The Extended Republic and the Control of Majority Faction: A Contrast and Comparison of De Tocqueville and the American Lawgivers

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Introduction

The French political philosopher, Alexis de Tocqueville, saw the endurance of American democracy as a possible model that would enable his countrymen to temper the ill effects of their own democratic system. Although he did not advocate that every aspect of the American model should be strictly adhered to, he wrote about the goodness of American laws and the wisdom of the American Founding Fathers. Furthermore, as he described the practical application of their ideology, de Tocqueville appeared to align himself with most of their beliefs.

He disagreed, however, with one of the most basic tenets of the American method of democracy. In contrast to the view advocated by the Founders, de Tocqueville did not support the concept of the geographical extension of republics serving as the control for violence of factions and tyranny of the majority.

Factions, especially majority factions, are natural to human behavior and increase rapidly in democracies where the will of man is relatively unrestrained. Factions also serve as the violent vehicle for democracy's self-destructive tenden-

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cies. This propensity of factions to flourish in liberty makes philosophical speculation on how their effects can be controlled a central issue in the politics of preserving and perpetuating popular government. For this reason it is extremely important that de Tocqueville's objections to the method prescribed by the Founders be examined and understood. The significance of his views is increased because de Tocqueville observed American society and political institutions after the advent of the Founders.

The Size of the Sphere

The lack of harmony between de Tocqueville and the American Founders on whether extending the physical sphere of a republic controls the effects of faction, has its foundation in a difference in the interpretation of the history of democracy and in the role of small republics in that history. The Founders believed that small democracies, including the pure democracies of the Greek city-states, had been scenes of contention, strife, and tumult. James Madison wrote, "They have been as short in their lives as they have been violent in their deaths."

Conversely, de Tocqueville felt that small republics were basically content and happy. Their resources were directed to the internal well-being of their people, they had no vain dreams of glory, and the conditions among their citizens were roughly equal. (This opinion had also been expressed by Montesquieu.) De Tocqueville further theorized that if the entire world were composed of small democracies, there would be no larger states to attack the small ones, and humanity would be free and happy. He reasoned that there is little attraction to ambition in small republics because resources are too limited to be concentrated in the hands of one man, and, even if a tyrant did arise, in a small
democracy it would not be difficult for the people to unite and overthrow him.

De Tocqueville did not deny that when tyranny exists in a small republic it is more vicious than in a large republic. The limited size of the smaller nation causes despotism to affect everything within the national realm. He did claim that tyranny is rare in small democracies because they are the "cradle of liberty," and freedom is their "natural condition."

De Tocqueville's stand on large nations, especially large republics, is opposite to his opinion of small nations. He admitted that ideas circulate more freely in large nations, and that they contribute more to the increase of knowledge, civilization, and important discoveries than in small republics because they are able to concentrate their national resources. In his opinion, they also have the advantage of being stronger militarily than smaller democracies and are therefore able to withstand conquest. Nevertheless, for de Tocqueville, these positive characteristics did not counter the vices of large republics such as great wealth in the midst of dire poverty, huge cities, depraved morals, individual egoism, and a complication of interests. He concluded that these are some of the reasons that "history gives no example of a large nation long remaining a republic." Ambition grows with the power of the state and all of the passions destructive to democracy also grow with the increase of its territory. De Tocqueville rejected the basic premise of the Founders and followed the prescription of Rousseau, in that if a free people are to remain chaste in their civic virtue, the size of the republic must be small.

How then, did de Tocqueville explain the existence of the extended republic of the United States under this philosophy? He claimed that, although it was true that the United States had
been the only extended republic in history of any duration, this phenomenon had occurred because Americans combined the positive aspects of both the large and the small republic. He declared that the United States "is free and happy like a small nation" and "glorious and strong like a great one." The positive characteristics of one sphere make up for the negative characteristics of the other. Because the United States is strong defensively, it can focus on internal improvements while public spirit in the union is only an extension of patriotism in the states and townships. Similarly political passions don't spread to engulf the nation because they are broken up at the state level.

There is no doubt that de Tocqueville favored the characteristics of the small republic over those of the large republic. This view may have been partially determined by his cultural background and by his acceptance of the thought of certain political philosophers as well as by his understanding of history. To comprehend why he rejected the large republic as a remedy for faction requires a deeper analysis. Therefore, an overview of the American Founders' plan of the extended republic is necessary.

The Founders' Plan of Extension

The Founders expected the outcome of the U.S. Constitution to be the establishment of a confederation of the states. Like de Tocqueville, they did not view this larger union as a consolidation that would result in the loss of each state's political identity. According to Alexander Hamilton, this idea of being able to extend the sphere of a republic through confederation was supported by Montesquieu, and Hamilton quoted him in "Federalist Number 9":
It is very probable that mankind would have been obliged at length to live constantly under the government of a single person, had they not contrived a kind of constitution that has all of the internal advantages of a republican, together with the external force of monarchial, government. I mean a Confederate Republic.

This form of government is a convention by which several smaller states agree to become members of a larger one, which they intend to form. It is a kind of assemblage of societies that constitute a new one, capable of increasing, by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.

It was Hamilton's conviction that if such a method of extending the sphere of republics was not possible, then the only alternatives would be an authoritarian regime or a small, pure democracy. Both alternatives, in his opinion, offered only gloomy prospects because if the sphere of democracy could not be enlarged, then it would be impossible for each nation to even be the size of the state of New York.

The American lawgivers not only believed that a confederate republic was possible for America, but they also felt that it was an absolute necessity for several reasons. First, it seemed logical to them that to take care of national concerns, like defense, a strong, energetic national government was a prerequisite. Second, Hamilton and other framers of the Constitution saw the choice between a large or small republic as a choice between the purse and the sword. They claimed that large republics promote commerce and economic prosperity while small republics are militaristic because the people are preoc-
cupied with governing, and they don't have time for commerce. Instead they fight among themselves and with other small republics.

The most critical reason given for an extended republic is the effect that the Founders felt it would have on both majority and minority factions. To them a majority faction was especially to be feared in a democracy because it is intolerant of the rights of minorities and individuals. James Madison stated that tempering majority faction was the main purpose of the Constitution:

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed.

Factions cannot be destroyed without also destroying their causes which are human nature and liberty. Obviously, "the remedy is worse than the disease." All that can realistically be done to solve the problem of factions is to control their effects by extending the orbit of the republic. Enlarging the geographical area of the republic would help to restrain factions in two
ways: first, principle of representation in the broadened sphere would allow the people to elect men of a more noble character than that of the masses themselves, while the broadened republic would provide a larger selection of candidates; and second, the enlarged sphere would take in a greater variety of parties and interests, making it less probable that "a majority of the whole would have a common motive to invade the rights and property of others." This multiplicity of interests would cause the majority to be broken up into a number of smaller factions that would, because of ambition and greed, compete with and balance each other.

The most dangerous and violent factions in Madison's opinion are factions that arise from the unequal distribution of "property," or class factions. He believed, however, that the extended republic offered a way to check these factions as well. The diversity of economic activity that is natural to a large geographical area creates multiple factions of varied economic interest that "cut across class lines." Association would arise from particular rather than from class interests. Such an association would be impossible in a small republic where economic activity is homogenous and usually limited to a small number of occupational fields.

Under the Founders' plan of extension the majority still exists and the people are still sovereign, but the majority is a "mixed" majority of different interests and different classes. Consequently, it also is a neutral majority and one that the founders believed would generally rule for the common good.

Ultimately, the Founding Fathers knew that if a majority was determined to get its way, for whatever purpose, it would eventually be able to do so. They did hope to place constitutional obstacles in the way of such factions. These
would be based upon the idea of the extended republic, and would include representation, the doctrine of enumerated powers, and the national judiciary. The lawgivers were persuaded that even if a majority were able to circumvent the law, they might be restrained by religion and morality, but the Founders also realized that these ideals could fail, leaving no restraint upon the will of the majority.

De Tocqueville's Observations and Argument

Alexis de Tocqueville read the writings of the American Founders extensively, and he observed the large middle class in America that is considered to be the result of their thought. He also examined the leveling effect that American ideology had upon such measures as land reform and education in the United States. In spite of all of these effects, he still found ample reason to argue with the Founders' premise that a large, extended republic is able to control the effects of factions.

Although de Tocqueville apparently conceded that a majority composed of all classes and many interests is a reality in the United States, he felt that the mere existence of any kind of majority is in and of itself a danger. Unlike Madison he believed that the majority doesn't constitute a faction but that any majority is always in peril of being persuaded to join the cause of minority factions. 17

De Tocqueville was a great believer in the sovereignty of the people. Still, he did not share the Founders' belief that a majority in an extended republic generally seeks the public good. In his opinion the majority could also serve as a mechanism of tyranny that is intolerant of the minority or the individual that dares to speak out against its will. In this role, it affects and often debases the character and thought of
the nation and imbues national leaders with a kind of "courtier spirit" that is intent upon flattering the people.

De Tocqueville's views of the majority are strengthened because he felt that there were few if any obstacles placed in its path. He rejected the idea that representation allows the people to elect men superior to themselves. It was his contention that they elect men in their own image and that often the very nature of the majority, combined with the "courtier spirit," causes leaders to be elected that corrupt themselves and are actually inferior to the general public. He supported his thesis by pointing out the poor quality of American leaders in his time as compared to the Founders of the Constitution. He claimed that there are also no other obstacles to the omnipotence of the majority in the law of the United States. He explained this lack of obstacles in the following way:

When a man or a party suffers an injustice in the United States, to whom can he turn? To public opinion? That forms the majority. To the legislative body? It represents the majority and obeys it blindly. To the executive power? It is appointed by the majority and serves as its passive instrument. To the police? They are nothing but the majority under arms. A jury? The jury is the majority vested with the right to pronounce judgement [sic]; even the judges in certain states are elected by the majority. So, however, iniquitous or unreasonable the measure which hurts you, you must submit.

De Tocqueville felt that the few constraints that existed in the United States upon the majority were to be found outside the law in the
society itself. These constraints included morality and religion, the lack of an administrative bureaucracy (which in his opinion is one of the tools of tyranny), and the role of lawyers as a type of aristocracy that is acceptable to the masses.

A fourth, and probably the most important constraint, was that of the majority being tied to locality and to the division of the national government with the state. This constraint resembles the doctrine of enumerated powers and the national-federal principle of the Founders. De Tocqueville, however, expounded upon this principle and declared throughout Democracy in America that American government had its beginning in the township. In this way he made the idea of localism something that arose naturally in America before it was ever officially part of the law or constitutional doctrine.

De Tocqueville's combined thoughts led him to see tyranny, rather than anarchy, as the possible cause of democracy's demise. This tyranny is the result of the contention and strife of factions and may gradually lead to a loss of power that results in anarchy, but because a society cannot remain long in anarchy, it will revert again to tyranny, forming a continuous cycle.

De Tocqueville, therefore, hypothesized, in contrast to the Founders, that the great danger to the existence of the United States as a democratic-republic would be not the weakness of the union, but the strength of the union. He postulated that the majority in the United States has the capability of becoming so oppressive to minorities that the minority factions may eventually oppose this oppression and retaliate, causing the democratic system in America to collapse. De Tocqueville saw this danger as very real, and he saw religion and morality as the only constraints in society that could possibly be strong enough to
Summary and Conclusion

Alexis de Tocqueville observed the effect of U.S. laws and political institutions upon American civil society approximately sixty years after the founding of those laws and institutions. In contrast to the views of the American lawgivers, de Tocqueville concluded neither the geographical extension of the United States nor the institutional constraints embodied in the Constitution served to repress the violence of factions and the tyranny of the majority.

What de Tocqueville did see as deterrents were societal restraints, such as the basically peaceful nature of the American majority, unaware of its own strength, and the contributions of local patriotism and of religion to national public virtue. In the matter of controlling factions, de Tocqueville thought the effect of civil society upon American laws was greater than the effect of laws upon civil society.

There is some irony in the fact that de Tocqueville's beliefs concerning tyranny of the majority led him, a man who had privately denied his own faith, to be more preoccupied with religion and morality than were the American Founders, most of whom were devoutly religious. De Tocqueville's ideas on how public virtue and morality serve a utilitarian function in the preservation of democracy cause religion to emerge as the overriding theme of his writings in Democracy in America.

Modern critics of American politics, such as Martin Diamond and Alexander Landi, disagree with de Tocqueville and uphold the political philosophy of Madison, Hamilton, and the other
Founders on the subject of the extended republic. More important, perhaps, is that de Tocqueville and the Founders have each posed strong arguments, and their synthesis is really the crucial point. Surely a democracy needs both good laws and a virtuous populace. It needs both a strong national government and state and local institutions that are closer to the people. The combined thought of the Founders and of de Tocqueville serves to make the national-federal principle one of the most prominent of the checks and balances of the American democratic system.
ENDNOTES


2 Ibid., p. 81.


4 Ibid., pp. 159-61.

5 Harvey Flaumenhaft, "Hamilton on the Foundation of Good Government," The Political Science Reviewer 6 (Fall 1976):188-89.

6 de Tocqueville, pp. 161-63.

7 Ibid.


9 Ibid., pp. 74, 75.

10 Ibid., p. 73.

11 Flaumenhaft, pp. 186-89.

12 Madison, p. 80.

13 Ibid., p. 78.

14 Ibid., pp. 82-84.

15 Ibid., p. 79.


18. de Tocqueville, pp. 173, 240.


20. Ibid.

21. Ibid., p. 252.

22. Ibid., pp. 262-70, 287-301.

23. Ibid., pp. 87-98, 287.

24. Ibid., pp. 252-59.

25. Ibid., pp. 252-60.

26. Ibid., pp. 287-301, 442-49.
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