

## De Tocqueville - General Tendency of the Laws

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The defects and the weaknesses of a democratic government may very readily be discovered; they are demonstrated by the most flagrant instances, while its beneficial influence is less perceptibly exercised. A single glance suffices to detect its evil consequences, but its good qualities can only be discerned by long observation. The laws of the American democracy are frequently defective or incomplete; they sometimes attack vested rights, or give a sanction to others which are dangerous to the community; but even if they were good, the frequent changes which they undergo would be an evil. How comes it, then, that the American Republics prosper and maintain their position?

In the consideration of laws a distinction must be carefully observed between the end at which they aim and the means by which they are directed to that end; between their absolute and their relative excellence. If it be the intention of the legislator to favor the interests of the minority at the expense of the majority, and if the measures he takes are so combined as to accomplish the object he has in view with the least possible expense of time and exertion, the law may be well drawn up, although its purpose be bad; and the more efficacious it is, the greater is the mischief which it causes.

Democratic laws generally tend to promote the welfare of the greatest possible number; for they emanate from a majority of the citizens, who are subject to error, but who cannot have an interest opposed to their own advantage. The laws of an aristocracy tend, on the contrary, to concentrate wealth and power in the hands of the minority, because an aristocracy, by its very nature, constitutes a minority. It may therefore be asserted, as a general proposition, that the purpose of a democracy, in the conduct of its legislation, is useful to a greater number of citizens than that of an aristocracy. This is, however, the sum total of its advantages.

Aristocracies are infinitely more expert in the science of legislation than democracies ever can be. They are possessed of a self-control which protects them from the errors of a temporary excitement; and they form lasting designs which they mature with the

assistance of favorable opportunities. Aristocratic government proceeds with the dexterity of art; it understands how to make the collective force of all its laws converge at the same time to a given point. Such is not the case with democracies, whose laws are almost always ineffective or inopportune. The means of democracy are therefore more imperfect than those of aristocracy, and the measures which it unwittingly adopts are frequently opposed to its own cause; but the object it has in view is more useful.

Let us now imagine a community so organized by nature, or by its constitution, that it can support the transitory action of bad laws, and that it can await, without destruction, the general tendency of the legislation: we shall then be able to conceive that a democratic government, notwithstanding its defects, will be most fitted to conduce to the prosperity of this community. This is precisely what has occurred in the United States; and I repeat, what I have before remarked, that the great advantage of the Americans consists in their being able to commit faults which they may afterward repair.

An analogous observation may be made respecting public officers. It is easy to perceive that the American democracy frequently errs in the choice of the individuals to whom it entrusts the power of the Administration; but it is more difficult to say why the State prospers under their rule. In the first place, it is to be remarked, that if in a democratic State the governors have less honesty and less capacity than elsewhere, the governed, on the other hand, are more enlightened and more attentive to their interests. As the people in democracies is more incessantly vigilant in its affairs, and more jealous of its rights, it prevents its representatives from abandoning that general line of conduct which its own interest prescribes. In the second place, it must be remembered that if the democratic magistrate is more apt to misuse his power, he possesses it for a shorter period of time. But there is yet another reason which is still more general and conclusive. It is no doubt of importance to the welfare of nations that they should be governed by men of talents and virtue; but it is perhaps still more important that the interests of those men should not differ from the interests of the community at large; for if such were the case, virtues of a high order might become useless, and talents might be turned to a bad account.

I say that it is important that the interests of the persons in authority should not conflict with or oppose the interests of the community at large; but I do not insist upon their having the same interests as the whole population, because I am not aware that such a state of things ever existed in any country.

No political form has hitherto been discovered, which is equally favorable to the prosperity and the development of all the classes into which society is divided. These classes continue to form, as it were, a certain number of distinct nations in the same

nation; and experience has shown that it is no less dangerous to place the fate of these classes exclusively in the hands of any one of them, than it is to make one people the arbiter of the destiny of another. When the rich alone govern, the interest of the poor is always endangered; and when the poor make the laws, that of the rich incurs very serious risks. The advantage of democracy does not consist, therefore, as has been sometimes asserted, in favoring the prosperity of all, but simply in contributing to the well-being of the greatest possible number.

The men who are entrusted with the direction of public affairs in the United States are frequently inferior, both in point of capacity and of morality, to those whom aristocratic institutions would raise to power. But their interest is identified and confounded with that of the majority of their fellow-citizens. They may frequently be faithless, and frequently mistake; but they will never systematically adopt a line of conduct opposed to the will of the majority; and it is impossible that they should give a dangerous or an exclusive tendency to the Government.

The maladministration of a democratic magistrate is a mere isolated fact, which only occurs during the short period for which he is elected. Corruption and incapacity do not act as common interests, which may connect men permanently with one another. A corrupt or an incapable magistrate will not concert his measures with another magistrate, simply because that individual is as corrupt and as incapable as himself; and these two men will never unite their endeavors to promote the corruption and inaptitude of their remote posterity. The ambition and man uvers of the one will serve, on the contrary, to unmask the other. The vices of a magistrate, in democratic States, are usually peculiar to his own person.

But under aristocratic Governments public men are swayed by the interests of their order, which, if it is sometimes confounded with the interests of the majority, is very frequently distinct from them. This interest is the common and lasting bond which unites them together; it induces them to coalesce, and to combine their efforts in order to attain an end which does not always ensure the greatest happiness of the greatest number; and it serves not only to connect the persons in authority, but to unite them to a considerable portion of the community, since a numerous body of citizens belongs to the aristocracy, without being invested with official functions. The aristocratic magistrate is therefore constantly supported by a portion of the community, as well as by the Government of which he is a member.

The common purpose which connects the interest of the magistrates in aristocracies with that of a portion of their contemporaries, identifies it with that of future generations; their influence belongs to the future as much as to the present. The aristocratic magistrate is urged at the same time toward the same point, by the passions of the community, by his own, and I may almost add, by those of his

posterity. It is, then, wonderful that he does not resist such repeated impulses? And, indeed, aristocracies are often carried away by the spirit of their order without being corrupted by it; and they unconsciously fashion society to their own ends, and prepare it for their own descendants.

The English aristocracy is perhaps the most liberal which ever existed, and no body of men has ever, uninterruptedly, furnished so many honorable and enlightened individuals to the government of a country. It cannot, however, escape observation, that in the legislation of England the good of the poor has been sacrificed to the advantage of the rich, and the rights of the majority to the privileges of the few. The consequence is, that England, at the present day, combines the extremes of fortune in the bosom of her society; and her perils and calamities are almost equal to her power and her renown.

In the United States, where the public officers have no interests to promote connected with their caste, the general and constant influence of the Government is beneficial, although the individuals who conduct it are frequently unskillful and sometimes contemptible. There is, indeed, a secret tendency in democratic institutions to render the exertions of the citizens subservient to the prosperity of the community, notwithstanding their private vices and mistakes; while in aristocratic institutions there is a secret propensity, which, notwithstanding the talents and the virtues of those who conduct the Government, leads them to contribute to the evils which oppress their fellow-creatures. In aristocratic Governments public men may frequently do injuries which they do not intend; and in democratic States they produce advantages which they never thought of.