Three circumstances seem to me to contribute most
powerfully to the maintenance of the democratic republic in
the United States. The first is that Federal form of Government
which the Americans have adopted, and which enables the
Union to combine the power of a great empire with the
security of a small State.\footnote{DAI, part 2, chap. 9, 267.}

Liberty in America, as Tocqueville suggests throughout Democracy, is not only a
theory but a tradition. “Freedom is old” among the Americans because it is an
inheritance from aristocratic England, which had preserved provincial institutions
and individual liberties against the encroachments of absolute power.\footnote{DAII, part 4, chap. 4, 646.}

Regardless of the particular form it takes, local liberty is essential to the
development of “great citizens” and especially a “great people.”\footnote{ORI, preface, 88.} This is the
theme of the preface to The Old Regime, in which Tocqueville summarizes his
conclusions of twenty years earlier:

Democratic societies that are not free can be wealthy, refined,
even splendid, powerful because of the weight of their
homogenous mass... But what will never exist in such
societies are great citizens and above all a great people, and I
am willing to state that the average level of hearts and minds
will never cease to decline so long as equality and despotism
are combined.\footnote{Ibid.}

Only local freedom can “bring citizens out of the isolation” produced by the
“natural vices” of the democratic social state and “daily force them to mingle, to
join together through the need to communicate with one another, persuade each other, and satisfy each other in the conduct of their common affairs.”

If Tocqueville sometimes seems to romanticize participatory democracy in the manner of Rousseau, however, his understanding of the connection between local attachment and love for one’s country recalls Burke’s famous passage on the origin of public affections in the “little platoons” of society. “To love the little platoon we belong to in society,” Burke wrote in Reflections, is the “first principle” of public affections. It is the “first link in the series by which we proceed towards a love of our country, and of mankind.”

Burke describes this hierarchical principle in contradistinction to the democratic (indeed Rousseauian) notion of the “rights of man” and the effort to transcend the particularity of the city and the nation-state for universal love of humanity. Whether or not Tocqueville consciously adopts the Burkean view, it seems closer to his true feeling than Rousseau’s theory of liberty, which has as its corollary that representative government is merely a form of servitude. The “little platoons” passage expresses virtually the same concept as Tocqueville’s description of the hierarchy linking commoner to king, with the noble as intermediary. “Aristocracy had made a chain of all the members of the community, from the peasant to the king: democracy breaks that chain, and severs every link of it.” This is the democratic phenomenon of “individualism.” But in America, the city, county, and state artificially reproduce the secondary bodies

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509 Ibid.
510 Burke, Reflections, 135.
511 DAII, part 2, chap. 2, 483.
512 Ibid., 482-483.
that are “natural” to aristocracy, linking the “plain citizen” to the nation as a whole in a new hierarchy constructed on a democratic foundation.

Although the states are an artificial reproduction or democratic reincarnation of aristocratic bodies, Tocqueville notes that the states arose organically rather than by “art.” The sovereignty of the states, like that of the township and other decentralized bodies, is “natural” because it is a product of tradition rather than rational control. Decentralized administration in America was created from the ground up. The Union did not conceive the states; it is the Union that is the “product of art.”513 The central power had to be recognized by the states, like a king crowned by his fellow noblemen. The state, on the other hand, “exists by itself without effort, like the authority of a father of a family.”514

The sovereignty of the states depends on memories, on habits, on local prejudices, on the selfishness of province and family; in a word, on all the things that render the instinct for one’s native country so powerful in the heart of man.515

The national patriotism of the Americans is “only the summation” of provincial patriotism.516 This allows them to be “free and happy like a small nation, respected like a great one.”517

America is fortunate that its secondary bodies are natural and its central power is the product of art. But crucially, this particular circumstance does not mean that America is immune to centralized administration and the charms of the

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513 DAI, part 1, chap. 8, 157.
514 Ibid., 158. Compare to Tocqueville’s discussion of the role of the father in aristocracy. In aristocracy, “society knows, to tell the truth, only the father. It holds the sons only by the hands of the father; it governs him and he governs them… He is the author and sustainer of the family; he is also its magistrate.” See DAI, part 3, chap. 8, 559. Likewise, the federal government of the United States frequently governs indirectly through states and municipalities as intermediaries.
515 DAI, part 1, chap. 8, 158.
516 Ibid., 150.
517 Ibid., 150.
“soft despotism” that accompanies it. It should be clear that Tocqueville’s discussion of what kind of despotism “democratic nations have to fear” applies to democracy in general, not merely to France, and Tocqueville’s notes leave even less doubt on this point:

The French believe that centralization is French. They are wrong; it is democratic, and I dare to predict that all peoples whose social state [is] the same and who follow only the instincts that this social state suggests will arrive at the point where we are.518

America may be exceptional, but it is not so exceptional that it can resist this tendency without reflection. “Whatever the country, the genius of the people, or the state of enlightenment,” if classes are destroyed and ranks are equalized then power will become centralized “as if by itself.”519 Particular circumstances can only “hasten the natural movement or slow it down” but not “stop it or create an opposite one.”520 This suggests that even America, where decentralized administration seems natural, is no exception to the rule that “individual independence and local liberties will ever be the products of art.”521 Democracy may not be “chained, like Prometheus” to centralization, as Drescher objects,522 but centralization is its Achilles’ heel.

Later in *Democracy* Tocqueville argues that Americans are more likely to be patriotic by reflection and self-interest than instinctive love of birthplace, but his account of the patriotism engendered by decentralized administration in America seems to have much in common with the “instinctive” patriotism of aristocratic centuries:

518 DAI (Nolla), part 4, chap. 6, 1255.
519 Ibid.
520 Ibid.
521 DAI, part 1, chap. 5, 65.
There is one sort of patriotic attachment which principally arises from that instinctive, disinterested, and indefinable feeling which connects the affections of man with his birthplace. This natural fondness is united to a taste for ancient customs, and to a reverence for ancestral traditions of the past; those who cherish it love their country as they love the mansions of their fathers.  

The “memories,” “habits,” and “local prejudices” that Americans have for their particular states are perhaps not so unlike the customs and traditions of aristocracy. Recall that Tocqueville describes the sovereignty of the states as natural like the “authority of the father of a family.”

Tocqueville is not the only commentator on America to see a parallel of feudalism in the operation of the federal form of government. In *The Federalist*, Hamilton argued that local attachments to “family,” “neighborhood,” “community,” and “state” would create a stronger “habitual sense of obligation” than attachment to the central government, but unfavorably compared the states to the oppressive “feudal baronies” of the period of European “feudal anarchy.”

Though the ancient feudal systems were not, strictly speaking, confederacies, yet they partook of the nature of that species of association. There was a common head, chieftain, or sovereign, whose authority extended over the whole nation; and a number of subordinate vassals… The barons, or nobles, equally the enemies of the sovereign and the oppressors of the common people, were dreaded and detested by both; till mutual danger and mutual interest effected a union between them fatal to the power of the aristocracy.

Even allowing that *The Federalist* might be expected to criticize the excesses of decentralization given its immediate political aims, it is interesting that both Hamilton and Tocqueville draw the same analogy with such different judgments.
in mind. Tocqueville is much more sympathetic to the role of the nobles as protectors of the common people and he does not condemn the “ungovernable” spirit of their “continual opposition to the authority of the sovereign.” More generally, Tocqueville’s intention to call forth aristocratic qualities, characters, and features in democracy seems to make him more explicitly “aristocratic” than the authors of *The Federalist.* Despite his acceptance of democracy, Tocqueville has both a feudal sensibility and feudal sympathies which are alien to the political thought of many of his liberal predecessors and contemporaries.

Towards the end of the first *Democracy,* Tocqueville seems to romanticize “provincial prejudices” as one of the aristocratic political institutions which had maintained a “love of freedom” in souls and a “spirit of resistance” against royal power. Provinces and towns once formed “so many different nations in the midst of the common native country” each with a “particular spirit” that opposed the “general spirit of servitude.” But earlier in *Democracy,* Tocqueville describes the American states as “twenty-four little sovereign nations,” the sum of which “forms the great body of the Union.” The particular spirit of the township, the county, and the state replicates the provincial prejudices of aristocracy and may bring forth some of the same qualities.

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527 Ibid.
529 DAI, part 2, chap. 9, 299.
530 Ibid., 300.
531 DAI, part 1, chap. 5, 56.
532 The township, county, and state each form a “genuine association” established by law in a “permanent manner” to “administer a portion of territory.” See DAI, part 2, chap. 6, 495.
The “little platoons” and intermediate bodies, reconstituted on an egalitarian basis of self-government, give democratic man the independence, pride, and public virtue that sustain national greatness in times of peace and war. The new hierarchy of secondary bodies opposes individualism with independence and individuality. There is a “sort of selfishness,” perhaps not so unlike the pride and “family spirit” of the aristocrat, that interests the American and even “glorifies him” in the grandeur of the larger community with a sentiment “analogous to the one that he feels for his family.”\(^533\) The township recalls something of the ancient liberty of the *polis* and the medieval liberty of the French commune. Decentralized administration, an inheritance from aristocracy that is opposed to the centralizing instinct of democracy, allows a portion of the spirit of the Middle Ages to persist in new forms.

This emphasis on particularity may be contrasted with the abstractions of political theory in the period prior to the French Revolution. As Tocqueville recounts in *The Old Regime*, Europe was agitated by a belief in the “omnipotence of reason” and a “proud notion of humanity as a whole” that had seized hold of the educated classes, combined with “unnatural contempt for the particular time in which they lived and the society of which they were a part.”\(^534\)

In all of Europe, almost as much as France, people philosophized, they theorized, throughout the educated classes… Women, amidst their petty household tasks, sometimes dreamed about the great problems of existence. One would have said that everyone wanted to escape from their own individual concerns in order to occasionally concern themselves only with the great interests of humanity.\(^535\)

\(^{533}\) DAI, part 1, chap. 5, 90.  
\(^{534}\) ORII, book 1, chap. 1, 30.  
\(^{535}\) Ibid., 31.
Tocqueville explains the need to cultivate local affections and a particular sense of political duty elsewhere as rooted in the mystery of human nature, rather than the philosophical imperatives of the state of nature:

> Man has been created by God (I do not know why) in such a way that the larger the object of his love the less directly attached he is to it. His heart needs particular passions; he needs limited objects for his affections to keep these firm and enduring. There are but few who will burn with ardent love for the entire human species.\(^{536}\)

Even though the contrast in this particular passage is between love of nation or country and universal love of humanity, the concept would seem to apply to even smaller objects of love such as the state, township, city, or family. Instead of the love for the entire human species likely to be favored by democratic moralists, Tocqueville’s study of American administration points to a democratic reincarnation of the “ardent and local patriotism” of the Middle Ages.\(^{537}\)

> While acknowledging that it might seem more logical to moralists to inflame man’s passions “for the whole of humanity,” Tocqueville is “convinced that the interests of the human race are better served by giving every man a particular fatherland.”\(^{538}\) Yet Tocqueville shows that national greatness, and ultimately human greatness, is rooted in the spirit of the city and the local association of individual citizens. Unity is important for national greatness, but it must be derived from the individuality and diversity of local liberty.\(^{539}\)

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\(^{536}\) ORII, book 3, part 2, section 2, 262. “For the most part, the sole means by which Providence (man taken as he is) lets each of us work for the general good of humanity is to divide this great object into many smaller parts, making each of these fragments a worthy object of love to those compose it.”

\(^{537}\) ORII, Notes, 278.

\(^{538}\) Ibid.

\(^{539}\) Ibid.
thousand [instances] of pettiness. To force all men to march in
the same march, toward the same object—that is a human
idea. To introduce an infinite variety into actions, but to
combine them in a manner so that all these actions lead by a
thousand diverse ways toward the accomplishment of one
great design—that is a divine idea.  

In this Tocqueville recalls the teaching of Pascal, the philosopher Tocqueville
named along with Montesquieu and Rousseau as one of the “three men with
whom I live a little every day.” Pascal said, “Plurality which does not reduce
itself to unity, is confusion. Unity which is not the result of plurality is
tyranny.”

To the extent that Tocqueville is an advocate of decentralization, it cannot
be denied that he is for preserving one of the natural features of aristocracy
against the natural tendency of democracy towards centralization. Centralization
occurs readily to the democratic mind, while secondary bodies occur naturally to
the aristocratic mind. Tocqueville brings the reader to consider democracy from
the aristocratic point of view. “A democratic people tends towards centralization,
as it were by instinct. It arrives at provincial institutions only by reflection.”

Democratic readers are thus led to reflect on a problem that otherwise might not
have occurred to them as a problem, while the implicit feudal parallel might
appeal to readers with an aristocratic or conservative instinct. The skeleton of the
old aristocracy, if not the flesh and blood of the worm-eaten “cadaver,” may be
preserved in the decentralized administration of provincial institutions.

540 DAIL, part 4, chap. 3, 703n.
541 DAI, Ed. Intro., xxx.
542 Quoted in Craiutu, Liberalism Under Siege, 220.
543 Tocqueville, “Political and Social Condition of France,” 158.
544 DAIL, part 3, chap. 11, 572.
Associations

The idea of “secondary powers” is “natural” to aristocracy, as we have seen, while the idea of a lone, uniform, central power is natural to democracy. Like provincial institutions, associations are decentralized deposits of power that can oppose centralization. The township, county, and state are in fact “permanent associations” created by law. Unlike the township, however, associations such as political parties and temperance societies seem to take root naturally in democratic soil. The act of associating is “the most natural to man” after the freedom to act alone. In American social life, from the playground to the public highway, individuals come together in self-governing bodies and improvised assemblies without appealing to a distant “social authority” to impose rules or solve their problems. Such associations need not be aristocratic inheritances because they can be created by the self-interested calculations of individuals.

Yet if the free association of individuals is neither exclusively aristocratic nor exclusively democratic, it is both particularly necessary and particularly vulnerable in democracy. In aristocracy, secondary bodies and classes formed “natural associations” as bulwarks against despotism. Associations in democracy, like provincial institutions, must be largely the product of art.

“Particular persons” are weak and consumed with the pursuit of material well-

545 DAI, part 2, chap. 4, 180.
546 DAI, part 2, chap. 4, 184. The right of association is therefore “almost as inalienable in its nature as individual freedom.”
547 DAI, part 2, chap. 4, 180-181.
548 See DAII, part 2, chap. 5, 490. “Unhappily, the same social state that renders associations so necessary to democratic peoples renders them more difficult for them than for all the others.” See also DAI, part 2, chap. 4, 183. “There are no countries where associations are more necessary to prevent the despotism of parties or the arbitrariness of the prince than those in which the social state is democratic.”
549 DAI, part 2, chap. 4, 183.
being in times of equality, so they tend to withdraw and isolate themselves from public life. Democracy tends not to associate but to dissociate; “individualism” is a democratic phenomenon. Self-interest well-understood is “far from sufficient,” as we have seen, if it is not accompanied by religion, the “most precious inheritance” from aristocracy. If associations seem to spring up naturally in America, perhaps it is because the habit of associating has been inculcated by a long tradition of free institutions which originated in aristocratic England. The right of association in the United States is itself an “English import” which has passed into habits and mores. Instruction in the “art” and “science” of association begins in the permanent associations, such as the township, that Tocqueville notably calls the “primary schools” of freedom.

Drescher argues against the notion that Tocqueville sees associations as a “feudal stratagem” or perceives their role in democracy with a feudal sensibility. Voluntary associations, he explains, “could not, by Tocqueville’s definition, be aristocracies.” This is true in one sense, because Tocqueville does not want to resurrect the coercive aristocratic hierarchy in its historical form. But as we have seen, this is to take only Tocqueville’s narrowest definition of aristocracy. Associations play a role in replicating the decentralized, aristocratic way of life and in restricting public power. They both displace the functions of the central power by putting them into the hands of individual citizens, and elevate the individual against the extension of public power. While Drescher argues that

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550 DAI, part 2, chap. 9, 504.
551 DAI, part 2, chap. 4, 183.
552 DAI, part 1, chap. 5, 57.
Tocqueville seeks to “encourage elements functionally equivalent to aristocracy while excluding the hierarchy, corporate, privilege, and coercion” of aristocracy. A form of hierarchy and inequality persists in both permanent and temporary associations. Associations are “exclusive societies” that “hold themselves a little apart” and allow natural inequality to “see the light of day.” Political and civil associations would seem to provide a field for the “noble exercise of faculties” that Tocqueville prizes in freedom. All this suggests that Tocqueville may understand associations as “aristocratic” in various significant ways.

Even when associations are not aristocratic in origin, Tocqueville perceives their character and function in democracy through a distinctively aristocratic lens. It is in his references to associations throughout Democracy that Tocqueville’s feudal sensibility is perhaps most striking. Associations are a “power one sees from afar,” a “power that speaks, and to which one listens.” The members of temperance societies act “precisely like a great lord who would dress himself very plainly in order to inspire the scorn of luxury in simple citizens.” Plain citizens can associate to constitute “very opulent, very influential, very strong beings—in a word, aristocratic persons.” A political, industrial, commercial, moral, or intellectual association is an “enlightened and powerful citizen whom one can neither bend at will nor oppress in the dark” who “saves common freedoms” by “defending its particular rights” against the

554 Ibid.
555 DAII, part 1, chap. 9, 431.
556 DAII, part 2, chap. 5, 492.
557 DAII, part 2, chap. 5, 492.
558 DAII, part 4, chap. 7, 668.
dominant power. What contributed most to the independence of particular persons in aristocracy, Tocqueville says, is that the social power was “always divided” and “never weighed as a whole and in the same manner” on each man. Associations divide the social power and resist the central power in the manner of the old aristocracy.

Associations based on self-interest may not inspire the same ardor as the feudal bonds of aristocracy, moreover, but they can produce an attenuated version of those lofty sentiments by “enlarging the heart” through the “reciprocal action.” This action must be created “artificially” in democracy because it is “almost nonexistent” otherwise. The freedom of the press must replace the “hereditary friends” of aristocracy in calling help to the side of the individual oppressed by the dominant power. Although they are only artificial substitutes for the secondary bodies that formed “natural associations” in aristocracy, associations are not merely mechanistic “functional equivalents” for the old secondary powers; they are consistently personified as embodiments of aristocracy and expected to act accordingly. If it would be unjust to expect each individual in democracy to act as an aristocrat might, associations must reproduce some of the spirit of resistance, sense of duty, and pride of aristocracy in democratic form.

This is important because associations are part of the democratic reincarnation of aristocracy that Tocqueville expects to counteract a democratic reconstruction of absolute monarchy. Strikingly, Tocqueville perceives the

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559 Ibid.
560 Ibid.
561 See DAII, part 2, chap. 5, 490. See also my section on associations in Chapter 4.
relationship between political associations and the central power in democracy as a reenactment of the power struggle between kings and nobles in aristocracy:

Political associations form so to speak the only powerful particular persons who aspire to regulate the state. So governments in our day consider these kinds of association with the same eye that the kings of the Middle Ages regarded the great vassals of the crown; they feel a sort of instinctive horror of them and combat them at every encounter.  

Not only are associations personified as aristocrats, but they inspire the same sentiments of awe, fear, and envy in the people and the king as the secondary bodies of the old aristocracy.

Tocqueville returns to this theme in his discussion of democratic despotism. The strength of associations is also their weakness, because the sight of these powerful “collective beings” arouses fear and envy. In part because associations are not real persons, it “seems reasonable” to allow each of them “less independence from the social power” than one would allow individuals. The public power “naturally wants to place these associations under its control.” As it is only by association that citizens can resist the central power, it “never sees but with disfavor associations that are not in its hands.” But remarkably, instead of protecting the independence of these associations, the people either join with the central power or remain indifferent. They view the power and duration of these “particular little societies” with a “secret sentiment of fear and jealousy that prevents them from defending them.” Although there are no longer aristocratic privileges and legal inequalities, the people are “not far from considering as

562 DAIL, part 2, chap. 7, 498.
563 DAIL, part 4, chap. 5, 658.
564 Ibid.
565 Ibid.
566 Ibid.
dangerous privileges” the “free exercise that each of [these societies] makes of its natural faculties.”\(^{567}\) The associations are “so many new persons” that “lose their freedom as they are born.”

Notably, it is because associations counteract the effects of the equality of individual citizens that they can resist the central power. Viewed from above, in the aggregate, an association is a form of political and social inequality; viewed from below, it is comprised of equal individuals who are energized, or empowered, by cooperation towards a common goal. Associations are a form of inequality that coexists with and indeed preserves democracy. But because an association represents a form of inequality – an artificial aristocrat – Tocqueville shows that it is subject to the same leveling forces that threatened the aristocrats of the Old Regime. In times of aristocracy, inequality is “laid down as a fundamental principle”; in democracy, it is only tolerated if it seems useful.

Thus the popular, social, public, and central powers, which tend to converge in the central power in democracy, naturally align against the part of the social power that is concentrated in associations. Tocqueville seems to fear a recurrence of the alliance of the people and the king against the aristocracy, just as Hamilton describes it in *The Federalist*: The nobles were “dreaded and detested by both” until “mutual danger and mutual interest effected a union between them fatal to the power of the aristocracy.”\(^{568}\) In *Democracy*, Tocqueville aims to show that the real danger is not associations but the central power, and that it is in the interest of the people to protect the rights of associations.

\(^{567}\) Ibid.

How can democratic peoples be taught to value these rights? Perhaps the most important associations are the “schools” of democracy that teach people how to be citizens instead of wards of the “immense tutelary power.” These include the township (“primary school”), political associations (“great schools”), and the jury (“school, free of charge”). The natural association of the family may be a kind of private school that teaches mores, while the township and the jury provide compulsory education in the science of association and the art of government. Thus the key associations seem to be those which are permanently established by nature or law. These institutions develop the habits of cooperation that enable voluntary association. Among the most effective of the compulsory associations, as we will see, is the jury. The jury is particularly helpful in inculcating respect for “forms” and the “idea of right,” which is necessary to secure individual rights and the rights of associations.

**Juries, Lawyers, and Justices of the Peace**

For Tocqueville, the jury is above all a political institution; its merits as a civil or judicial institution are secondary. The jury is one of the “most efficacious means” for the “education of the people.” It is one of the temporary associations that can enhance the freedom of individuals “without lessening their equality.” In America, the jury system is a “powerful means of making the

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569 DAII, part 2, chap. 8, 262.
570 Ibid.
571 Ibid.
572 Ibid.
573 DAII, part 4, chap. 7, 667.
majority reign.”574 The American jury is thus fully consistent with the principles of equality and the sovereignty of the people.

But the American jury is also aristocratic in origin, and partly aristocratic in character. As an inheritance from England and the invention of a “half-barbarous people,”575 the aristocratic jury of peers was transplanted to democratic soil and became a jury of “plain citizens.”576 Although power formally resides in the people in the American jury, it is partly imbued with the spirit of aristocracy because it exposes plain citizens to the “American aristocracy” of lawyers. The “greatest advantage” of the jury, Tocqueville says, is to function as a “school, free of charge and always open” that can “form the judgment” and improve the “natural enlightenment” of the people. But the teachers are attorneys and judges, the “American aristocracy” comprised of the “most instructed and most enlightened members of the elevated classes.”577

The most important lessons that they teach are hands-on; the juror is “instructed in his rights,” the laws are taught to him in a “practical manner,” and he comes to respect the very “idea of right.”578 But the jurors may not be naturally disposed to learn these lessons; the natural tendency of democracy is to scorn “forms,” which include manners, procedures, formalities, and legal traditions that protect rights. These are usually established by long use rather than immediate, rational calculation. Democratic peoples have an “instinctive distaste for what is

574 DAI, part 2, chap. 8, 261.
575 DAI, part 2, chap. 8, 259.
576 DAI, part 2, chap. 8, 258. The institution of the jury may also be more natural to the era of aristocracy than the era of democracy because it is “not an easy task to adapt it to the needs of a very civilized people.”
577 DAI, part 2, chap. 8, 262.
578 DAI, part 2, chap. 8, 262.
old” and they feel an “instinctive disdain” for forms.\textsuperscript{579} In fact, “nothing revolts the human mind more” in times of equality than the idea of submitting to forms.\textsuperscript{580} The democratic mind is disposed to view forms as “inconveniences,” even though they are especially important in democracy because they protect individuals from arbitrary power as the sovereign becomes “stronger and more active.”\textsuperscript{581} The “principal merit” of forms is to act as a buffer between the strong and the weak, the social power and the individual: “he who governs and he who is governed.”\textsuperscript{582} Forms channel the democratic current, slow it down, and give the individual time to resist the public power. Democratic peoples have “more need” of forms than other peoples, but “naturally respect them less.”\textsuperscript{583}

American lawyers can counteract this tendency because they have “aristocratic” habits and tastes, including a “certain taste for forms” that opposes the democratic instincts of the people.\textsuperscript{584}

To their democratic instincts they secretly oppose their aristocratic penchants; to their love of novelty, their superstitious respect for what is old; to the immensity of their designs, their narrow views; to their scorn for rules, their taste for forms; and to their enthusiasm, their habit of proceeding slowly.\textsuperscript{585}

These penchants are “hidden at the bottom of the souls” of lawyers, but they are “secretly” diffused in the courtroom. The jury acts as a medium through which the aristocratic spirit is transmitted to all classes. It is “above all with the aid of the

\textsuperscript{579} DAIL, part 1, chap. 17, 459. \\
\textsuperscript{580} DAIL, part 1, chap. 5, 421. \\
\textsuperscript{581} DAIL, part 4, chap. 7, 669. \\
\textsuperscript{582} Ibid. \\
\textsuperscript{583} Ibid. \\
\textsuperscript{584} DAI, part 2, chap. 8, 252. \\
\textsuperscript{585} DAI, part 2, chap. 8, 256.
jury” that the spirit of the lawyer can “penetrate down to the lowest ranks of society.”

The spirit of the lawyer is “eminently conservative” and even “anti-democratic,” but the lawyers “belong to the people” by interest and by birth and they generally do not wish to overturn democracy. Thus the “American aristocracy” of lawyers and judges forms the “sole aristocratic element” which can be mixed “without effort” into the “natural elements of democracy” in a “happy and lasting manner.” The lawyer can oppose the “revolutionary spirit” of democracy by virtue of his attachment to forms of order, traditional jurisprudence, and reasoning by particular precedent. Lawyers may be part of the natural aristocracy because an “elevated position” in society “naturally belongs to them.” While the people generally distrust the rich in democracy, they trust lawyers enough to elect them to office and to act on their behalf; from noblesse oblige to pro bono.

If Tocqueville seems to exaggerate the virtues of lawyers in democracy, he qualifies this praise; he is “not ignorant of the inherent defects” of the spirit of the lawyer. Elsewhere, in praising the justices of the peace (another institution the

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586 DAI, part 2, chap. 9, 264.
587 Aside from Tocqueville’s own qualifying phrases (e.g. “without effort”), it is important to note that Tocqueville does not mean lawyers are the sole aristocratic feature or component of the aristocratic way of life that can be combined in a lasting manner with democracy. Tocqueville uses the word “element” here to signify a particular subset of aristocracy as an elite, as in the “aristocratic elements” of the natural aristocracy we encountered earlier. (See Tocqueville, “Political and Social Condition of France,” 149 for this usage of “element” to refer to different categories of natural aristocracy such as talent and knowledge.) Lawyers are the sole mixable “element” because they are the “sole enlightened class” the people do not distrust. “Sole enlightened class” echoes “sole aristocratic element”; they mean the same thing in this context.
588 DAI, part 2, chap. 8, 253.
589 Ibid.
590 Ibid.
Americans took from their English “fathers”\textsuperscript{591}, Tocqueville notes that these citizens have a taste for forms without the slavishness to “legal superstitions” that “render magistrates hardly capable of governing.”\textsuperscript{592} Even more important, Tocqueville notes that lawyers love above all a “life of order” guaranteed by authority. If they “prize freedom,” they generally “place legality well above it.”\textsuperscript{593} They “fear tyranny less than arbitrariness,” and as long as the legislator himself sees to it that men are deprived of their independence, the lawyer is “nearly content.”\textsuperscript{594} Their greater love for legality than for liberty presumably makes lawyers an imperfect remedy for the tendency towards a soft despotism enforced through an extensive mesh of regulations. Lawyers are essential to ordered liberty, because of their respect for forms and protection of rights, but their passion for order often exceeds their passion for liberty. The legal profession may not supply the same “spirit of resistance” as the old aristocracy, and if it has enlightenment without virtue then it is not part of the true natural aristocracy.

Tocqueville also qualifies that the “aristocratic character” of the spirit of the lawyer is “more pronounced” in England and America than any other country. Crucially, the English and American magistracy has “preserved the legislation of precedents.” He is not as enamored of French lawyers who have less “taste for what is old”; they tend to inquire into what “ought” to have been done instead of “what has been done.”\textsuperscript{595} The French lawyer is less conservative and concrete, more philosophical and abstract. In fact, Tocqueville suggests in a note that

\begin{footnotes}
\footnotetext{591}{DAI, part 1, chap. 5, 70.}
\footnotetext{592}{Ibid., 71.}
\footnotetext{593}{DAI, part 2, chap. 8, 253.}
\footnotetext{594}{Ibid.}
\footnotetext{595}{DAI, part 2, chap. 8, 255.}
\end{footnotes}
lawyers were at the very origin of the administrative centralization that preceded the French Revolution by several centuries:

In France the taste for centralization and the regulatory mania go back to the period when jurists entered the government, which brings us back to the time of Philip the Fair [Philip IV, King of France (1285-1314)].

This is consistent with Tocqueville’s criticism of lawyers in *The Old Regime* and especially his 1836 essay on France. Tocqueville seems to praise lawyers most when they act in decentralized bodies such as the jury, rather than in combination with the central power, and he reserves his praise almost exclusively to the Anglo-American type of lawyer.

*The Constitution*

The Constitution is perhaps the most important part of the legal tradition that American lawyers defend because it delineates the powers of government, establishes rights, and defines liberties retained by the people or the states. Tocqueville calls the Constitution a “beautiful creation of human industry” and praises the Framers, drawn mostly from the aristocratic party of the Federalists, as the “finest minds and noblest characters” that had ever appeared in the New World. Whereas the French Revolution was not constitutionalized and contained, in America the people “put themselves in a way above themselves” by fixing limits to popular and public power. While centralizing the government

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596 DAI, part 1, chap. 5, 692n.
597 See, for instance, Tocqueville, “Political and Social Condition of France,” 161. “Kings seize upon absolute power by force; lawyers give it the sanction of legality. When the two are united, the result is a despotism which scarcely allows a breathing-place to human nature.”
598 DAI, part 1, chap. 8, 156.
599 DAI, part 1, chap. 8, 107.
600 DAI, part 2, chap. 10, 370.
enough to prevent anarchy, the Constitution preserved the decentralized administration of the Union by maintaining a federal distribution of power and restricting the powers of government. The Constitution is the very definition of limited government, as opposed to the absolute government of the Old Regime and its successors.

Notably, the Constitution seems to fulfill what Tocqueville calls the “first object of the legislator” at the end of Democracy.\textsuperscript{601}

To fix extended, but visible and immovable, limits for social power; to give to particular persons certain rights and to guarantee them the uncontested enjoyment of these rights; to preserve for the individual the little independence, force, and originality that remain to him; to elevate him beside society and to sustain him before it: this appears to me to be the first object of the legislator in the age we are entering.\textsuperscript{602}

What Tocqueville describes as the “first object of the legislator” also echoes the object of the aristocratic-souled party in democracy to “restrict public power,” as the public power tends to reflect the social power in democracy. In the very next paragraph, Tocqueville seems to restate the object of the legislator to link it explicitly to individual greatness.

One might say that sovereigns in our time seek only to make great things with men. I should want them to think a little more of making great men… and to remember constantly that a nation cannot long remain strong when each man in it is individually weak, and that neither social forms nor political schemes have been found that can make a people energetic by composing it of pusillanimous and soft citizens.\textsuperscript{603}

In times of equality when “particular persons” are weak, Tocqueville suggests throughout Democracy, it is tempting to increase the prerogatives of the social power against those of individuals and associations. The Constitution is like the

\textsuperscript{601} DAII, part 4, chap. 7, 672.
\textsuperscript{602} Ibid.
\textsuperscript{603} DAII, part 4, chap. 7, 672.
 mast to which the Americans bind themselves against the siren call of the social power. This is what Tocqueville seems to mean when he says the people “put themselves in a way above themselves.”604 The Constitution is the legal framework of the Tocquevillean polity, built by the aristocratic party, which preserves America’s mix of aristocratic elements and inheritances. The Americans elevated themselves by ratifying it and constitutionalizing their mixed regime.

Conclusion

Tocqueville’s solution to the problem of democracy, I have argued, is a mixed regime as embodied in his depiction of democracy in America: a mixture of aristocracy and democracy, as ways of life, on a democratic basis. As we have seen, aristocracy outlines the necessary features of the Tocquevillean polity, which must be decentralized, mediated by secondary powers, and focused on elevating the individual. Inheritances from aristocracy must be preserved and democratized, and aristocratic spirit must persist in democratic forms. I have attempted to show that Tocqueville conceives of religion, rights, local liberty, decentralized administration, associations, juries, lawyers, and the Constitution as aristocratic in origin or character in some significant way. A combination of what is natural to democracy and what is natural to aristocracy is the solution to the problem of democracy.

This conclusion, however, leaves open the question of Tocqueville’s apparent rejection of the mixed regime. Does he not foreclose the possibility of a mixed regime by calling “mixed government” a “chimera”? It is generally

604 Ibid.
accepted in the literature that Tocqueville simply rejects the classical mixed regime. But as with “aristocracy,” his conception of “mixed government” requires closer examination than it has received. I believe that Tocqueville’s rejection of mixed government can be qualified as a rejection of only a particular type of mixed government. Let us return to the passage in question:

It is not that I believe that in order to preserve freedom one can mix several principles in the same government in a manner that really opposes them to one another... There is, to tell the truth, no mixed government (in the sense that one gives to this word), because in each society one discovers in the end one principle of action that dominates all the others.

Already we can see that Tocqueville qualifies his rejection. Most significantly, perhaps, he rejects mixed government “in the sense that one gives to this word,” meaning “mixed government” as commonly understood. The common understanding of mixed government that he has in mind seems to be one in which several principles of action are “really” opposed to one another, which is impossible because one principle of action must dominate. In the United States that is the principle of the sovereignty of the people, while in the England of Tocqueville’s day it is the principle of aristocracy. Neither have “mixed government” as commonly understood.

The rest of Tocqueville’s discussion of mixed government clarifies this.

When a society really comes to have a mixed government, that is to say equally divided between contrary principles, it enters into revolution or it is dissolved. I think, therefore, that one must always place somewhere one social power superior to all the others, but I believe freedom to be in peril when that power finds no obstacle before it that can restrain its advance and give it time to moderate itself.\(^\text{605}\)

\[^{605}\text{DAI, part 2, chap. 7, 241}\]
Note the narrow definition of what constitutes a “really” or truly mixed government. The rejection here seems to be limited to the kind of government that “really opposes” principles, especially if it is “equally divided between contrary principles.”

Although Tocqueville does not give an example of this type of society in Democracy, I believe we can find a clue to what he means in a diary entry of 1831 about the Restoration in France (and its aftermath) which is rarely, if ever, cited. It must be quoted at length:

One reason why the Restoration in France fell, is that it did not dare to base itself either on the ancient principle of divine right, or on the dogma of the sovereignty of the people, but tried to make two opposing elements pull in harness. In 1828 for instance, when M. de Peyronnet made the choice of jurors entirely dependent on lot, he probably did not doubt but that he was helping us to take a great step forward towards a republic. But what men most lack is to know how to take a decided line. They are never either good enough or bad enough, sincere enough or crafty enough, sufficiently disinterested or sufficiently selfish; they want to combine all these things and are overcome by the effort. 606

The Bourbon Restoration seems to fit Tocqueville’s definition of “really” mixed government perfectly. It did not base itself on one principle of action or another, but tried to “make two opposing elements pull in harness.” It became equally divided, it seems, between the contrary principles of the sovereignty of the people and divine right. Thus it entered into revolution and was dissolved, with the creation of the July Monarchy in 1830. The dissolution of the Bourbon Restoration may be what prompted Tocqueville’s trip to America in the first place. 607

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607 See Jardin, 88.
Another type of mixed regime which balances contrary principles is the classical mixed regime of Polybius, which also appears in the work of Tocqueville’s mentor, Montesquieu. The Polybian mixed regime, combining monarchy, aristocracy, and democracy to create a balance of power among contrary principles, was the dominant theory of mixed government in Tocqueville’s time. The English model was commonly understood as the archetype of this mixed regime. As one historian notes, admiration for the English model had a “long pedigree” in French political thought:

During the eighteenth century, Anglophile thinkers, such as Montesquieu himself, had pointed to England’s institutions to explain why their neighbor seemed so much more free than France. England’s mixed constitution, together with the representative system, it was argued, had made its liberty possible.608

This common understanding may be why Tocqueville addresses the English example specifically and clarifies that it is an “essentially” aristocratic state, while explaining that there is no mixed government “in the sense that one gives to this word.” While praising the English aristocracy, Tocqueville may have wanted to put to rest the popular notion that France, with its democratic social state, could imitate the English model.

Scholars have generally assumed that Tocqueville’s dismissal of “mixed government” in Democracy constitutes a rejection of the classical solution to the problem of democracy’s degeneration into tyranny, but this interpretation is overdrawn because it relies on the Polybian conception.609 The dismissal of

608 De Dijn, 54.
609 One possible exception is Bernard Yack, who briefly points out the distinction between Aristotle and Polybius in the context of Tocqueville’s rejection of mixed government. See Bernard Yack, The Problems of a Political Animal: Community, Justice, and Conflict in Aristotelian
“mixed government,” I suggest, is limited to a mixed regime that tries to balance contrary principles, like the mixed regime of Polybius and Montesquieu, or the Bourbon Restoration. Tocqueville’s apparent rejection of the mixed regime leaves open the possibility of constructing an Aristotelian polity, which admits of a broader range of mixtures while allowing for one dominant principle of action. While the mixed regime endorsed by Montesquieu and Polybius relies on balancing contrary monarchical, aristocratic, and democratic principles, the democratic social state has rendered this balance of forces obsolete. The Aristotelian “polity,” on the other hand, allows for a democratic foundation with aristocratic components. Tocqueville’s rejection of mixed government thus appears to be a revision of Montesquieu, not a rejection of Aristotle.

If my interpretation is correct, and Tocqueville’s rejection of “mixed government” is much narrower than is commonly interpreted, this would explain many of his other statements in Democracy and elsewhere that indicate certain mixtures are possible. In the very same discussion of “mixed government” in Democracy, for instance, he notes that England has “strong democratic elements.” In the preface to the second Democracy he says, “There are a host of opinions, sentiments, and instincts in our time that owe their birth to facts alien or even contrary to equality.”610 In a later conversation with Nassau Senior, we may recall, he refers to aristocracy as the “most important element in a mixed government.” In the note which I quoted at the heading to this chapter, he says that in order to

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610 DAII, preface, 400.
make himself “well understood” he has depicted “extreme states,” whereas in reality there is always a mixture of aristocracy and democracy; one must try to distinguish his “true opinion” from what he says in order to make his opinion “well understood.” Clearly he did not think all mixtures impossible. Which, then, did he think possible or desirable, if any? I have tried to suggest in this paper that the American mixture, or something like it, is what he ultimately endorses as the key to reconciling equality, freedom, and greatness in democracy. The Tocquevillean polity is not necessarily the “best regime” in the Aristotelian sense, but it is the best applicable to the new era of democracy.

This might raise the question of why Tocqueville does not say explicitly that a mix of aristocracy and democracy is the solution to the problem of democracy. But he does note that there are always mixtures of aristocracy and democracy, and I have shown how he indicates that various features of American practice are aristocratic in origin or character. Moreover, explicitly embracing “mixed government” might have risked confusion, given that the dominant understanding of mixed government was that of Polybius and Montesquieu. Worse, it could have exposed Tocqueville to the “legitimist slur,” an insinuation of aristocratic nostalgia that dogged him throughout his political career.611 An explicit acceptance of the idea of mixed government might have obscured his unequivocal acceptance of democracy, and might have tarnished his credibility as a friend of democracy. As the historian Françoise Mélonio notes, this continued to be a concern throughout his life:

611 See Brogan, Alexis de Tocqueville, 358.
Not all conceded Tocqueville’s postulated noxiousness of centralization… Let Tocqueville carefully glorify in 1857 ‘that kind of liberty encountered under the ancien régime’ among nobles and priests, and republicans and Bonapartists were quick to suspect a sneaky plea for a return to a society divided into those orders.\footnote{Mélonio, 107.}

Tocqueville would have run the risk of being mistaken for a reactionary (and was still interpreted as such by some, anyway) if he did not embrace democracy unequivocally in *Democracy*. This would have defeated the fundamental purpose of his book, to turn the attention of his countrymen to the “progressive organization of democracy.”

Meanwhile, throughout *Democracy*, Tocqueville may point up the connections between American practice and aristocracy in subtle ways in order to address the fears of some of his contemporaries. Perhaps, as Wolin suggests, this is part of a rhetorical strategy to show conservative or aristocratic readers that not all was lost with democracy. By noting the similarities between the Old and New World practices, Tocqueville was “dissolving the monolithic character that democracy had in the eyes of conservative groups in France.”\footnote{Wolin, 157.} The call for decentralization in *Democracy in America* was interpreted by some readers as a veiled legitimism, but others may have been heartened by this appeal to a distinctive feature of the aristocratic way of life. Tocqueville’s strong disavowals of aristocracy at the end of the book should perhaps be understood in a similar context, with respect to his audience. It is not so much that his commitment to democracy is not genuine, as that he was operating in a context in which an overt appeal to preserve the “least atom” of aristocracy could be easily misunderstood.
Tocqueville may be understood as a model of the “patriot” or classical “good citizen,” rather than a partisan of either the Old Regime or the new regime of democracy. Many partisans of the Old Regime, the Bourbon Legitimists, including many members of his family, saw him as a traitor for swearing allegiance to the July Monarchy. Yet Tocqueville is also detached from democracy, because he does not love the people such as they may be, and he does not love democracy. Although he finds democracy “more just,” he remains a liberal first and a democrat second. His detachment from the old regime of aristocracy and new regime of democracy allows him to take the position of an umpire poised between aristocracy and democracy.

Above all, Tocqueville is a partisan of liberty, which he consistently connects to the greatness and dignity of man. The particular institutional arrangements of the regime are therefore not his overriding concern; his judgment depends on their ability to fulfill the ends of liberty and dignity. Only once this is understood can we make sense of the “contradictions” and “ambivalence” of Tocqueville’s political stances at various moments in time – encouraging the preservation of aristocracy in England on the one hand, urging the gradual introduction of democratic institutions in France on the other, and not always knowing which party to support under the July Monarchy. To make himself understood as a critical friend of democracy, however, it seems plausible that Tocqueville would be most explicit about the need to move beyond the old forms of aristocracy, while implicitly using his feudal sensibility to analyze the defects of democracy and mix with it some of the spirit of aristocracy.
VI. Conclusion

Tocqueville’s teaching, I have proposed, is that “those who govern” must rebuild aristocracy on a democratic foundation so that it accords with the principles of democracy while counteracting its natural tendencies. It is not just Tocqueville’s heritage that makes him an “aristocratic democrat,” but his political science. His feudal sensibility is not merely an anomaly of his aristocratic upbringing, but a unique lens that consistently informs his understanding of the problem of democracy and its resolution. The prescriptions of Tocqueville’s political science can only be understood in the context of what he saw as the greatest threat to democracy: a reincarnation of absolute monarchy. The constant comparisons between democracy, aristocracy, and monarchy, which run throughout Tocqueville’s work, express his great fear that democracy will reintroduce absolutism under new forms and his great hope that a democratized version of aristocracy can prevent this fate. Democracy provides a guide to reconstructing aristocracy, the traditional counterweight to the monarchy, on a just, democratic basis.

Ultimately Tocqueville does not conceive of humanity as rigidly divided in two, because he wants democracy to have some of what aristocracy had. There is no impermeable wall between the age of aristocracy and the era of democracy. There may be “as it were, two distinct humanities,” but they originate in one nature; it is important to remember that Tocqueville says “institutions change, but not man.”614 Neither aristocracy nor democracy, then, seems to capture all of

614 DAII, part 3, chap. 14, 578.
human nature. Perhaps this is why he embraces democracy but strives to make it more like aristocracy. The Tocquevillean polity is built on a foundation of justice as natural equality, but the first object of the legislator is individual greatness. The only way to prevent man from falling “below the level of humanity,” in Tocqueville’s view, is to think more of “making great men.” There will always be a little of aristocracy “at the bottom of souls,” which must be brought out to preserve liberty and greatness in democracy.

One might still object that Tocqueville wrote *Democracy* primarily to draw lessons for France. Why would he uphold as the exemplar the accidental and particular circumstances of the Americans, which depend in part on a valuable English inheritance? But perhaps the “new remedies” for new ills are only “new” because France had not tried them. Those who governed in France had not extended political liberty, promoted local freedom, or elevated individual rights. They were conservatives who failed to realize that they were perpetuating the legacy of absolute monarchy, or reactionaries who sought to resurrect the old forms of aristocracy. They continued to push the old panaceas of education and administrative centralization or, like the legitimists, they retained hopes of reviving an aristocratic society based on the aristocratic principle. Although Tocqueville does not claim that France should try to imitate all of the particular forms of American practice, America illustrates how democracy can be “regulated with laws and mores.”615 In France, the spirit of aristocracy must be recaptured

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615 DAI, part 2, chap. 9, 298.
after a long interim of royal centralization and revolution, but the American regime can furnish “useful lessons.”

Tocqueville’s analysis suggests that the French will have a harder time solving the “problem of democracy” than the Americans. But Tocqueville also says that America had “doubtless not resolved this problem.” The optimism about “American exceptionalism” that often accompanies popular references to *Democracy in America* is largely unwarranted. For the very reason that many components of American practice, such as individual rights and decentralized administration, are described in *Democracy* as contrary to democratic instinct, one might well expect it to become less exceptional over time. Centralization, as Tocqueville reminds us – the Achilles’ heel of democracy – is not French, but democratic. Tocqueville’s ideal regime is inherently fragile, and the America of his time was at best a rough approximation.

Nevertheless, the image of the Tocquevillian polity was, and perhaps still is, in America. Americans may not be the chosen people, but they were chosen by Tocqueville; America had a “singular destiny,” not only a singular origin, and yet it could offer “lessons to the world.” Perhaps some of those lessons remain relevant today. To mix humility and pride, equality and liberty, justice and greatness – that is the sovereign art, Tocqueville suggests, on which the future of democracy depends.

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616 Ibid.
617 See Jonah D. Levy, *Tocqueville's Revenge: State, Society, and Economy in Contemporary France* (Harvard University Press, 1999). The challenge of applying Tocqueville’s lessons to France continues to this day. Levy dubs it “Tocqueville’s Revenge”: a multi-century legacy of administrative centralization and *dirigisme* extending from the administrative machine of the Old Regime to the modern welfare state.
618 DAIII, part 2, chap. 9, 298.
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