Interpreting Tocqueville's *Democracy in America*

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Misunderstanding the American Founding

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Tocqueville's book has so much good sense in it that it seems almost meanspirited to raise a complaint. But since its flaw is important, and happens to be shared by many contemporary writers on America, it needs to be exposed.

Among today's leading scholars and politicians, there is a striking aversion to the political thought on which this country is founded. That aversion, shared by many liberals as well as conservatives, centers on the idea that all men are created equal, and that their Creator endows them with equal natural rights to life, liberty, and property.

Liberals are suspicious of individual natural rights because rights place limits on what government may do in the name of justice. When the law treats rights as belonging to individuals rather than groups, for example, it does not permit discrimination against white or Asian males in order to give jobs to less qualified women or blacks. (Thus the Supreme Court now openly admits that affirmative action, which the Court generally endorses, "trammels the rights" of individuals who do not happen to belong to the "minorities" favored by government.)[1] In short, liberals are wary of equal rights because rights permit individual achievement to flourish in accord with

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[1] *Johnson vs. Transportation Agency, Santa Clara County*, 94 L. Ed. 2d 615 (1987), at 627, 634.

individual intelligence, ambition, and hard work. This allows groups composed of some individuals to do better than groups composed of other individuals. Equal opportunity does not lead to equality of conditions.

Liberals therefore sometimes pay mouth-honor to the Founding while disagreeing with it, as Senator Biden did during the confirmation hearings on Judge Bork's nomination to the Supreme Court in 1987. Biden embraced the Founders' language of natural rights while denouncing Bork for refusing to read into the Constitution the partisan agenda of today's activist judiciary. Liberals who are more frank simply dismiss the Founding, and the Constitution, as pro-slavery and anti-women, as Supreme Court Justice Marshall did in a 1987 speech. In Justice Brennan's words, echoed by liberal historian Gordon Wood, the Founders' principles belong to "a world that is dead and gone."[2]

Many conservatives, on the other hand, are also suspicious of individual rights because they fear that the idea of rights provides liberals with an open-ended license to promote extremist policies in the name of social justice. These conservatives therefore prefer to remember the traditionalist aspects of the Founding, rather than the radical principle that all men are created equal.[3]

Tocqueville's account of the Founding has the practical effect of encouraging these current tendencies, although his view is in fact quite different from the views that prevail today.

Tocqueville does explain brilliantly much of what makes American democracy work so well. He does so in a way that cuts against the grain of many fashionable trends in our time. Particularly impressive are his account of the importance of religion in maintaining liberty, his focus on small towns as the heart of everyday democratic life, and his warnings about the despotic threat

[2]Thurgood Marshall, Remarks at the Annual Seminar of the San Francisco Patent and Trademark Law Association, Hawaii, May 6, 1987, mimeographed. William J. Brennan, speech to the Text and Teaching Symposium, Georgetown University, Oct. 12, 1985, in *The Great Debate: Interpreting Our Written Constitution* (Washington, D.C.: The Federalist Society, 1986), p. 17. Gordon S. Wood, "The Fundamentalists and the Constitution," *New York Review of Books*, Feb. 18, 1988, p. 39.

[3]Irving Kristol, "The American Revolution as a Successful Revolution," is a typical example of this conservative view of the Founding. In *America's Continuing Revolution* (Garden City: Doubleday, Anchor Books, 1976).

of the cradle-to-grave welfare state.

Yet Tocqueville misunderstands the American Revolution. He never mentions that in our Founding we Americans understood ourselves to be dedicated to the truth that all men are created equal, and that this dedication, and this truth, are what justified the break with Britain and made us a nation. Tocqueville's total silence on the Declaration of Independence—in a 700-page book on America!—is characteristic.

To this extent, at least, Tocqueville did not understand America as Americans understood themselves.

Against Tocqueville stands the view that most American citizens and statesmen held through most of our history—although not today. This view has been shared by such statesmen as Washington, Jefferson, John Quincy Adams, Lincoln, and Coolidge, and such scholars as Andrew McLaughlin and Harry Jaffa, all of whom regarded the principles of the Declaration as the heart of America.

I

If we begin at the surface, we notice that Tocqueville's account of the origins of American democracy gives little weight to the political theory and political actions of the Founders themselves. The decisive movement toward formal independence from 1765 to 1776 is barely mentioned, and he is altogether silent on the Americans' increasing clarity during this period concerning their political principles. The contribution of those principles to the early state constitutions as well as the federal Constitution is not discussed.

For Tocqueville, the decisive moment for American democracy is not the Founding but the point of departure of the first colonists, especially of New England.[4]

Tocqueville argues that three things—liberty, religion, and equality of conditions—formed America. First, the spirit of liberty was nourished from the start by the extraordinary independence of the colonies in determining the rules under which they would live.

[4]Alexis de Tocqueville, *Democracy in America*, ed. J.-P. Mayer, trans. George Lawrence (Garden City, N.Y.: Doubleday, Anchor Books, 1969), vol. I, pt. I, chap. 2. Hereinafter cited as *Democracy*.

From the start, they governed themselves for the most part through elected colonial assemblies. Further, within each colony the towns were self-governing in all the ordinary details of public life. So the people quickly became accustomed to act for themselves and not to wait for a central authority to take care of their needs. They developed the habits of free men by performing for themselves the duties of citizenship.

Second, says Tocqueville, the spirit of religion placed necessary limits on liberty, so that the freedom of public life did not become destructive of morals or of the rights of the minority. In agreement with the New England Puritans, Tocqueville insists that a man enslaved to his passions cannot be free.[5]

The third inheritance from the colonies was equality of conditions, for Tocqueville "the creative element from which each particular fact [in American society] derived."[6] Land was easily available, and the price of labor was high. Large fortunes were made, but they were also easily lost. Few families preserved their wealth beyond two or three generations. No hereditary aristocratic or impoverished classes could form under these conditions. Tocqueville argues that this equality in the social order made it impossible for inequality to be established in the political order.

Such is Tocqueville's explanation of America's point of departure, "the germ of all that is to follow and the key to almost the whole work." Tocqueville stresses subpolitical causes, as opposed to the conscious choices made by citizens and statesmen. He believes that a man or a country becomes what it is in its earliest, prerational development, not in its adult, rational deliberation about its form. "Go back, look at the baby in its mother's arms. . . . The whole man is there, if one may put it so, in the cradle."[7]

The premise of this argument, and of Tocqueville's political science as a whole, is that "in the long run political society cannot fail to become the expression and mirror of civil society."[8] This means that what goes on in private life determines the character of

[5]Ibid., pp. 46, 318.
[6]Ibid., p. 9.
[7]Ibid., pp. 31-32
[8]Ibid., p. 586.

the community more decisively than anything government does. The state does not form society; society forms the state. Accordingly, Tocqueville's analysis of democracy places greater weight on the manners and morals of the people than on their formal laws and institutions.

Thus when Tocqueville asks what is most responsible for sustaining American democracy, he answers, "The laws contribute more to the maintenance of the democratic republic in the United States than do the physical circumstances of the country, and mores do more than the laws." (By "mores" Tocqueville means the customs, opinions, habits, and forms of behavior of the people.) "The importance of mores is a universal truth [which] occupies the central position in my thoughts; all my ideas come back to it in the end."[9] In other words, what occurs in the subpolitical realm is more important than—and actually determines—what happens in politics.

In contrast to Tocqueville's approach, the political science of the Founders maintains that government forms society. Although habits and beliefs are crucial to the success of decent republicanism, their ultimate cause is politics and law. Accordingly, the Founders' political studies concentrated on the deliberations of statesmen and the laws and institutions of government.

The Founders' view may be seen in these passages from *The Federalist*. "Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice without constraint." The passions are not merely coerced by the penalty of law. The laws shape the passions, forming the people's habits and character—their mores—for better or worse. Actions of irresponsible state legislatures "have occasioned an almost universal prostration of morals"; but constitutional provisions protecting contracts will "inspire a general prudence and industry, and give a regular course to the business of society."[10]

Similarly, in his *Notes on the State of Virginia*, Jefferson shows how the opinions and character of the people can be formed by the right kinds of laws, including the establishment of state-controlled

[9]Ibid., pp. 307-08.
[10]*The Federalist*, ed. Clinton Rossiter (New York: New American Library, Mentor, 1961), No. 15, p. 110; No. 44, p. 283; No. 85, p. 522.

popular education. He proposed a thorough revisal of Virginia's law code because many of the laws inherited from colonial days inculcated "principles inconsistent with republicanism." The laws, that is, do teach principles. Although the people are "the only safe depositories" of government, "to render even them safe their minds must be improved to a certain degree." Government, not society, is entrusted with the task of *rendering* them safe.[11]

From the Founders' point of view, Tocqueville's account is true but partial. Social conditions place limits on, as well as make possible, what can be accomplished politically. The Founders were well aware of this. "[A]ll governments rest on opinion"; "republican government presupposes the existence of [virtue] in a higher degree than any other form."[12] But they thought that however much government is affected by popular mores, those mores are finally formed by government. Indeed, the leading theme of *The Federalist* is how to arrange things so that government by consent of the governed can control the people's passions and not be controlled by them.

The consequence of Tocqueville's mode of analysis is that he feels little need to examine either the publicly pronounced principles or the formal constitutions established by the states and union during the Founding era. Thus there are no quotations or even explanations of the principles of free government as they were articulated during the period 1765-1787. There is a short account of the state constitutions, but this occupies about three pages of his fifty-page chapter on the states. The rest of the chapter is mostly devoted to an account of township government and administrative decentralization. True, Tocqueville does include a long chapter on the federal Constitution, but, much as he admires this document, he concludes that it is not decisive for democracy in America. For the existence of the union is weak and precarious; the people's first allegiance goes to their states and home towns; and almost all the business of government is undertaken locally.

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[11] *Notes on the State of Virginia*, Query 14, in Thomas Jefferson, *Writings* (New York: Library of America, 1984), pp. 263, 274. Hereinafter cited as Jefferson, *Writings*. Harvey C. Mansfield, Jr., "Introduction," in Thomas Jefferson, *Selected Writings*, ed. Harvey C. Mansfield, Jr. (Arlington Heights, Ill.: AHM Publishing Corp., 1979), p. xxii.

[12] *The Federalist* No. 49, p. 314.

II

The democratic principle, for the Founders, is a precise deduction from a rational insight. That insight is the equality of men, in the sense that no human being is so far superior to another human being that he has the right to rule him without his consent. From this equality follows the inalienable right to liberty; and to life, without which there can be no liberty; and to property, which is the material condition for making liberty practically effective. This equal liberty is not absolute; it is bounded by the moral law, or the law of nature, which prescribes man's duties and limits.

Books have been written and will continue to be written spelling out the implications of these principles, but this simple course of reflection is the basis of the Founders' conception of democracy.

Because Tocqueville does not recognize the Founders' moral conception of liberty, he looks elsewhere for the source of the moral restraint that he correctly observes in American democracy. That is why, in his analysis of America's point of departure, he insists that the spirit of religion and the spirit of liberty are two "perfectly distinct" things. According to Tocqueville, religion establishes right and wrong on an absolute basis: Thanks to religion, "in the moral world everything is classified, coordinated, foreseen, and decided in advance." Religion is not essentially democratic, although it is compatible with democracy. In fact, it is a "precious heritage from aristocratic times." The spirit of liberty, on the other hand, as Tocqueville presents it, has no internal source of direction: "In the world of politics everything is in turmoil, contested, and uncertain." Thus the proper understanding of liberty, including "the divine source of its rights," comes from religion alone. The drift of Tocqueville's presentation is this: For democracies, the only source of moral restraint is the authority of divine revelation; as far as democracy left to itself is concerned, everything is relative and everything is permitted. Without religion, liberty would run wild.[13]

The actual relationship between religion and democracy in America is more complicated. American statesmen from the Founders

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[13] *Democracy*, pp. 47, 544.

on have been keenly appreciative of the support provided by Christianity, Judaism, and other religions for the moral principles of American politics. But they made a distinction between religious support for those principles and the principles themselves, which they thought were evident in human nature and therefore inseparable from democracy.

For most practical purposes, the foundation of political moral obligation for Americans is the equal rights of all. In Jefferson's words:

> All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate which would be oppression.[14]

Tocqueville praises the doctrine of individual rights on several occasions. It can help protect weak, isolated individuals from the overwhelming power of society or the state. Yet Tocqueville strangely severs the doctrine of individual rights from democracy. He maintains that the Americans "have taken from the English aristocracy the idea of individual rights. . . ."[15] This odd assertion not only deprives American democracy of its central principle ("that all men are created equal, that they are endowed by their Creator with certain inalienable rights"), but it then treats that principle as an accidental inheritance of an anti-democratic age.

Tocqueville's admirers sometimes forget his praise of individual rights because they are so impressed by his constant reminders of the dangers of equality. Equality tempts democratic citizens to drag down those who excel to the level of the average, which at the extreme could lead them to prefer equality in slavery to inequality in freedom. Equality also fosters what Tocqueville calls "individualism." Democratic citizens are not part of a preexisting social and political hierarchy as they were in aristocratic times. They therefore tend to withdraw from the larger community into their own private world of family, friends, and career. The impression left on

[14]First Inaugural Address, in *Writings*, pp. 492-93.
[15]*Democracy*, p. 676.

many readers is that since equality is dangerous and individualism is bad, equal individual rights are part of the problem. Yet at the conclusion of the book Tocqueville affirms that the support of those rights ought to be "the chief aim of any legislator in the age opening before us."[16]

But the rights of man are not the only democratic limit on democracy. The idea of liberty itself contains its own limit. When John Locke spoke of the law of nature as the bound of man's liberty in the state of nature, Americans understood him to mean that human beings "are inherently independent of all but moral law."[17] At least in principle, no one is free to do evil to himself or another. In practice, of course, much evil must be tolerated by the laws, but there is much that the laws can forbid and encourage.

For example, public respect for religion was enforced by Sabbath-breaking laws of the kind quoted with some amazement by Tocqueville.[18] The states also carried detailed legislation governing morals in the ordinary sense. Pornography was forbidden, as were sex outside of marriage, homosexual acts, and in some places even profanity.[19] Naturally, the religious convictions of the citizens provided strong impetus for these laws, but the support of a Jefferson shows that Americans thought these limits were also supported by the teachings of reason. In a word, Americans thought there was a right and a wrong use of the passions, and, in the words of *The Federalist*, a people that cannot guard themselves against "the tyranny of their own passions" will not long remain free.[20]

However, there is a sense in which the Founding principles, both of liberty *and* of self-restraint, may be said to be religious. In the Declaration, the equal right of all men to life, liberty, and the pursuit of happiness derives from the Creator, as do the laws of

[16]Ibid., p. 701. One Tocqueville admirer who made this error was Pierre Manent, "*Democracy in America:* The Classic Text on Liberty," *Wall Street Journal*, Jan. 30, 1985, p. 27.
[17]Thomas Jefferson, letter to Spencer Roane, Sept. 6, 1819, in *Writings*, p. 1426.
[18]*Democracy*, pp. 712-14.
[19]I have given striking examples in "The Founders' View of Education," to be published in a book on education edited by Robert L. Utley, Jr. For an easily accessible example, see the morals provisions in Jefferson's proposed revisal of the Virginia laws, *Notes on the State of Virginia*, Query 14, in *Writings*, p. 271.
[20]The quotation is from No. 63, p. 384, but the sentiment is in No. 55, p. 346.

nature and of nature's God. The expression "nature's God" was the Founders' way of speaking of God insofar as He is accessible to all human beings, regardless of their particular religious faith.

The philosopher Thomas Hobbes is famous for the doctrine that liberty by nature has no moral limits. In this respect Tocqueville is surprisingly Hobbesian. During the Revolution, Alexander Hamilton denounced Hobbes for his amoral conception of liberty, appealing against him to the moral obligation in the law of nature as taught by such men as Pufendorf and Locke. Hamilton also spoke there of man's *natural* rights as *sacred* rights, "written, as with a sunbeam, in the whole volume of human nature, by the hand of the Divinity itself."[21] The spirit of liberty properly understood is inseparable from the eternal order of things established by "nature and nature's God." This religious dimension of the Founding is so far from being aristocratic that it is the very foundation of democracy.

One may even speak of the spirit of liberty and the spirit of religion as two sides of the same coin, as long as it is clear that "religion" here means the nonsectarian theology of the Declaration of Independence, not the specific doctrines of Christian revelation. More recently, Solzhenitsyn expressed the Founders' nonsectarian religiosity perfectly when he said: "[I]n American democracy at the time of its birth, all individual rights were granted because man is God's creature. That is, freedom was given to the individual conditionally, on the assumption of his constant religious responsibility." And on the fiftieth anniversary of the Constitution, John Quincy Adams, after summarizing the second paragraph of the Declaration, said: "All this, is by the laws of nature and of nature's God, and of course presupposes the existence of a God, the moral ruler of the universe, and a rule of right and wrong, of just and unjust, binding upon men, preceding all institutions of human society and of government."[22]

In spite of the above criticism of Tocqueville, there is practical truth in his claim that without religion, liberty would know no moral

[21]Hamilton, "The Farmer Refuted" (1775), in *Papers of Alexander Hamilton*, ed. Harold C. Syrett (New York: Columbia University Press, 1961), pp. 86-87, 122.
[22]Alexander Solzhenitsyn, "A World Split Apart" (Harvard Commencement Address, 1978), in *National Review*, July 7, 1978, p. 841; John Quincy Adams, *The Jubilee of the Constitution* (New York: Samuel Colman, 1839), pp. 13-14.

limits. Although the Founders' idea of equality includes a moral aspect, that aspect would not be effective were it not supported on religious grounds by the leading Christian, Jewish, and other American sects. That is because religious conviction in this country is always associated with one sect or another, rarely appearing as a generalized endorsement of this nonsectarian democratic theology.

Calvin Coolidge caught well the complex weave of the spirits of religion and liberty in America in this statement:

> Equality, liberty, popular sovereignty, the rights of man—these are not elements which we can see and touch. They are ideals. They have their source and their roots in religious convictions. They belong to the unseen world. Unless the faith of the American people in these religious convictions is to endure, the principles of our Declaration will perish.[23]

Tocqueville rightly sees that a form of government in which the people rule is bound to need restraints on popular excesses. Tocqueville believes that those restraints are either extra-democratic or accidental. Yet the central ground of moral restraint on popular government lies in the very principle that justifies popular rule. There is no need to go outside the democratic ethos for limits on abuses of liberty. Tocqueville's neglect of the moral principles inherent in the Founding weakens his case for democracy and distorts the source of its fundamental decency. It makes American neo-Tocquevillians doubt the worth of democracy, for it makes their country appear to be good only to the extent that it is governed by religion, which it cannot publicly acknowledge as part of the regime, or only to the extent that it curbs the very thing of which it is most proud: democracy. As one conservative admirer of Tocqueville sums up his author: "[T]he problem with America is too much democracy."[24]

[23]Calvin Coolidge, "The Inspiration of the Declaration," in *Foundations of the Republic* (New York: Scribner's, 1926), p. 451. For a fuller account of the Founding, see my essay "The Classical Spirit of the Founding," in *The American Founding: Essays on the Formation of the Constitution*, eds. J. Jackson Barlow, Leonard Levy, and Ken Masugi (Westport, Conn.: Greenwood Press, 1988).
[24]Peter Augustine Lawler, "The Problem of Democratic Individualism," *The University Bookman*, 28:3 (1988), p. 9. The *Bookman* is edited by Russell Kirk, a prominent conservative intellectual.

III

Because Tocqueville did not notice that equality was a *political* principle in America, not just a fact of democratic life, he could not anticipate the Civil War, in which the nation split apart over the equality principle, over the rightness or wrongness of slavery, manifested in a dispute over the further expansion of slavery into the territories.

Tocqueville traces the root of the Southern problem, which is really the problem of slavery, to the earliest colonial days. The Southern colonies were at first populated by adventurers without families looking for quick riches, and slavery suited their idle and pleasure-seeking manner of life. The South gradually became more civilized as men married and settled down, and as English mores began to penetrate the region. But the difference always remains and endures, Tocqueville observes, as long as slavery does. The presence of a permanent underclass frozen by strict laws into their inferior station gives the South aristocratic qualities. They include an aspiration to graciousness and even grandeur but also a contempt for work and lack of common sense. Thus Tocqueville's South was an anomaly in an otherwise democratic land. Its most ominous aspect was its tendency to deny the humanity of its slaves, a consequence of the jarring conflict between the modern belief that men are equal and the actual fact of a class of degraded and slavish creatures.[25]

Tocqueville analyzes quite plausibly the effect of slavery on Southern blacks and whites. Yet he does not anticipate the growing Northern resistance to slavery, not only on religious grounds, but also on the grounds of the Founding principles articulated in the Declaration. Considering the accuracy of several of Tocqueville's other predictions, his anticipation of a successful Southern secession and a future race war between Southern blacks and whites is surprising in retrospect.

Tocqueville's lapse can best be explained by his misunderstanding of equality. The equality principle not only justifies majority rule but also imposes a moral obligation to respect the rights of the minority.

[25]Tocqueville's contrasts of North and South are in *Democracy*, pp. 34-35, 80-81, 308, 340-95.

This was understood by most leading politicians, North and South, during the Founding era and by most northern politicians thereafter. In the South, however, the Declaration gradually came to be ignored and after 1835 was explicitly repudiated. Southerners understood the importance of the principle and they rejected it with their eyes open. Calhoun, Fitzhugh, and many others wrote theoretical tracts attacking human equality. The tendency culminated in Alexander Stephens' Corner Stone Speech in 1861, which asserted that the theory of black racial inferiority, based upon advances in modern science, was the central principle of the new Confederacy.[26]

Lincoln's political rise after 1854 was grounded upon the continued vitality of the equality principle in the North. Lincoln's appeal to the moral obligation inherent in that principle was the foundation of his policy to keep the territories free of slavery. The Lincoln-Douglas debates show that Lincoln understood the political quarrel of the day as a contest over whether America was going to remain faithful to the Declaration, its ancestral law of moral obligation, or whether it was going to reject that respect for the equal rights of all in the name of self-interest. Lincoln's firm grasp on principle, and the tenacity and skill he displayed in his presidency, enabled him to fight secession and, as the length and bloodiness of the war radicalized northern sentiment, to abolish slavery altogether. Tocqueville knew that the majority might well turn to a superior man in a time of crisis,[27] but he did not anticipate how such a man could establish a policy that would lead to the resolution of the slavery question. That whites would end up fighting whites, and not blacks (as Tocqueville expected), over the future of slavery, is a sign of the moral power of the idea of equality. Of course in fairness to Tocqueville we must acknowledge that few men other than Lincoln himself could have accomplished what he did.

Lincoln epitomizes what is missing in Tocqueville's book. Lincoln renewed and deepened the American understanding of the connection

[26]Representative pro-slavery speeches and tracts are conveniently assembled in *Slavery Defended: The Views of the Old South*, ed. Eric L. McKitrick (Englewood Cliffs, N.J.: Prentice Hall, 1963). Stephens' Corner Stone speech is quoted and analyzed by Harry V. Jaffa in *How to Think About the American Revolution* (Durham, N.C.: Carolina Academic Press, 1978), pp. 155-61.

[27]*Democracy*, p. 199.

of equality, moral obligation, and divine justice. Jefferson trembled for his country when he reflected that "God is just: that his justice cannot sleep for ever."[28] Lincoln continued and deepened Jefferson's theme in his Second Inaugural, which makes the case that the Civil War may be a divine punishment of the whole nation for the sin of slavery.[29]

IV

One consequence of Tocqueville's presentation is that it misleads its present-day readers about what happened to America. Because of his minimal attention to our political principles and their importance, Tocqueville did not anticipate the reasons why America would change as it did.

The analysis of Volume II of his book, where he traces the effect of the equality of conditions on the private convictions and habits of the people, is brilliant, but few of his admiring readers heed the proviso of his preface. Tocqueville says there that he deliberately abstracts from everything but equality as a cause, and he frankly admits that he is hardly explaining America in Volume II at all![30] This should not come as a surprise as long as we remember that Tocqueville's main concern was with France, and that he studied democracy here in order to teach his own countrymen how to respond to the new era of equality.

Generally, Volume II shows the effects of equality of conditions on democratic life. Many of these effects are dangerous to liberty. We are warned, for example, that the more conditions become equal, the more insistent will be men's demand for even greater equality. This demand, Tocqueville worries, could become a consuming passion that might eventually welcome a despotism that would establish equal conditions for all but the despot himself. He also predicts a growing hedonism on the part of the people, leading them to self-

[28] *Notes on the State of Virginia*, Query 18, in Jefferson, *Writings*, p. 289.
[29] My account of Lincoln is based on Harry V. Jaffa, *Crisis of the House Divided: An Interpretation of the Issues in the Lincoln-Douglas Debates* (Chicago: University of Chicago Press, 1982, repr. Seattle: University of Washington Press, 1973, originally published 1959, Garden City, N.Y., Doubleday Press).
[30] *Democracy*, p. 417.

indulgence at the expense of sound moral habits, and a growing individualism, leading them to withdraw from public concerns. Weakened by petty passions and distracted by private affairs, the people are threatened with a soft despotism that

> provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry . . . [and in the end] relieve[s] them from the trouble of thinking and all the cares of living.[31]

From today's perspective, Tocqueville's argument sounds like a prediction of the welfare state as we have come to know it, where men are not trusted to judge their own safety without a Washington-directed Consumer Products Safety Commission, OSHA, EPA, etc., to protect them, where affirmative-action programs try to make everyone come out equal, and where government abandons its traditional task of setting the moral tone. There is obviously some similarity between Tocqueville's predictions and the character of American life today.

Yet contrary to what Tocqueville seems to predict, these changes have generally come about either without much support from the people or in the face of their opposition. If America today stands on the edge of despotism, it has been brought there not by the people corrupted by equality, but by politicians imbibing the doctrines of intellectuals.

Tocqueville praises the federal Constitution for its several devices designed to check majority tyranny. Still, he expects the people to get their way in the end. Popular sovereignty remains for him the brute fact of American life. "The people reign over the American political world as God rules over the universe."[32]

It is true that the people will prevail concerning anything they set their minds to. But the Constitution really did create a government in which the people's rulers are considerably insulated from public opinion. Besides, the people defer to their leaders to a

[31] Ibid., pp. 503-08 (equality and despotism), 530-34 (hedonism), 690-95 (soft despotism).
[32] Ibid., p. 60.

greater extent than Tocqueville seems to think, even when they do not agree with them. If we consider some of the most dramatic changes in our political life over the past twenty-five years, it is striking how few of them were initiated by, let alone supported by, the people, especially in the initial stages. Abortion, busing, the legitimization of obscenity, and the near-abolition of the death penalty were forced onto a protesting people by the Supreme Court. Affirmative action was never voted on by Congress or signed into law by a President until several years after the policy had been invented in the executive branch and consolidated with the active support of the judiciary. Presidential elections over the past twenty years have been won consistently by candidates who ran "against Washington," that is, against the centrally administered state that was erected during the late '60s and early '70s. Congressmen who support the administrative state have found that winning elections is much easier when they conceal their partisan political convictions from the voters.[33]

When we seek out the origin of the opinions of America's post-1965 political elites, we find them in intellectual currents that go back at least a century. During the Progressive Era of the late 1800s, many American intellectuals, following the lead of European writers, turned against the principles of the American Founding. The rights of man and limited constitutional government, many of them believed, stood in the way of the benevolent, efficient regulatory state. Woodrow Wilson provides a classic statement of the Progressive view:

> "State socialism" . . . proposes that all idea of a limitation of public authority by individual rights be put out of view. . . . The thesis of the state socialist is, that no line can be drawn between private and public affairs which the state may not cross at will. . . . [I]n fundamental theory socialism and democracy are almost if not quite one and the same. . . . Men as communities are supreme over men as individuals. . . . [T]he individual rights which the democracy of our own century has actually observed, were suggested to it by a political philosophy radically individualistic, but not necessarily democratic.[34]

[33]John Marini, "Money in Politics," in *The 1984 Election and the Future of American Politics*, ed. Peter W. Schramm and Dennis J. Mahoney (Durham, N.C.: Carolina Academic Press, 1987).

Like Tocqueville, Wilson severs democracy from individual rights. Unlike Tocqueville, Wilson knows this means repudiating the Founders' constitutionalism and embracing "socialism."

Not only were the Founding principles subjected to attack. The idea of *any* transcendent principles of right was rejected. Progressive-era intellectuals no longer accepted the idea of an eternal human nature and inalienable rights inseparable from moral obligation—not even to speak of a God who establishes and guarantees the moral order of the universe. Eternal natural right was replaced by the ideas of History and Progress. Principles and constitutions have to be kept up with the times, and the times now demand an abandonment of individual rights and an abandonment of limited government. Here is the intellectual germ of the modern bureaucratic state.

Woodrow Wilson personally remained a religious believer, but at the extreme, as Solzhenitsyn explained it in his Harvard address, the Progressive intellectuals' new principle was anthropocentricity, "the proclaimed and enforced autonomy of man from any higher force above him."[35] Consequently, in these same intellectual circles an attack on traditional American religion was mounted. The rejection of God went hand in hand with the rejection of natural right.

The intellectuals of the 1960s, who were so enthusiastic about the Great Society that they thought they were creating, were the same people who were easily persuaded to believe the worst of America when it was attacked from the extreme left as a racist, sexist, capitalist cesspool that deserved to lose the war in Vietnam. These people held political power under Kennedy, Johnson, and Nixon, but they were not typical of the American people. Theodore White, the chronicler of recent presidential elections, calls them a snobbish priesthood that by 1980 "could not recognize where their own

[34]"Socialism and Democracy," unpublished 1887 manuscript by Wilson, in *Papers of Woodrow Wilson*, ed. Arthur S. Link (Princeton, N.J.: Princeton University Press, 1968), vol. 5, p. 561.

[35]Alexander Solzhenitsyn, "A World Split Apart," p. 840.

diagnoses and prescriptions had gone wrong."[36] He may be right, but they continue to hold substantial political power. They also exercise great influence from their strongholds in the universities, the legal profession, the media, and the mainstream clergy. Yet it was from lawyers and the churches that Tocqueville expected sensible restraints on *popular* excesses.

When French intellectuals involved themselves in politics during the eighteenth century, the consequences were disastrous for liberty. Tocqueville describes their ideas in *The Old Regime*.[37] American intellectuals, especially over the past hundred years, share with their earlier French counterparts many of the same attitudes and convictions. It is remarkable how familiar these eighteenth-century French ideas sound in today's context. There is the same taste for centralization, for bureaucracy, and for governmental control of the details of social life, and a corresponding hostility toward the independence of local communities and private ownership of property. It is to American intellectuals and their teachers, not to "equality of conditions," that we must look if we are to explain how America got to where it is today.

V

How then are we to evaluate Tocqueville? That is not easy to say, because he conceals his thoughts so well. To some extent, as I argued earlier, Tocqueville's misunderstanding of our Founding proceeded from his "sociological" approach to politics: looking at the political in light of the subpolitical. But there are other considerations that may have led him to "misunderstand" the Founding quite deliberately.

In the first place, we have to remember that Tocqueville's chief concern was France, not America. He studied us in order to teach his fellow citizens "a new political science . . . for a world quite new."[38]

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[36]Theodore White, *America in Search of Itself* (New York: Harper & Row, 1982), p. 255.
[37]Alexis de Tocqueville, *The Old Regime and the French Revolution*, trans. Stuart Gilbert (Garden City, N.Y.: Doubleday, Anchor Books, 1955), pt. 3, chap. 1.
[38]*Democracy*, pp. 12, 18.

In the French Revolution an attempt had been made to sweep away the old aristocratic-Catholic politics and replace it with an entirely secular, democratic politics. That attempt had proven unsuccessful. Anti-religious "rationalism" had culminated in the terror. In the aftermath of the Revolution, the aristocratic-Catholic party and the democratic-secular party remained bitter enemies, and neither could defeat the other. In Tocqueville's view, neither deserved to defeat the other.

Tocqueville's account of America is accommodated to the French political scene. His strong distinction between an American aristocratic-religious tradition and a democratic-rational tradition in fact fits France better than America. In America, as we have seen, the idea of liberty itself contained moral limits, supported, as Tocqueville says, by all religious sects. But in France the spirit of religion and the spirit of liberty were not only disjoined but at war with one another. By presenting our history as he does, Tocqueville makes it more useful to the French. In his account of our past, America becomes a model for the solution of the French quarrel between aristocracy and democracy, and between Catholicism and secularism. Through the American example, French Catholics learn that religion can thrive in democracy. French aristocrats learn that aristocratic habits and restraints will still be needed in the emerging democratic era. French democrats learn that they are in need of religious and aristocratic mores, adapted to be sure to the democratic age, in order to avoid repeating the failure of the French Revolution.

Nor is this all. I have argued that Tocqueville exaggerates the extent to which American institutions and principles do not stem from democracy. One striking example, mentioned above, is his attribution of individual rights to aristocracy. By this and other means, Tocqueville is able to tell aristocrats that *their* ideas and mores are what make democracy work in America. By flattering them in this way, he perhaps hopes to reconcile them to their real defeat. After all, they are being asked to give up forever the attempt to revive their regime and instead to accept and even promote democracy in France.

There are, however, other reasons why Tocqueville might have avoided speaking about the equality doctrine. One of the major discoveries of Tocqueville's new political science was the democratic

tendency toward centralization of administration.[39] And one thing that pushes democracy in that direction, in his opinion, is the "taste for generalizations." This taste, which easily becomes "an ardent and even blind passion of the human spirit to discover common rules for everything," discredits the idea of particular, local communities doing things in different ways. Consequently, "the idea of a single centralizing power directing all the citizens slips naturally into their consciousness without their, so to say, giving the matter a thought."[40] Given the danger that Tocqueville sees in general ideas, he is not likely to be eager to make them the centerpiece of his interpretation of democracy. If America is to be any sort of model for the French, all those American features that check centralization must be stressed, while those that foster it must be criticized or, if it is futile to attack the generalization that "all men are created equal," passed over as silently as possible.

But Tocqueville is not simply concerned with the *danger* of the idea of equality. He also doubts its *truth*. In the only chapter where he affirms "the very general but very simple conception . . . of the equal right of all at birth to liberty," he also says in effect that all general ideas are false. They may be necessary distortions without which imperfect human thought cannot proceed, but "God has no need of general ideas." Wisdom and generalizations are opposites. Thus it should be no surprise when Tocqueville attributes the teaching that all men are "naturally similar and equal" not to philosophers but to Christianity. He implies that human reason, strictly speaking, will not support it.[41]

Tocqueville apparently wished to avoid either an outright assault on the equal natural rights of men or a Lincolnian celebration of those rights as the heart of democracy. He accepted equality as a political principle only in a cautious, provisional way. In the background is Tocqueville's major thesis that ours is ineluctably the age of equality and that opposition to it is fruitless and destructive of liberty. Equality will be the starting point for all politics, free or

[39]See John Marini, "Centralized Administration and the 'New Despotism,'" chap. 10 of this book.
[40]*Democracy*, pp. 439, 668.
[41]Ibid., pp. 437, 439.

despotic, for the foreseeable future. There is no "legislator, however wise or powerful, who could maintain free institutions without making equality his first principle and watchword. Therefore all those who now wish to establish or secure the independence and dignity of their fellow men must show themselves friends of equality." As Tocqueville observed earlier in the book, moralists (i.e., writers like himself) should be willing to teach salutary doctrines even if they do not believe them to be true, adapting themselves to the spirit of their age and country.[42] No doubt Tocqueville followed his own advice. The question is, how far?

Tocqueville evidently shared the opinions of the classical political philosophers that all writing has a political character. Writers, especially "moralists," therefore incur a political responsibility. It is not enough to tell the truth. Men must be persuaded not only to see but also to do what is right. In our time, "The unbeliever, no longer thinking religion true, still considers it useful. . . . Therefore he regrets his faith after losing it, and deprived of a blessing whose value he fully appreciates, he fears to take it away from those who still have it." So he will "hide his incredulity" and pretend to believe what he does not.[43]

But Tocqueville goes way beyond this. Do *any* natural standards of right and wrong remain behind the conventional veil of religion and equality? Perhaps not. In a striking passage Tocqueville speaks of justice not as a principle inherent in the natural or divine order of things but as a law "made, or at least adopted, . . . by the majority of all men." In other words, it is authoritative not because it is in accord with eternity but because all men accept it. Tocqueville says he appeals here "from the sovereignty of the people to the sovereignty of the human race."[44] He does not appeal to the sovereignty of God and nature. For Tocqueville, the general will of humanity seems to replace natural or divine right. Justice becomes a product of human agreement or convention.

All ideals, he maintains in his discussion of poetry, are fictitious; nature and reality are prosaic. The ideal is the realm of the

[42]Ibid., pp. 695, 527, 548.
[43]Ibid., pp. 299-300.
[44]Ibid., pp. 250-51.

imagination, not of reason. What links men together in communities are therefore creations and illusions, for civilized men cannot live without faith in ideals. Thus Tocqueville teaches that neither ideals nor general ideas are true. Rather, the truth is that all things are unique and can be understood only with exactitude as absolutely particular. This is God's view of things, he says. It is therefore, he implies, the philosopher's view as well. There are no ideas or classes that bind men together by nature; God's idea of unity is the totality of infinite variety.[45] Tocqueville implies that each human being by nature is a pure self, alone. As soon as a man begins to understand himself as belonging to a group that defines itself by ideals or general ideas, he loses touch with his original nature. At the deepest level, that would be why liberty has no purpose.

But man cannot live alone in the civilized world. He must be part of a community. He can participate in community in two ways: as a free man or a slave. Tocqueville's purpose is to teach men how to retain some fraction of their pure particularity by nature. That is what he means by "liberty." This is to be accomplished above all through "administrative decentralization," that is, people actively taking care of their own everyday affairs and needs in small towns. Only when men are artificially drawn out of their natural selves by the vigorous public life of local democracy can they prevent themselves from succumbing to despotic government, which would prefer to make their choices for them. What liberty finally means for Tocqueville, then, is the self-assertion or self-determination of the individual against external authority. It is the "spirit of resistance."[46]

Tocqueville's theoretical framework is kept well concealed in his book. He is not vain. He feels no need to shock or dazzle his readers or display his sophistication to intellectuals. But behind his seemingly empirical and historical approach lies a radical account of man, nature, and society. It is hard to say where he learned to think this way. We do know that in 1836 Tocqueville wrote to a friend: "There are three men with whom I live a bit every day, Pascal,

[45]Ibid., pp. 483, 542-46, 437, 735.
[46]Ibid., p. 312.

Montesquieu, and Rousseau."[47] Could Rousseauan radicalism lie at the foundation of Tocqueville's sobriety?

Whatever Tocqueville's deepest private thoughts may be, it must be emphasized that, with the important reservations noted in this chapter, his book remains one of the very best on American democracy. In our time liberty needs friends wherever she can find them. His book is especially valuable because he foresees the specific tendencies within democracy that open it up to the dangers of socialism and communism. He already discerns the drift toward centralization, apolitical individualism, and the passion that craves equality of conditions even at the expense of freedom. He maintains without hesitation or apology that the greatest threat to liberty in the modern world is a despotism that promised to establish perfect equality if only the people turn over to the central government their control over the details of their lives. In all this he was right. My modest corrections are intended to help citizens and statesmen today who love liberty as deeply as Tocqueville did.

[47]Quoted by James T. Schleifer, *The Making of Tocqueville's "Democracy in America"* (Chapel Hill: University of North Carolina Press, 1980), p. 26.