

PERSECUTION AND THE ART OF FREEDOM: ALEXIS DE TOCQUEVILLE ON THE IMPORTANCE OF FREE PRESS AND FREE SPEECH IN DEMOCRATIC SOCIETY

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Abstract: According to Tocqueville, the freedom of the press, which he treats as an extension of the freedom of speech, is a primary constituent element of liberty. Tocqueville treats the freedom of the press in relation to and as an extension of the right to assemble and govern one's own affairs, both of which he argues are essential to preserving liberty in a free society. Although scholars acknowledge the importance of civil associations to liberty in Tocqueville's political thought, they routinely ignore the importance he places on the freedom of the press and speech. His reflections on the importance of the free press and speech may help to shed light on the dangers of recent attempts to censor the press and speech.

KEY WORDS: Alexis de Tocqueville, freedom of the press, freedom of speech, liberty, civic associations, tyranny of the majority

I. INTRODUCTION

"I believe that tyranny is the greatest evil, liberty the first good ... the independence of the press ... among modern peoples ... is *the capital and, so to speak, the constituent element of liberty.*"¹

Alexis de Tocqueville

During his brief stay in the United States in 1831, Alexis de Tocqueville (1805–1859) chanced upon an American newspaper in which President Andrew Jackson was accused of colluding with criminals, behaving like "a desperate political gangster," and abusing his political position for personal gain. "When I arrived in America," Tocqueville reports, "the first newspaper that came before my eyes contained the following article:"

Throughout the whole of this affair, the tone and language of Jackson [the President] was that of a heartless despot, alone intent on preserving his power. Ambition is his crime and will yet prove his curse. Intrigue is his vocation, and will yet overthrow and confound him. Corruption is his element and will yet react upon him to his utter

¹ Alexis de Tocqueville, *Democracy in America*, Historical-Critical edition of "De la démocratie en Amérique," ed. Eduardo Nolla, trans. James T. Schleifer, 4 vols. (Indianapolis, IN: Liberty Fund, 2010), 96, 305. Henceforth: DA followed by page number.

dismay and confusion. He has been a successful as well as a desperate political gangster, but the hour of retribution is at hand; he must disgorge his winnings, throw away his false dice, and seek the hermitage, there to blaspheme and execrate his folly, for to repent is not a virtue within the capacity of his heart to obtain (Vincennes Gazette). (DA, 292)²

Reflecting on the article Tocqueville remarks, "It is pitiful to see what a flood of coarse insults, what petty, malicious gossip, and what coarse slanders fill the newspapers that all serve as organs of the parties" (DA, 281). He does not stop there: "Most often [the press]," he says, "feeds on hate and envy; it speaks more to passions than to reason; it spreads falsehood and truth all jumbled together ... " (DA, 289).

Tocqueville is neither the first nor the last observer to heap scorn upon the American press. During his time in office, President Thomas Jefferson all but called the press "fake news": "Nothing can now be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vehicle."³ Progressive president, Woodrow Wilson claimed there should be political "authority to exercise censorship over the Press to the extent that that censorship ... is absolutely necessary to the public safety." But it is perhaps President Harry S. Truman who best sums up the long history of "fake news." In a letter written in 1955, he complained, "Presidents and the members of their Cabinets and their staff members have been slandered and misrepresented since George Washington ... when the press is friendly to an administration the opposition has been lied about and treated to the excrescence [sic] of paid prostitutes of the mind."⁴

Although Tocqueville shares many of these misgivings about the press, in a somewhat surprising move, he says that "the more I contemplate the principal effects of the independence of the press, the more I am convinced that among modern peoples independence of the press is *the capital and, so to speak, the constituent element of liberty*" (DA, 305, emphasis added). Although Tocqueville acknowledges that the press can agitate passions, spread vile and "fake" news, and even harm public morality, and while he recognizes the temptation to censor speech and the press—for Tocqueville treats free press and free speech as essentially the same⁵—he nevertheless rejects

² For an analysis of newspapers in Jacksonian America, see Jeffrey L. Pasley, "Tyranny of Printers": *Newspaper Politics in the Early American Republic, Jeffersonian America* (Charlottesville: University Press of Virginia, 2001); Daniel Walker Howe, *What Hath God Wrought: The Transformation of America, 1815–1848*, *The Oxford History of the United States* (New York: Oxford University Press, 2007). I wish to thank Lou Bradizza and my anonymous reader(s) for helpful comments on earlier drafts of this essay.

³ I owe this reference to Thomas Jefferson to my research assistant, Koty Arnold.

⁴ Ryan Mattimore, "Presidential Feuds with the Media Are Nothing New," <https://www.history.com/news/presidents-relationship-with-press>.

⁵ In this essay, I take the phrase "freedom of the press" to include freedom of speech, as Tocqueville equates the two, as I show later. It is important to state at the outset that while many contemporary liberals would not deny the proposition that freedom of speech and of the press are indispensable tools for self-governance and moderating the tyranny of the majority, a

ensorship entirely. Indeed, he goes even further and hazards the following warning: “So a people who wants to remain free has the right to require that the independence of the press be respected at all cost” (DA, 305, emphasis added). Tocqueville’s endorsement of the freedom of the press, however, is not a panegyric to journalism. “I admit that to freedom of the press I do not bring that complete and instantaneous love that is given to things supremely good by their nature ... I love it much more from consideration of the evils it prevents than for the good things that it does” (DA, 289–90, emphasis added).

The evil to which he refers is what Tocqueville calls the tyranny of the majority and its tendency to suppress minority and individual views through “popular opinion,” which reigns over American society, he claims, like an “omnipotent God” (DA, 97).⁶ “The omnipotence of the majority appears to me to be such a great peril for the American republic that the dangerous means used to limit it still seem good to me” (DA, 307). And “if,” he writes, “liberty is ever lost in America, it will be necessary to lay the blame on the omnipotence of the majority that will have brought minorities to despair and will have forced them to appeal to physical force. Then you will see anarchy, but it will arrive as a consequence of despotism” (DA, 424).⁷

For Tocqueville, the question is not whether public opinion would inevitably champion the interest of the majority over liberty, but rather how minority and marginalized individuals might preserve their independence of mind and judgment in an age of the domination of “popular opinion.” For Tocqueville, the freedom of the press is a primary “constituent element of liberty” because it is a powerful means by which minority views may counteract the tyranny of the majority within democracies. “In America ... the press is an extraordinary power ... [and] liberty cannot live without it” (DA, 424). Tocqueville treats the freedom of the press in relation to and as an extension of the right to assemble and govern one’s own affairs, both of which he argues are essential to preserving liberty in a free society. As we

growing trend in the United States and elsewhere is nevertheless de-platforming, disinviting, and in some cases even censoring speech. Tocqueville’s reflections on the importance of freedom of speech on the danger of homogenization of public opinion, be it on campuses or national press, remains vital for us today. See, for example, Steve Coll, “Alex Jones, The First Amendment, and the Digital Public Square,” <https://www.newyorker.com/magazine/2018/08/20/alex-jones-the-first-amendment-and-the-digital-public-square>. For an account of how censorship is harming liberal education, see Herbert N. Foerstel, *Studied Ignorance: How Curricular Censorship and Textbook Selection are Dumbing Down American Education* (Santa Barbara, CA: Praeger, 2013).

⁶ Tocqueville’s influence on John Stuart Mill’s thinking about majority tyranny is noticeable in *On Liberty*. See, for example, John Stuart Mill, *On Liberty* (Oxford: Oxford University Press, 2015). For an excellent treatment of Mill’s view on the importance of freedom of speech for a free society, see Daniel Jacobson, “Mill on Liberty, Speech, and the Free Society,” *Philosophy and Public Affairs* 29 (2000): 276–309.

⁷ Paul Rahe develops incisively Tocqueville’s reflections on the tyranny of the majority: see Paul Rahe, *Soft Despotism, Democracy’s Drift: Montesquieu, Rousseau, Tocqueville and the Modern Project* (New Haven, CT: Yale University Press, 2009), 154–220.

shall see later, Tocqueville refers to the managing of one's own affairs and the right of expression in civic associations as the "art of being free" (DA, 466).⁸ In short, civic associations and the proliferation of newspapers, along with freedom of speech, help to decentralize public opinion and protect liberty in democratic societies and are necessary to resist majority will.

Although scholars acknowledge the importance of civil associations to liberty in Tocqueville's political thought, they usually overlook or downplay the importance he places on freedom of the press and speech.⁹ Given the hostility to the free press and free speech from the earliest period of the American republic to the White House at the time of the writing of this essay, and even today from virtually every college campus, there is no better time than now to study Tocqueville's thoughts on civic associations and freedom of the press and their important roles in maintaining liberty.

II. SETTING THE STAGE: EQUALITY OF CONDITIONS

In the introduction to *Democracy in America*, Tocqueville warns the reader that "the entire book that you are about to read has been written under the impression of a sort of religious terror produced in the soul of the author by the sight of this irresistible revolution that has marched for so many centuries over all obstacles, and that we still see today advancing amid the ruins that it has made" (DA, 14). For several centuries, the gradual development of equality has leveled one hierarchy after another. Equality has destroyed aristocratic privilege, and lifted the commoner to an unprecedented position of equality: "If you examine what is happening in France from the XIth century every fifty years, at the end of each one of these periods, you will not fail to notice that a double revolution has taken place in the state of society. The noble will have slipped on the social ladder, the commoner will have risen; the one descends, the other ascends. Each half-century brings them closer together, and soon they are going to touch" (DA, 10). As equality grows, "ranks are merging; barriers raised between men are falling; estates are being divided; power is being shared, enlightenment is spreading,

⁸ On the importance of associations to Tocqueville's political thought, see William A. Galston, "Civil Society and the 'Art of Association,'" *Journal of Democracy* 11, no. 1 (2000); Robert T. Gannett, "Bowling Ninepins in Tocqueville's Township," *American Political Science Review* 97, no. 1 (2003). For an analysis of the importance of civic engagement in Tocqueville's political theory, see Theda Skocpol, "The Tocqueville Problem: Civic Engagement in American Democracy," *Social Science History* 21, no. 4 (1997).

⁹ Donald J. Maletz argues that Tocqueville gives "more weight to freedom of association than to freedom of speech" (Donald J. Maletz, "Tocqueville on the Society of Liberties," *Review of Politics* 63 [2001]: 465). Similarly, Gerald M. Bonetto declares that "[o]f the two, freedom of association was more important" to Tocqueville (Gerald M. Bonetto, "Alexis de Tocqueville's Concept of Political Parties," *American Studies* 22, no. 2 [1981]: 71). Maletz and Bonetto both go too far. As I shall develop, Tocqueville explicitly argues the opposite. See also John C. Koritansky, *Alexis de Tocqueville and the New Science of Politics*, 2nd ed. (Durham, NC: Carolina Academic Press, 2010), 62. Regarding Tocqueville's views on the press in light of the digital age, see Thomas Bunting, "A Bible, an Ax, and a Tablet: Tocqueville's Newspapers and Everyday Political Discourse," *Perspectives on Political Science* 46, no. 4 (2017): 257–69.

intellects are becoming equal; the social state is becoming democratic, and the dominion of democracy is finally being established peacefully in institutions and in mores" (DA, 21). "To want to stop democracy," he warns, "would then seem to be struggling against God himself, and it would only remain for nations to accommodate themselves to the social state that Providence imposes on them" (DA, 15). Having identified equality as a providential fact, Tocqueville notes the political implications: "It is impossible to think," he asserts, that "in the end, equality would not penetrate the political world as it does elsewhere. You cannot imagine men, equal in all other ways, forever unequal to each other on a single point; so in time they will become equal in all ways" (DA, 89).

Although equality has leveled and swept away political hierarchies, equality is not without its dangers, according to Tocqueville. In former ages, he asserts, "when royal power, supported by the aristocracy, peacefully governed the peoples of Europe, society, amid its miseries, enjoyed several kinds of happiness, which are difficult to imagine and appreciate today" (DA, 19). There was greater social inequality in the past, but there was also less abuse of political authority: "the power of some subjects raised insurmountable barriers to the tyranny of the prince; and kings, feeling vested in the eyes of the crowd with a nearly divine character, drew, from the very respect that they caused, the will not to abuse their power" (DA, 19). In democratic society, there is greater potential for the majority to abuse its authority and ignore or marginalize individuals. "Among aristocratic nations, secondary bodies form natural associations that stop the abuses of power" (DA, 307). In countries where such competing associations do not exist to check one another, "if individuals cannot artificially and temporarily create something that resembles those natural associations, I no longer see any dike against any sort of tyranny; and a great people can be oppressed with impunity by a factious handful of individuals or by a man" (DA, 307).

Equality is the social reality of the United States. "Among the new objects that attracted my attention during my stay in the United States, none struck me more vividly than the equality of conditions" (DA, 4). In America, equality of conditions is a "primary fact" that "gives a certain direction to the public mind, a certain turn to the laws; to those governing, new maxims, and particular habits to the governed" (DA, 4). Unlike any other nation in the world, American society is committed to the sovereignty of the people and democratic principles. The "Anglo-Americans," Tocqueville observes, by "circumstances, origin, enlightenment, and above all, mores" are the first people to establish as a guiding and unifying principle, the sovereignty of the people" (DA, 90–92). "In America," he continues, "the principle of the sovereignty of the people is not hidden or sterile as it is in certain nations ... it is a legal and omnipotent fact that rules the entire society ... it is recognized by the mores, proclaimed by the laws; it spreads freely and reaches its fullest consequences without obstacles" (DA, 90–92). Indeed, "The people

rule the American political world as God rules the universe. They are the cause and the end of all things; everything arises from them and everything is absorbed by them" (DA, 97). As a consequence, he concludes that democracy in America is an example of the sovereignty of the people, to be both appreciated and studied for its advantages and especially its dangers (DA, 91). The primary challenge *Democracy in America* explores is the problems posed by the emergence of egalitarian democracy in which sovereignty resides in the majority.

III. THE THREAT OF MAJORITY OPINION TO INDIVIDUAL FREEDOM

The equality of conditions is not a guarantee of freedom. Indeed, according to Tocqueville, it can be dangerous. As society becomes more democratic, the threats to freedom that majority opinion poses are harder to detect. There are two tendencies within democracy that strengthen the opinion of the majority. Majority opinion is inclined toward equality and uniformity of opinion and status. Although equality can be an edifying principle, a debased form of it leads the majority to "bring the strong down to their level," and Tocqueville argues, "reduce men to preferring equality in servitude to inequality in liberty" (DA, 89). Paradoxically, however, equality fosters a sense of independence and at the same time isolates one from one's fellows. Tocqueville claims as society becomes more democratic, "each person withdraws narrowly into himself and claims to judge the world from there ... Since they [the Americans] see that they manage without help to solve all the small difficulties that their practical life presents, they easily conclude that everything in the world is explicable, and that nothing goes beyond the limits of intelligence" (DA, 701). Tocqueville then argues,

As citizens become more equal and more similar, the tendency of each blindly to believe a certain man or a certain class decreases. The disposition to believe the mass increases, and more and more it is opinion that leads the world.... In times of equality, men, because of their similarity, have no faith in each other, but this very similarity gives them an almost unlimited confidence in the judgment of the public; for it does not seem likely to them that, since all have similar enlightenment, truth is not found on the side of the greatest number. When the man who lives in democratic countries compares himself individually to all those who surround him, he feels with pride that he is equal to each of them; but, when he comes to envisage the ensemble of his fellows and to place himself alongside this great body, he is immediately overwhelmed by his own insignificance and weakness. This same equality that makes him independent of each one of his fellow citizens in particular, delivers him isolated and defenseless to the action of the greatest number. (DA, 718–19)

Ironically, the sovereignty of the people and equality of conditions are the source of democratic liberty and also the potential cause of its ruin and collapse into despotism. Taken to its extremes and if left unchecked, he contends, the principle of the sovereignty of the people could sap an individual's desire and/or ability to engage in political affairs and the management of their own affairs, the practice of which Tocqueville refers to as the "art of being free" (DA, 466). Since all American institutions are based on the idea of the sovereignty of the people, individuals in particular become less able to direct society. In his landmark study of Tocqueville, Pierre Manent notes that, as society becomes more democratic, the "equality of conditions prevents society from being subject to the directing influences of individuals or political groups."¹⁰ Manent continues, "The progress of democracy is coincidental to the erosion of individual influences. A fully democratic social state is a social state in which there are no more individual influences."¹¹ The equality of conditions strengthens the principle of the sovereignty of the people, and this idea of equality is, according to Tocqueville, what gives force to the public opinion that "reigns" over American society (DA 108).

Thus, the difficulty in democratic society is how to restrain the exercise of public opinion. As the individual weakens, the majority strengthens. Indeed, Tocqueville warns that "It is clear that, if each citizen, as he becomes individually weaker and therefore more incapable of preserving his liberty by himself alone, did not learn *the art of uniting* with his fellows to defend his liberty, tyranny would necessarily grow with equality" (DA, 895–96, emphasis added). The tyranny of the majority is the most worrisome product of equality of conditions and the principle of the sovereignty of the people. "The real advantage of democracy is not," he writes, "as some have said, to favor the prosperity of all, but only to serve the well-being of the greatest number" (DA, 380). The majority will naturally act in its own interest. "The laws of democracy," he notes, in utilitarian fashion, "tend, in general, toward the good of the greatest number, for they emanate from the majority of all citizens; the majority can be mistaken, but cannot have an interest against itself" (DA, 378). Individuals and the minority are left at a disadvantage. He continues that, taken together, the majority acts as if it were one self-interested individual, "who has opinions and, most often, interests contrary to another individual called the minority" (DA, 411). He reasons: "Now, if you admit that an individual vested with omnipotence can abuse it against his adversaries, why would you not admit the same thing for the majority? Have men, by gathering together, changed character? By becoming stronger, have they become more patient in the face of obstacles? As for me, I cannot believe it; and the power to do everything that

¹⁰ Pierre Manent, *Tocqueville and the Nature of Democracy*, trans. John Waggoner (Lanham, MD: Rowman and Littlefield, 1996), 8.

¹¹ *Ibid.*, 11.

I refuse to any one of my fellows, I will never grant to several" (DA, 411). But before we turn to Tocqueville's solution—particularly how he sees the freedom of the press as crucial to liberty—we must first understand the problem, or rather the "evil," to use his word, which he believes the free press can prevent.

IV. FROM SOVEREIGNTY OF THE PEOPLE TO TYRANNY OF THE MAJORITY

It must be recognized that equality, which introduces great advantages into the world, nevertheless suggests ... very dangerous instincts to men; it tends to isolate them from one another and to lead each one of them to be interested only in himself alone. (DA, 745)

The nations of today cannot make conditions among them not be equal; but it depends on them whether equality leads them to servitude or liberty, to enlightenment or barbarism, to prosperity or misery. (DA, 1285)

According to Tocqueville, democracy is vulnerable to two different but related forms of tyranny. One form is the tyranny of the majority, in which the majority of one's fellows oppresses minority or individual views through public opinion. The other form of democratic tyranny is administrative despotism, where their government oppresses individuals. Both forms of tyranny are soft despotism and have their root in the sovereignty of the people and the equality of conditions. Majority tyranny and administrative despotism are two sides of the same coin. Both are strengthened when citizens become politically apathetic or forget the art of freedom. Tocqueville's reflections on the tyranny of the majority are a warning against forgetting the importance of the art of freedom, while his discussion on civic associations and freedom of the press and speech is a reminder of their importance to liberty. In order to understand why Tocqueville believes newspapers and an independent press help to address the problem of the weakened individual in democratic society and how the freedom of the press may help to elevate minority interests within a democratic process and thus protect liberty, we must first grasp the problem to which freedom of the press is a powerful solution.

Tocqueville describes "administrative despotism" in terms of a tutelary state that "does not destroy ... it does not tyrannize, it hinders, it represses, it enervates, it extinguishes, it stupefies, and finally it reduces [the nation to] nothing more than a flock of timid and industrious animals, of which the government is the shepherd" (DA, 1252). Tocqueville fears that under a centralized administrative "tutelary" power, citizens will further withdraw from civic participation and cease asserting their liberty and dignity as citizens. Samuel Gregg notes that Tocqueville is deeply concerned about

democracy's tendency to draw citizens away from public affairs toward a life of narrow private interests, because a socially "atomized society ... [is] much less capable of forming the associational bonds that allow people to restrict unwarranted extensions of State power."¹² Indeed, according to Tocqueville, a society of atomized individuals leads to a body of citizens who are isolated, "weak," and scattered: "they can hardly do anything themselves, and no one among them can compel his fellows to lend him their help. So they all fall into impotence if they do not learn to help each other freely" (DA 898). He warns that "if men who live in democratic countries had neither the right nor the taste to unite for political ends," they would lose their independence: "A people among whom individuals lost the power to do great things separately without acquiring the ability to achieve them together would soon return to barbarism" (DA, 898–99).

Tocqueville believes that an overpowering and tutelary government "once established in [a democracy], not only would it oppress men, but in the long run it would rob from each of them some of the principal attributes of humanity" (DA, 1262). It is administrative despotism that Tocqueville thinks is "particularly to be feared in democratic ages" (DA, 1262). The centralization of government weakens the strength of the individual. Once rendered dependent upon the central government, individuals will lose "their free will ... [and] little by little the ability to think, to feel and to act by themselves, and ... gradually [sink] below the level of humanity" (DA, 1268). Tocqueville here blames the sovereignty of the people and equality of conditions; for these two social conditions have "disposed men to bear" this unacceptable lethargy "and often even regard [it] as a benefit" (DA, 1252).

Democracy's drift toward egalitarian tyranny gathers strength from the equality of conditions and the indifference to a loss of individual liberty. Moreover, according to him, "The very essence of democratic governments is that the dominion of the majority be absolute, for, in democracies, nothing outside of the majority can offer resistance" (DA, 403). This is why, he says, "circumstances in America ... tend to make the power of the majority not only predominant, but irresistible" (DA, 404).

The majority, according to Tocqueville, claims a moral and intellectual superiority over the few, derived principally from the idea of equality. The majority seems to assume, "that there is more enlightenment and wisdom in many men combined than in one man alone ... It is the theory of equality applied to minds" (DA, 404). This hollow justification, according to Tocqueville, "attacks the pride of man in its last refuge," intellectual independence. "Consequently," he concludes, "the minority admits it with difficulty and gets used to it only with time. Like all powers, and perhaps more than any other, the power of the majority thus needs to last in order to seem legitimate. When it is beginning to be established, it makes itself obeyed by force;

¹² Samuel Gregg, *On Ordered Liberty: A Treatise on the Free Society* (Lanham, MD: Lexington Books, 2003), 93.

only after living under its laws for a long time do you begin to respect it" (DA, 404–5). The idea of equality applied to the mind in this manner places the majority in a position to preside over public opinion as a kind of democratic divinity in which the majority forces conformity on itself and also ignores or condemns arguments or opinions outside its own imposed orthodoxy. This leads Tocqueville to conclude that the majority in the United States "has an immense power in fact and a power of opinion almost as great; and once the majority has formed on a question" (DA, 406) there is no possibility of dissent or criticism: "there is ... no obstacle that can ... [stop the majority or] even slow its course and leave time for the majority to hear the cries of those whom it crushes as it goes" (DA, 406). He finds that the consequences of this state of affairs are "harmful and dangerous for the future" (DA, 406).

Once public opinion becomes an omnipotent and omniscient God, only opinions that further or flatter equality are permitted. Hence Tocqueville confesses, "I know of no country where, in general, there reigns less independence of mind and true freedom of discussion than in America" (DA, 417). As Harvey Mansfield notes, "there is potential for tyranny wherever unmixed authority is found, which is everywhere; and tyranny becomes actual where this authority meets no formidable obstacles."¹³ The tyranny of the majority rules through public opinion, which eludes the institutions designed to protect against tyranny. Tocqueville wonders,

When a man or a party suffers from an injustice in the United States, to whom do you want them to appeal? To public opinion? That is what forms the majority. To the legislative body? It represents the majority and blindly obeys it. To the executive power? It is named by the majority and serves it as a passive instrument. To the police? The police are nothing other than the majority under arms. To the jury? The jury is the majority vested with the right to deliver judgments. The judges themselves, in certain states, are elected by the majority. However iniquitous or unreasonable the measure that strikes you may be, you must therefore submit to it or flee. What is that if not the very soul of tyranny under the forms of liberty? (DA 414)

By contrast, the monarchies of the past, Tocqueville assures us, allowed a greater range of intellectual honesty, and open debate was tolerated and even encouraged by some kings, who were clearly confident enough to entertain dissent. Tocqueville provides examples of Bruyere and Molière, both able to openly criticize their monarch (DA, 419). He observes that the majority that dominates in America does not allow for such open criticism: "The slightest reproach wounds it; the smallest biting truth shocks it, and everything from the forms of its language to its most solid virtues must be

¹³ Alexis de Tocqueville, *Democracy in America*, trans. Harvey C. Mansfield, Jr., and Delba Winthrop (Chicago: University of Chicago Press, 2000), liii.

praised" (DA, 419). Every openly expressed opinion in America must "heap praise upon ... the majority," which lives "in perpetual self-adoration." It is left only to "foreigners or experience [to] bring certain truths to the ears of Americans" (DA, 419).

Tocqueville's point here is not that all European feudal monarchs were generous and benign, but rather that the majority's omnipotent power over public opinion is "absolute and irresistible dominion ... you must renounce your rights as a citizen and, so to speak, your position as a man when you want to deviate from the road marked out by the majority" (DA, 422).

Tocqueville's observations on the effect of this tyranny on genuine independence of mind are chilling:

In America, the majority draws a formidable circle around thought. Within these limits, the writer is free; but woe to him if he dares to go beyond them. It isn't that he has to fear an *auto-da-fé*, but he is exposed to all types of distasteful things and to everyday persecutions. A political career is closed to him; he has offended the only power that has the ability to open it to him. Everything is denied him, even glory. Before publishing his opinions, he believed he had some partisans; it seems to him that he has them no longer, now that he has revealed himself to all; for those who censure him speak openly, and those who think as he does, without having his courage, keep quiet and distance themselves. He gives in; finally, under the daily effort, he yields and returns to silence, as though he felt remorse for having told the truth. (DA, 418)

The tyranny of the majority seeks absolute conformity to the principle of equality and will punish those who do not bow before this sacred dogma. Although they do not openly persecute, they have devised clever means to punish nonbelievers: "Chains and executioners, those are the crude instruments formerly used by tyranny; but today civilization has perfected even despotism itself" (DA, 418). In a passage worth quoting in full, Tocqueville says:

Princes had, so to speak, materialized violence; the democratic republics of today have made violence as entirely intellectual as the human will that it wants to constrain. Under the absolute government of one man, despotism, to reach the soul, crudely struck the body; and the soul, escaping from these blows, rose gloriously above it; but in democratic republics, tyranny does not proceed in this way; it leaves the body alone and goes right to the soul. The master no longer says: You will think like me or die; he says: You are free not to think as I do; your life, your goods, everything remains with you; but from this day on you are a stranger among us. You will keep your privileges as a citizen, but they will become useless to you. If you aspire to be the choice of your fellow citizens, they will not choose you, and if you ask only for their

esteem, they will still pretend to refuse it to you. You will remain among men, but you will lose your rights to humanity. When you approach your fellows, they will flee from you like an impure being. And those who believe in your innocence, even they will abandon you, for people would flee from them in turn. Go in peace; I spare your life, but I leave you a life worse than death. (DA, 418–19)

Democratic despotism is more insidious and less obvious than earlier violent tyrannies in its insatiable appetite for control of society and thought. Only public opinion is legitimate, while independent or minority opinions are rendered illegitimate.¹⁴

The great danger of the tyranny of the majority is that it appears to act like democracy: “I have always believed that this sort of servitude, regulated, mild and peaceful ... could ... [appear] with some external forms of liberty, and that it would not be impossible for it to be established in the very shadow of the sovereignty of the people” (DA, 1252–53). Compounding the problem of majority tyranny of opinion is that “there is nothing so irresistible as a tyrannical power that commands in the name of the people, because while vested in the moral power that belongs to the will of the greatest number, it acts at the same time with the decisiveness, promptitude and tenacity [and self-interest] that a single man would have” (DA, 360).

Tocqueville, therefore, helps us to see that equality is not always democratic, nor is it always a defense against tyranny. It can become an invitation for a majority to deprive the few of their individual liberty and independence of mind. Tocqueville warns that in an age of majority tyranny and excessive equality, any attempt to restore strong individual leadership in an effort to educate, guide, and improve democracy, will be difficult—even as such conditions invite theoretical reflection upon the most fundamental questions of human life and politics. Tocqueville laments that equality must be the adopted myth to achieve success; individual differences are stifled:

So all those among our contemporaries who want to create or to assure the independence and dignity of their fellows must appear as friends of equality; and the only means worthy of them of appearing so is to be so: the success of their holy enterprise depends on it. (DA, 1263–64)

¹⁴ Tocqueville tries to get around the problem of the tyranny of the majority in part by advocating for strong local associations that can check the majority. But what is to prevent a tyranny of the majority at the local level? Tocqueville, like James Madison in “Federalist Paper” 10, is aware of the danger of small-scale majority or faction to liberty. For this reason, among others, Tocqueville strongly advocates for national associations that empower the individual against even their local oppression by elevating or making the individual feel “bigger” than just an atomized individual. The National Association of Scholars or the Heterodox Academy, for example, are organizations that professors may join in order to amplify their voices where local support is lacking. This is precisely why Tocqueville encourages individuals to join associations: associations allow individuals to group together and project strength.

Nevertheless, Tocqueville invites citizens of democracy to play a leadership role in educating and leading their fellow citizens toward liberty by reminding them of the art of freedom available to them in managing their own affairs, warning that if they bend mindlessly to the majority rule, they risk becoming “alternately the playthings of the sovereign and its masters, more than kings and less than men (DA, 1259-60).

For Tocqueville, gaining an all-powerful centralized government is not worth losing individual liberty, especially if the result is disconnected and atomized individuals who are dominated by majority tyranny. By articulating the character of the menace undermining freedom within democracy, Tocqueville provides the framework for thinking more carefully about freedom and democracy. The dangers menacing democracy can be challenged at the local level, where individuals within their communities, through civic associations and with the aid of a free press, have a greater impact on their own affairs. Tocqueville’s reflections on townships and freedom of the press are intended to show the importance of local liberty in decentralizing public opinion and restoring sovereignty to local jurisdictions. It is this reminder of the individual’s natural right to assemble and speak freely that is the source of the claim that he is a friendly critic of democracy, and not its enemy.

V. FREEDOM OF THE PRESS AND CIVIC ASSOCIATIONS

In the previous sections, we examined how, as society becomes more democratic, the threats that equality poses to freedom are harder to detect and combat. In this section we will turn to Tocqueville’s views on the freedom of the press in order to see how he believes it can help resist majority tyranny while encouraging individuals to participate in the political process and to unite and defend their liberty. For Tocqueville, civic associations and newspapers are the means with which citizens in democratic societies exercise and maintain their freedom. Voluntary associations provide members of a community the opportunity to participate in managing their own affairs. It is only under such conditions, says Tocqueville, that “citizens would ... be able to replace the individual power of the nobles, and the State would be sheltered from tyranny and from license” (DA, 20).

Tocqueville begins by noting the immense power of the freedom of the press in the United States. He points out that it not only “makes its power felt over political opinions, but also over all of the opinions of men,” and effects “not only laws, but also mores” (DA, 289). The power of the press over society helps to explain the temptation among some to censor the press and speech. Nevertheless, Tocqueville cautions against censoring the press and speech, which he treats together: “If someone showed me an intermediate position where I could hope to stand firm between complete independence and total subservience of thought, I would perhaps take my position there” (DA, 291). He warns against the danger of losing

freedom and winding up “[destroying] the freedom to speak as well as to write ... You began from the abuses of liberty, and I find you under the feet of a despot. You have gone from extreme independence to extreme servitude without finding, on such a long journey, a single place where you could rest” (DA, 291). There is no middle ground when limiting speech, only tyranny. Better to learn how to live with the abuse of liberty than to live without liberty, he cautions.

Freedom of the press serves liberty in a variety of ways. For one, it provides a check against political corruption and is a powerful means with which democracy can hold people in power accountable to the law. He explains that when people are denied the legal outlet of access to an independent judiciary, a free press is their only remaining possibility to seek justice. The independent press, he argues constitutes “the sole remaining guarantee for liberty and for the security of the citizens” (DA, 291). He continues to argue for independent speech and press through the voice of the people: “Allow us to prosecute your crimes before ordinary judges, and perhaps then we will consent not to appeal to the court of opinion” (DA, 292). To censor speech and/or the press is contrary to true democracy and liberty. He contrasts his observations in America with those in France, which lacks a free press, allowing that “If the men who govern us [in France] allow us to prosecute their misdeeds and crimes before ordinary judges, perhaps we will consent not to attack their absurdities and their vices before the court of public opinion” (DA, 292). According to Tocqueville, the “sovereignty of the people and freedom of the press are two entirely correlative things” (DA, 292). Unlike France, which has few newspapers, in America, the proliferation of newspapers, “like power, is disseminated in all the parts of this vast country,” thus allowing for healthy debate. He points out that in the United States “there are no licenses for printers, no stamps or registration for newspapers” (DA, 295). It is easy to foster diverse opinions. In order for the press to serve liberty, however, it must allow and reflect diverse opinions and “also be able to stand above the public opinion that stirs around it” (DA, 294).

The equality of conditions is not a guarantee of freedom. Freedom, according to Tocqueville, is a political *art*. In examining the causes that successfully maintain a functioning democratic republic in the United States, he identifies two major institutions. First, “the federal form” of government in America, and second, the “town institutions that, by moderating the despotism of the majority, give the people at the same time the taste for liberty and the *art of being free*” (DA, 466, emphasis added). He defines the “art of freedom” as civic participation in local townships where individuals manage their own affairs and moderate “the despotism of the majority” through the freedom of the press and speech. He comments that in America “there is hardly any small town without its newspaper” (DA, 296). The art of freedom is the art of self-rule, according to Tocqueville. It is an art that is maintained through active civic participation, and it is a habit that requires

practice and hard work; freedom is not automatic: "There is nothing more fruitful in wonders than the *art of being free*; but there is nothing harder than apprenticeship in liberty" (DA, 393). The danger in democratic life is to stop practicing the art of political freedom and just accept the opinion of the majority.

For Tocqueville, freedom is a habit that requires practice, and it is an art that is learned through active participation in civil affairs. Tocqueville treats the freedom of the press in relation to and as an extension of the right to assemble and govern one's own affairs, both of which he argues are essential to preserving liberty in a free society. According to Thomas G. West, for Tocqueville, as for the Founders of the United States, free speech "is simply a part of the overall natural right to liberty, which it is the main job of government to secure." As West further notes, from the Founders' perspective, "all citizens [which include organizations] enjoy the right of free speech and the right to publish...[Furthermore,] the 'press' ... is a means of communication," and this right to communicate extends also to private associations, which both Tocqueville and the Founders viewed as equivalent to the rights of individual citizens. West continues, "The general rule is that private associations are permitted to do the same things as a private individual...[E]very individual, alone or in association with others, has a right to say what he wants and to exclude those who say what he does not approve."¹⁵

According to Tocqueville, "liberty cannot be established without [the] support" of civic associations and a free and independent press (DA 878). It should also be noted, he says, that there exists a necessary relationship "between associations and newspapers; newspapers make associations, and associations make newspapers; and if it was true to say that associations must multiply as conditions become equal, it is no less certain that the number of newspapers grows as associations multiply" (DA, 908). He describes how aristocratic nations naturally form "secondary bodies [and] natural associations that stop the abuses of power" (DA, 307). However, "in countries where such associations do not exist, if individuals cannot artificially and temporarily create something that resembles those natural associations, I no longer see any dike against any sort of tyranny" (DA, 307). His conclusion: associations, free press, and speech are vital to liberty because they provide a democratic platform to challenge and check majority opinion:

In our time, freedom of association has become a necessary guarantee against the tyranny of the majority. In the United States, once a party

¹⁵ Thomas G. West, "Free Speech in the Founding and in Modern Liberalism," *Social Philosophy and Policy* 21, no. 2 (2004): 322–23. West is exceptionally good on the political theory of the American Founding, especially on the Founder's views on the freedom of the press and speech. Tocqueville seems to be following the American Founders by including free speech with the right to the freedom of press, and vice versa.

has become dominant, all public power passes into its hands; its particular friends hold all posts and have the use of all organized forces. Not able to break through the barrier that separates them from power, the most distinguished men of the opposite party must be able to establish themselves outside of it; with its whole moral strength, the minority must resist the material power that oppresses it. So one danger is set against another more to be feared. The omnipotence of the majority appears to me to be such a great peril for the American republics that the dangerous means used to limit it still seem good to me (DA, 306)

Tocqueville believes that freedom of the press is a form of association particularly equipped to resist majority opinion, provided the press reflects the plurality of opinion within democratic society. In France, "the press combines two distinct types of centralization" (DA, 295). Nearly all the power of press "is concentrated in the same place and, so to speak, in the same hands" (DA, 295). In America at the time when he is writing, by contrast, the proliferation of newspapers makes it difficult to sway national, mass opinion with a handful of national newspaper platforms. The more centralized a government is, the smaller the number of newspapers, and therewith less freedom: "the number of newspapers must decrease or increase among a democratic people in proportion as administrative centralization is more or less great." "Since newspapers increase with associations," he reasons, "it is easy to understand that the less centralization there is among a people, the more newspapers there must be. For each district then forms a permanent association in which the need for a newspaper makes itself felt much more than when there is only a large national association" (DA, 905, note a).¹⁶ He does bemoan the coarseness and artlessness of American newspaper reporting, but points out, as well, that "it is an axiom of political science in the United States that the only means to neutralize the effects of newspapers is to multiply their numbers" (DA, 296). Indeed, "to reap the inestimable advantages that freedom of the press

¹⁶ When speaking about newspapers, Tocqueville often means both local papers and national papers. Tocqueville's use of "associations," however, is even broader. "Association" may refer to a national or local political party, or to a professional organization (for example, the American Political Science Association). See also, for example, *Democracy in America* pages 302–9. In such cases, an association's "newspaper," so to speak, may refer to an association's assembly meeting, or to an association's journal or conference proceedings. The key, for Tocqueville, is that individuals living in a free society must be able to communicate freely, contribute to public discourse on important issues, and be able to represent their local as well as national and professional interests. For Tocqueville, a diverse body of national associations, professional associations, as well as local and regional associations might counteract the tyranny of the majority by creating a diversity of opinion that prevents there from being a national majority viewpoint on a particular issue sufficiently strong to be tyrannical. This is what Tocqueville means when he writes: "Sentiments and ideas are renewed, the heart grows larger and the human mind develops only by the reciprocal action of men on each other. I have demonstrated that this action is almost nil in democratic countries. So it must be created there artificially. And this is what associations alone are able to do" (DA, 900).

assures, you must know how to submit to the inevitable evils that it produces," and look past the histrionics and "fake news" to what the free press can do for minority views and liberty (DA, 294). So long as citizens participate in local affairs and the press reflects the diversity of opinions in a pluralistic society, Tocqueville believes the free press could help to head off the possibility of majority tyranny.

The freedom of the press is a remedy to the weakening of the individual: Whereas the sovereignty of the people enervates the individual, the freedom of the press "places beside each [individual] a powerful weapon, which the weakest and most isolated can use" (DA, 1269). "So newspapers become more necessary as men are more equal and individualism more to be feared," Tocqueville insists. According to Tocqueville, the freedom of the press and the proliferation of newspapers thus, "serve ... to guarantee liberty" and "maintain civilization" (DA, 906). Through the press, minority voices or marginal individuals are able to "address ... the whole nation, and it is deaf to him, to humanity" (DA, 1254).

The freedom of the press helps to counteract individualism by encouraging participation in associations. Tocqueville explains that, "when men are independent of one another you can only make a large number of them act in common by persuading each one separately but simultaneously of the utility of the enterprise. And only a newspaper can convey the same thought to one thousand readers simultaneously. So newspapers are necessary in proportion as conditions are more equal" (DA, 905). Newspapers help citizens come together to accomplish a common purpose, and since the press can promote "the same thought in a thousand ears at the same time," newspapers and free speech empower the entire constituency to speak and voice their concerns. The free press thus fosters public participation and helps to combat the problem of individualism. As Tocqueville puts it,

A newspaper not only suggests the same plan to a large number of men at the same time, it provides them the means to carry out in common the plans that they had conceived themselves. First it makes them know each other and it puts them in contact. Then, it binds them together; it makes them talk with each other without seeing each other and march in agreement without gathering together. (DA, 905)

The freedom of the press stimulates public discourse and helps to unite individuals with mutual interests. But, Tocqueville notes, "for an association among a democratic people to have some power it must be numerous." Individual citizens, cut off from one another by geography, economics, and personal concerns, can all be united and enabled to "talk together every day without seeing each other, and to march in accord without getting together. Thus there is hardly any democratic association that can do without a newspaper" (DA, 907). Newspapers help individuals in a large and

complex society to discover each other and unite around a common goal. A free press gives voice to isolated citizens, who then “head immediately for this light, and these wandering spirits, who have been looking for each other for a long time in the shadows, finally meet and unite” (DA, 907).

The free press is therefore a form of association in which individuals can equalize the playing field against majority opinion, without which they might otherwise be too individually weak to make much of a difference or impact. The free press protects the liberty of associations and individuals against the tyranny of the majority, and for this reason the freedom of the press and speech are correlational to the importance Tocqueville stresses on civic associations and liberty.

Tocqueville also draws a connection between “the number of newspapers and ... associations ... and the administrative form of the country” (DA, 905). Local newspapers assist members of a community by making local knowledge public and providing platforms for making one’s interests known to the community: “For among democratic peoples, you cannot entrust the exercise of local powers to the principal citizens as in aristocracies. These powers must be abolished, or their use handed over to a very great number of men. These men form a true association established in a permanent manner by the law for the administration of one portion of the territory, and they need a newspaper to come to find them each day amid their small affairs, and to teach them the state of public affairs” (DA, 908). Indeed, for Tocqueville, one can measure the degree of liberty in any given democracy on the basis of how active political associations and local newspapers are: “The more numerous the local powers are, the greater is the number of those called by the law to exercise them; and the more this necessity makes itself felt at every moment, the more newspapers proliferate” (DA, 908).

VI. CONCLUSION

Alexis de Tocqueville is known for his reflections on the tyranny of the majority, which he viewed as an inevitable consequence of the equality of conditions in an age of democracy. In *Democracy in America*, Tocqueville openly expresses his misgivings about the free press, and yet he endorses its unrestricted freedom. He argues that in an age in which public opinion can go unchecked, personal liberty can weaken, resulting in what he calls atomized “individualism.” By individualism he does not mean a libertarian emphasis upon individual freedom, but rather the abnegation of self-governance resulting in an isolated individual who is too weak to defend his or her own freedom. Tocqueville emphasizes the important role civic associations play in local self-government, and the importance the local newspapers and the free press in general play in defending one’s political interest to one’s fellows and justifying their personal and local interests. Tocqueville accomplishes his defense of civic associations in the free press

by a comparison of governments of his day to the political class systems of the Old Regime. His comparison is not intended simply to extol the age of nobility and lament the age of democracy, but rather to show how the new age of the sovereignty of the people, if left unchecked, can create a tyranny of the majority in which minority and individual interests could be trampled underfoot. Through active participation in voluntary associations, individuals with mutual interests can join together and partake of self-government. He suggests that political writings, local newspapers, and freedom of speech can help to decentralize public opinion and return sovereignty to local townships, where individual liberty resides. The future of liberty depends on the independence of the press, a citizen's right to free speech, and an active citizen body willing to unite with their fellows in the defense of liberty.

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