



IDEAS IN CONTEXT

French Political Thought from Montesquieu to Tocqueville

Liberty in a Levelled Society?



Annelien de Dijn

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FRENCH POLITICAL THOUGHT FROM MONTESQUIEU TO TOCQUEVILLE

This study makes a major contribution to our understanding of one of the most important and enduring strands of modern political thought. Annelien de Dijn argues that Montesquieu's aristocratic liberalism – his conviction that the preservation of freedom in a monarchy required the existence of an aristocratic 'corps intermédiaire' – had a continued impact on post-revolutionary France. Revisionist historians from Furet to Rosanvallon have emphasized the impact of revolutionary republicanism on post-revolutionary France, with its monist conception of politics and its focus on popular sovereignty. Dr de Dijn, however, highlights the persistence of a pluralist liberalism that was rooted in the Old Regime, and which saw democracy and equality as inherent threats to liberty. She thus provides a new context in which to read the work of Alexis de Tocqueville, who is revealed as the heir not just of Restoration liberals, but also of the Royalists and their hero, Montesquieu.

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Liberty in a Levelled Society?

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Edited by Quentin Skinner and James Tully

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CAMBRIDGE
UNIVERSITY PRESS

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo

Cambridge University Press

The Edinburgh Building, Cambridge CB2 8RU, UK

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org

Information on this title: www.cambridge.org/9780521877886

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First published in print format 2008

ISBN-13 978-0-511-38690-9 eBook (EBL)

ISBN-13 978-0-521-87788-6 hardback

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Acknowledgements

This book began life as a doctoral dissertation at the History Department of the University of Leuven. I am most indebted to all members of that department for the congenial atmosphere which has sustained me while doing research, and, perhaps even more importantly, while writing. In particular I wish to thank my supervisor Emiel Lamberts for his unfailing support of my work over the years. Many thanks are also due to my teachers Isser Woloch and David Armitage, and my fellow students at the Columbia History Department, for sparking my interest in the history of ideas and in French history, during my time there as an MA student.

I will be for ever indebted to the members of my dissertation committee, as well as to the readers of Cambridge University Press for their many suggestions which have helped to turn this dissertation into a book. Special thanks go out to Quentin Skinner, who was not only kind enough to be part of my dissertation committee, but also encouraged me to submit the manuscript to the series in which it is now published.

The New York University Remarque Institute and the Columbia University History Department provided me with a hospitable environment while I was reworking the manuscript, and I received invaluable help and encouragement from a number of scholars based in the New York area, in particular Helena Rosenblatt and Samuel Moyn.

My gratitude, no less heartfelt although its recipients are impersonal, also goes out to a number of institutions who have funded me over the years. The Fund for Scientific Research – Flanders sponsored my doctoral research, and has continued to support me as a postdoctoral researcher, while the Fulbright Foundation allowed me to spend a year abroad while rewriting the manuscript.

Introduction

Since the 1980s, many important books have been written on the history of nineteenth-century liberal thought. The writings of canonical liberal thinkers, such as Benjamin Constant and Alexis de Tocqueville have engendered new and intellectually stimulating interpretations.¹ At the same time, scholars have recovered a number of lesser-known nineteenth-century liberal thinkers, such as François Guizot, or T. H. Green, from oblivion.² But historical interest has not remained limited to individual liberal thinkers. Over the past few decades, several histories have appeared which analyse the discourse of nineteenth-century liberal movements in their various national contexts. The intellectual landscape of mid-Victorian liberalism, for instance, is now a familiar one.³ We have gained more insight into the ideological preoccupations of both English and Dutch progressive liberals of the late nineteenth century.⁴ Likewise, our knowledge of the French liberal movement in its manifold manifestations has increased

¹ E.g. Stephen Holmes, *Benjamin Constant and the making of modern liberty* (New Haven and London: Yale University Press, 1984); Biancamaria Fontana, *Benjamin Constant and the post-revolutionary mind* (New Haven and London: Yale University Press, 1991); Françoise Mélonio, *Tocqueville et les Français* (Paris: Aubier, 1993); George Armstrong Kelly, *The Humane Comedy: Constant, Tocqueville and French liberalism* (Cambridge: Cambridge University Press, 1992); Roger Boesche, *The strange liberalism of Alexis de Tocqueville* (Ithaca and London: Cornell University Press, 1987); Sheldon Wolin, *Tocqueville between two worlds. The making of a political and theoretical life* (Princeton and Oxford: Princeton University Press, 2001).

² Pierre Rosanvallon, *Le moment Guizot* (Paris: Gallimard, 1985); Aurelian Craiutu, *Liberalism under siege: the political thought of the French doctrinaires* (Maryland: Lexington Books, 2003); R. Bellamy, *Victorian liberalism: nineteenth-century political thought and practice* (London: Routledge, 1990).

³ Eugenio Biagini, ed., *Citizenship and community: liberals, radicals and collective identities in the British Isles, 1865–1931* (Cambridge: Cambridge University Press, 1996); Eugenio Biagini, *Liberty, retrenchment and reform. Popular liberalism in the age of Gladstone, 1860–1880* (Cambridge: Cambridge University Press, 1992).

⁴ M. Freedon, *The new liberalism. An ideology of social reform* (Oxford: Clarendon Press, 1978); Henk te Velde, *Gemeenschapzin en plichtsbefef: liberalisme en nationalisme in Nederland, 1870–1918* (s-Gravenhage: SDU, 1992); Siep Stuurman, *Wacht op onze daden: het liberalisme en de vernieuwing van de Nederlandse staat* (Amsterdam: Bakker, 1992); Stefan Dudink, *Deugdzaam liberalisme: sociaal-liberalisme in Nederland 1870–1901* (Amsterdam: IISG, 1997).

considerably.⁵ In addition to these national histories, a number of scholars have attempted to capture the nature of nineteenth-century liberalism as a European phenomenon.⁶

The increased attention for nineteenth-century liberalism in recent historiography can be attributed to different factors. Interest in the history of political thought has been stimulated over the past few decades, in particular in the Anglophone world, by the work of scholars such as Quentin Skinner and J. G. A. Pocock. In their methodological writings, and in their own work on early-modern political thought, these authors have shown that it is possible to study political thought as any other field in the history of mankind, thus turning what had long been a philosophical activity into a historical discipline. At the same time, the 'cultural' or 'linguistic' turn in history has contributed much to encouraging an interest in the world of mentalities and ideas in general. By emphasizing the creative power of language in itself – language is now seen as a force that shaped reality rather than merely reflecting it – interest in ideology has increased markedly among scholars engaged in social or political history.⁷

But if the study of political ideas in general was stimulated by developments internal to the human sciences, the particular interest in the history of liberalism must be attributed to developments in the external world of politics. The demise of communism was undoubtedly the most important of these. While the ideological foundation of the communist regime had already lost much of its intellectual respectability after the publication of Solzhenitsyn's *The Gulag Archipelago* in 1973, the fall of the Berlin Wall in 1989 underscored the fallibility of communist doctrine in an even more direct way. As Marxism lost the intellectual pre-eminence it had possessed for so many years, left-wing intellectuals began to turn instead to its long-neglected rival, liberalism. This trend was also stimulated by the political

⁵ Louis Girard, *Les libéraux français, 1814–1875* (Paris: Aubier, 1985); André Jardin, *Histoire du libéralisme politique. De la crise de l'absolutisme à la constitution de 1875* (Paris: Hachette, 1985); Lucien Jaume, *L'individu effacé ou le paradoxe du libéralisme français* (Paris: Fayard, 1997).

⁶ Richard Bellamy, *Liberalism and modern society: a historical argument* (University Park: Pennsylvania State University Press, 1992); Alan Kahan, *Aristocratic liberalism: the social and political thought of Jacob Burckhardt, John Stuart Mill, and Alexis de Tocqueville* (New Brunswick and London: Transaction Publishers, 2001).

⁷ The seminal texts are: Quentin Skinner, 'Meaning and understanding in the history of ideas' in *Meaning and context. Quentin Skinner and his critics*, ed. James Tully (Cambridge: Cambridge University Press, 1988), pp. 29–67; J. G. A. Pocock, 'Languages and their implications' in his *Politics, language and time. Essays on political thought and history* (Chicago and London: University of Chicago Press, 1989), pp. 3–41. The context within which this approach was formulated is sketched in Richard Tuck, 'History of political thought' in *New perspectives on historical writing*, ed. Peter Burke (Cambridge: Cambridge University Press, 1991), pp. 193–205.

revival of liberal parties in several European countries. A renewed interest in liberal political thought was the logical consequence of these developments.

One of the most important conclusions put forward in the literature resulting from the liberal revival is that nineteenth-century liberalism, understood in its broadest sense as an ideology in which the concept of liberty held a central place, was composed of a much more varied set of political doctrines than previously assumed. In particular, scholars have discovered that *laissez-faire* liberalism, with its emphasis on the limitation of state power, and its defence of the individual citizen's negative liberty, was far from being the only variant of nineteenth-century liberalism. Victorian liberals also propagated a more 'democratic' sort of liberalism, in which direct political participation was seen as indispensable to the preservation of a liberal regime. As Larry Siedentop has argued, there were not one, but 'two poles of liberal thought – two traditions which had diverged significantly by the mid nineteenth century'.⁸ Although Siedentop identified these different traditions as respectively 'English' (*laissez-faire* liberalism) and 'French' (the more democratic strand), it has by now become clear that both can be found in most European countries.⁹

Students of liberal thought were inspired in their re-discovery of this democratic brand of liberalism by an increasing interest in the role of classical republicanism in the history of Western political thought. This intellectual tradition, which had its roots in the writings of sixteenth-century Italian humanists such as Nicolo Machiavelli, was based on the idea that liberty was possible only with self-government. Inspired by the example of the republics of the ancient world, republicans emphasized the values of an active commitment and participation by each citizen in public affairs. They attached much importance to public spiritedness, the moral disposition which made a continual exertion of political duties possible. While scholars long assumed that republicanism was essentially a Renaissance ideology, this view has been revised over the past few decades. It is now clear that the language of classical republicanism was one of the dominant modes of thought in Europe from the sixteenth to the eighteenth century.¹⁰

⁸ Larry Siedentop, 'Two liberal traditions' in *The idea of freedom. Essays in honour of Isaiah Berlin*, ed. Alan Ryan (Oxford: Oxford University Press, 1979), p. 174.

⁹ Eugenio Biagini, Stephen Holmes and Siep Stuurman all point explicitly to the existence of a 'democratic' or 'radical' brand of liberalism in, respectively, Britain, France and the Netherlands.

¹⁰ The seminal texts are: J. G. A. Pocock, *The Machiavellian moment. Florentine political thought and the Atlantic republican tradition* (Princeton and Oxford: Princeton University Press, 1975); Quentin Skinner, *Liberty before liberalism* (Cambridge: Cambridge University Press, 1998); Quentin Skinner and Martin van Gelderen, eds., *Republicanism: a shared European heritage* (Cambridge: Cambridge University Press, 2002, 2 vols.).

The rediscovery of republicanism by early-modern scholars had an important impact on the study of nineteenth-century liberalism. Students of nineteenth-century political thought, especially in the Anglophone world and in the Netherlands, have discovered that many republican tropes survived in the post-1789 'democratic' brand of liberalism. It has become clear that the democratic liberalism described by Siedentop was deeply influenced by the older republican discourse. Like the republicans, nineteenth-century liberals often stressed the importance of self-government rather than propagating a negative conception of liberty. They believed that public spiritedness was necessary to maintain such an active participation in government, thus echoing an important theme from the republican discourse. Moreover, far from propagating an egoist individualism, many nineteenth-century liberals attached great importance, again like the republicans, to community values and patriotism.¹¹

In turn, this discovery stimulated a new view of the relationship between republicanism and liberalism. Originally, scholars of early-modern political thought defined republicanism as an ideology essentially at odds with nineteenth-century liberalism.¹² The revision of nineteenth-century liberalism achieved in recent literature, however, has made this opposition somewhat tenuous. Some specialists of nineteenth-century political thought now emphasize the similarities between both intellectual traditions, up to the point of conflating them completely. While Stephen Holmes argues that 'liberalism and republicanism are not opposites'; Eugenio Biagini claims that 'Victorian liberalism was both "individualist" and "republican" at one and the same time. There was no opposition between these characteristics, because, rather than being opposed, they were merely different facets of the same tradition.'¹³

In short, our understanding of the historical complexity of nineteenth-century liberalism and of its rootedness in early-modern political thought has been considerably enhanced by the recent literature on democratic liberalism. With this study, I aim to contribute to a further exploration of this complexity, by illustrating the importance of yet another strand within

¹¹ The similarities between republicanism and nineteenth-century liberalism have been stressed in particular in Anglophone and Dutch historiography. See J. W. Burrow, *Whigs and liberals: continuity and change in English political thought (The Carlyle Lectures 1985)* (Oxford: Clarendon Press, 1988); Holmes, *Benjamin Constant*; Biagini, *Liberty, retrenchment and reform*; Dudink, *Deugdzaam liberalisme*.

¹² Both Quentin Skinner and J. G. A. Pocock have underscored the opposition between republicanism and liberalism in their work.

¹³ Stephen Holmes, *Passions and constraint: on the theory of liberal democracy* (Chicago: University of Chicago Press, 1995), p. 5; Eugenio Biagini, 'Neo-roman liberalism: republican values and British liberalism, ca. 1860–1875', *History of European Ideas* 29 (2003), 58.

nineteenth-century liberalism. My research shows that, apart from the classical *laissez-faire* liberalism, and the democratic, republican-influenced brand of liberalism, yet another variety of liberalism, which can be described as an ‘aristocratic’ liberalism, was widely prevalent in the nineteenth-century context. Functioning in many ways as an oppositional mirror-image of democratic liberalism, this brand of liberalism had its roots in an eighteenth-century intellectual tradition that had been developed in explicit opposition to the republican paradigm.

The term ‘aristocratic liberalism’ requires a more precise definition. I use it to designate a very particular set of ideas, developed by a number of thinkers (not necessarily, or not even predominantly, aristocrats by birth), who drew their inspiration mainly from Montesquieu’s *Esprit des lois* (1748). These thinkers and publicists shared a particular conception of liberty that differed in many respects from the ideas propagated by republicans – differences which I will discuss at greater length further down the road. At the moment, it is important to remember that aristocratic liberals believed that liberty should be safeguarded through the checking of central power, rather than through the self-government of the people. Their ideal was that of a pluralist, rather than a self-governing, society, in which ‘intermediary bodies’ (often envisioned as an aristocracy, but not necessarily so) existed between the government and the people. Aristocratic liberals believed that a levelled, atomized society, which lacked such intermediary bodies, offered no protection against despotism.

It should be pointed out that this characterization of aristocratic liberalism differs from the definition developed by Alan Kahan in his recent study of the social and political thought of Jacob Burckhardt, John Stuart Mill and Alexis de Tocqueville. While Kahan describes these thinkers as ‘aristocratic liberals’, he does not mean by this term that they shared a specific conception of liberty that was inspired by Montesquieu’s *Esprit des lois*. Instead, Kahan is interested in uncovering a ‘meritocratic’ ideology propagated by Burckhardt, Mill and Tocqueville, which was fuelled by a distaste for the masses and the middle classes, by contempt for mediocrity, and by an emphasis on individuality and diversity. In Kahan’s definition, aristocratic liberalism therefore consisted essentially of a ‘shared set of elitist values’, rather than of an intellectual tradition in which the concept of intermediary bodies took a central place.¹⁴

In my investigation of aristocratic liberalism, I will concentrate on political debates in France during the ‘short’ nineteenth century, from the return

¹⁴ Kahan, *Aristocratic liberalism*, pp. 4–5.

of the Bourbons in 1814 to the establishment of the Third Republic in 1870–1875. This focus on France might seem surprising. Since the publication of François Furet's *Penser la Révolution française*, historians tend to emphasize the weakness of the pluralist tradition in French political culture. Nineteenth-century Frenchmen, it is argued, adopted the utopia of the immediate government of 'general will', developed by the Jacobins, rather than the idea of a limitation of central power. Throughout the nineteenth century, it is claimed, the French remained under the sway of the revolutionary legacy, with its emphasis on unity and popular sovereignty.¹⁵ Montesquieu's influence, his preference for checks and balances, was supposedly blocked out by the Revolution – with Tocqueville as a lone and isolated exception.¹⁶ The inherent illiberalism of French political culture is also held responsible for French exceptionalism, the continuing difficulties of the French in establishing a stable, liberal regime in the nineteenth century.¹⁷

Historians of French liberalism tend to emphasize the impotence of post-revolutionary liberals to resist this revolutionary legacy. The history of nineteenth-century liberalism has therefore become to a large extent the history of a failure, of a group of isolated figures speaking to the wind. This is illustrated in particular in the recent literature on Tocqueville's place in French political culture, which depicts him as an eccentric and often misunderstood thinker.¹⁸ Some scholars of nineteenth-century liberalism have come to the somewhat surprising conclusion that liberalism itself was not liberal in France. Even those who called themselves liberal, it has been argued, valued unity and consensus more than liberty. Thus, Pierre Rosanvallon argues that the Jacobin legacy was recuperated by nineteenth-century liberals such as François Guizot and Adolphe Thiers, a process

¹⁵ François Furet, *Penser la Révolution française* (Paris: Gallimard, 1978); see also Pierre Rosanvallon, 'Etat et société. Du XIXe siècle à nos jours' in *Histoire de la France. L'Etat et les pouvoirs*, ed. André Brugère and Jacques Revel (Paris: Seuil, 1989), pp. 491–617.

¹⁶ As Jaume writes: 'La légitimité de l'intérêt particulier a tout peine à se frayer un chemin en France, car, prenant d'abord naissance dans la critique du despotisme (ainsi chez Montesquieu), elle se heurte bientôt à la vision installée par la Révolution: l'abstraction de la citoyenneté à la française empêche que soient exprimées et reconnues des particularités solidifiées en groupes ou en corps; dans le même sens, l'identification de l'intérêt collectif à l'Etat, ainsi que la fonction de préservation de l'égalité dévouée à ce dernier, font que l'intérêt particulier (de l'individu ou de corps) est passible de l'accusation de "privilegé" – c'est-à-dire à la fois d'archaïsme et d'injustice': Jaume, *L'individu effacé*, p. 282.

¹⁷ Again, Furet's writings provide the seminal expression of this view – see his *La Révolution française* (Paris: Hachette, 1988, 2 vols.); see also Pierre Rosanvallon, *La monarchie impossible. Les Chartes de 1814 et de 1830* (Paris: Fayard, 1994), pp. 7–10.

¹⁸ This view has been to a certain extent challenged by Françoise Mélonio's seminal study of the reception of Tocqueville's work in France. Nevertheless, even Mélonio emphasizes Tocqueville's 'exoticism' in French political culture. Mélonio, *Tocqueville et les Français*, pp. 299–304.

which he describes as the 'liberal recomposition of Jacobinism'.¹⁹ In his thorough and insightful survey of French liberalism in the nineteenth century, Lucien Jaume likewise comes to the conclusion that the dominant figures within that movement privileged the rights of the state over those of its citizens.²⁰

This does not mean that the existence of an anti-democratic, pluralist discourse in nineteenth-century France has gone entirely unnoticed in the existing literature. However, it is usually emphasized that this was a minority, atypical tradition. In his discussion of nineteenth-century French liberalism, Jaume points to the existence of what he describes as a 'liberalism of the notables'. He detects it in the writings of a number of liberal Anglophiles, such as Auguste de Staël, Prosper de Barante, J. C. L. Sismondi and Saint-Marc Girardin, who admired the openness and political responsibility of the English aristocracy. These liberals rejected the legacy of the Jacobin state and believed that it was necessary to recreate interest groups. However, Jaume emphasizes that this remained a minority tradition in French liberalism: 'The rights of particularity, the distinction between exemption, which is deemed necessary, and privilege, which is condemned, liberty as the power to exempt oneself from the general rule, all these ideas came back periodically, and notably after every period of crisis, but they were quickly subjected to taboo.'²¹

A similar view is developed in Rosanvallon's most recent book, *Le modèle politique français*, which provides an ambitious revision of the thesis of French exceptionalism. Rosanvallon argues that a positive evaluation of 'intermediary bodies' was much more widespread in post-revolutionary France than is usually assumed. French history, he writes, shows an 'active tension between the monist principles of the revolutionary democracy and social aspirations to a certain pluralism'.²² However, in Rosanvallon's view, these aspirations were the expression of a resistance within civil society against the Jacobin model, rather than being inspired by a particular form of liberalism. The counter-history presented in his book is conceived as a social history rather than an intellectual history. This allows Rosanvallon

¹⁹ Pierre Rosanvallon, *Le modèle politique français. La société civile contre le jacobinisme de 1789 à nos jours* (Paris: Seuil, 2004), p. 17. It is interesting to note that a similar view on the 'Jacobin' nature of French liberalism is also defended in Roger Henry Soltau's classic *French political thought in the nineteenth century* (New York: Russell & Russell, 1959), pp. ix–xxxii.

²⁰ Jaume, *L'individu effacé*, pp. 537–554.

²¹ *Ibid.*, pp. 281–319, quote p. 349: 'Les droits de la particularité, la distinction entre la dérogation, qui serait nécessaire et le privilège, qui est condamné, la liberté comme pouvoir de s'exempter du cas général, toutes ces idées reviennent périodiquement, et notamment après chaque période de crise, mais elles sont vite frappées du tabou.'

²² Rosanvallon, *Le modèle politique*, p. 18.

to conclude, like Jaume, that the Jacobin legacy retained its sway over nineteenth-century political thought. 'If the original Jacobin organisation had been heavily amended', he writes, 'the political culture of generality has remained in the [French] mindset with all its consequences in terms of the conception of sovereignty or the general interest.'²³

Such conceptions of nineteenth-century French political culture have naturally tended to discourage a systematic investigation of the prevalence of aristocratic liberalism in nineteenth-century France. In this study, however, I will show that an emphasis on the division and fragmentation of political power was an important current in French political thought – indeed, that it was at least as important as the Jacobin legacy. Moreover, I will argue that the positive view of intermediary bodies, such as the aristocracy, expressed by many French publicists and political thinkers, had its roots in a coherent political doctrine, which had been developed by Montesquieu in the middle of the eighteenth century. By doing so, I aim to contribute to the criticism which has been developed recently by a number of (mostly Anglophone) scholars of the thesis of French exceptionalism.²⁴

To conclude, a few words might be needed on the approach adopted in this study. It focuses primarily, although not exclusively, on the ideas and concerns of those who described themselves as 'liberals' in nineteenth-century France, where the term was introduced in the 1820s. Throughout the nineteenth century, these liberals shared a number of sentiments and beliefs. They were favourably disposed towards the memory of the Revolution, at least in its initial phase. Liberals also tended to support specific types of political institutions, modelled on the English and American examples, in which power was shared between an executive body and a bicameral legislature. They professed a constitutional agnosticism on the question of the form of government, which agitated nineteenth-century Frenchmen for so long, arguing that the differences between a constitutional monarchy and a presidential republic were not of crucial importance. In this sense, one can speak of a more or less unified liberal movement in nineteenth-century France.²⁵

²³ *Ibid.*, p. 432: 'Si l'organisation jacobine première a fortement été corrigé, la culture politique de la généralité est restée dans les têtes avec toutes ses conséquences en termes de conception de la souveraineté ou de l'intérêt général.'

²⁴ E.g. Isser Woloch, editorial introduction to *Revolution and the meanings of freedom in the nineteenth century* (Stanford: Stanford University Press, 1996), p. 30; Dale van Kley, editorial introduction to *The French idea of freedom. The Old Regime and the Declaration of Rights of 1789* (Stanford: Stanford University Press, 1994), pp. 5–20.

²⁵ For a slightly different definition of the common values of the liberal movement in France, see Sudhir Hazareesingh, *Political traditions in modern France* (Oxford: Oxford University Press, 1994), chapter 8.

However, this study does not aim to provide a comprehensive overview of the ideology of this movement as a whole, of 'liberalism' in general. Rather, in keeping with the specific approach adopted in the series in which it is published, it focuses on the way in which these nineteenth-century liberals used a specific political vocabulary, developed by Montesquieu in his *Esprit des lois*, in post-revolutionary France. How was the discourse of aristocratic liberalism, originally formulated in the political and intellectual context of the mid eighteenth century, adopted in and adapted to the new political and intellectual needs of the post-revolutionary period? – that is the central question of this study. In order to answer that question, it relies heavily on quotation; I am convinced this is a necessary evil to give the reader as much as possible a sense of the special colour and tone of this political language.

The focus on a particular language, on its continuity and discontinuity, also implies that I neglect other themes and ideas developed by individual political thinkers discussed here. It has not been my goal, for instance, to do complete justice to the complexity of Alexis de Tocqueville's thought; rather, his writings are studied from one specific angle, as representative of one specific discourse. Nevertheless, I am convinced that this approach allows one to shed a different light on his work from that which a more thorough investigation of his writings as a whole would do. At the same time, I have attempted to illuminate the specificity of the political discourse here investigated by situating it within the more general context of liberal thought in nineteenth-century France. By discussing the prevalence of very different brands of liberalism, it becomes possible both to illuminate the particularity of aristocratic liberalism and to explain why its precepts were either adopted or rejected by individual publicists.

In order to do so, I have investigated an extensive set of pamphlets and political brochures, written both by famous political thinkers (such as Benjamin Constant, François Guizot, Tocqueville) and by publicists who have been completely forgotten today. Most of these pamphlets were written in response to concrete political problems and proposed specific political reforms. However, their authors often attempted to legitimate their proposals by appealing to more general principles, which makes these publications an interesting source for the historian of ideas. Especially in the Restoration period, pamphlets were still an important source of political communication, despite increasing competition from the newspaper press. In a later period, pamphlets and brochures remained an important mode of expression in the political debate, as they allowed publicists to evade the limitations imposed by censorship on the periodical press.

Furthermore, I have analysed a number of important political reviews. Although these were usually short-lived and more amateurishly run than British periodicals such as the *Edinburgh Review*, they nevertheless provide an indispensable source for the student of political thought. I have investigated the moderately royalist journal *Le Conservateur* and its more right-wing successor *Le Défenseur*, as well as the successful liberal journal *La Minerve française* and its successor *Le Mercure de France*, the industrialist reviews *Le Censeur* and *Le Censeur européen*, and the doctrinaire journal *Archives philosophiques, politiques et littéraires*. In addition, I have analysed the written reports, collected in the *Archives parlementaires*, of a number of important parliamentary debates conducted in the period here investigated.

As a final remark, I will briefly outline the structure of this study. In a first, introductory chapter, I place Montesquieu's aristocratic liberalism in the context of the political debate of the eighteenth century. In chapters 2–5, I then discuss the way in which his arguments were adopted and adapted in the political debates of the Restoration period, which began in 1814 with the return of the Bourbon kings to France, and ended with their final expulsion in 1830. These chapters focus in particular on the heated debate between royalists and liberals over how to preserve liberty in the post-revolutionary world. I then investigate in the following chapters how the political vocabularies developed by Restoration publicists were used by a number of important liberal thinkers in the post-1830 period. Chapter 6 is devoted to a discussion of French liberalism under the July Monarchy, focusing mainly on Alexis de Tocqueville's writings. In chapter 7, I examine the continued influence of the discourse developed by Restoration publicists on political thinkers within the liberal opposition to Napoleon III's regime in the 1850s and 1860s.

On the basis of this investigation, I illustrate, as the following chapters will make clear, that aristocratic liberalism was a vibrant tradition in the French political discourse of the nineteenth century. Without losing sight of the fact that other forms of liberalism existed as well, I show that many nineteenth-century publicists, at least until the 1870s, used arguments that were clearly inspired by Montesquieu's aristocratic liberalism. Nineteenth-century politicians and political thinkers, it will become clear, found in the *Esprit des lois* both a convincing analysis of the problems confronting post-revolutionary France, and an answer to the question of how these problems needed to be tackled.

*Political thought in eighteenth-century France:
the invention of aristocratic liberalism*

CLASSICAL REPUBLICANISM IN EIGHTEENTH-CENTURY FRANCE

Over the past few decades, our knowledge of eighteenth-century political thought has increased exponentially. We now know that the paradigm of classical republicanism, which had its origins in Renaissance Italy, was one of the most important political languages in early-modern Europe.¹ Influential republican thinkers such as Nicolo Machiavelli or James Harrington were not necessarily opposed to a hereditary monarchy. But, inspired by their admiration for the city-states of antiquity, they argued that, in order to be free, one had to pose the law unto oneself. To be under someone else's dominion, republicans believed, was to be unfree by definition, even if the sovereign did not actually abuse his power. Liberty, therefore, required an active commitment and participation of each citizen in public affairs. This conception of liberty had an important implication. It meant that liberty depended on a particular moral condition in the citizenry. Public spiritedness, the ability to put the general interest before one's own – described as civic virtue – was indispensable to sustain such active participation. Selfishness and apathy posed a constant threat to the preservation of liberty.²

In addition to its political and moral requirements, the republican identification of liberty with self-government also presupposed a specific social ideal. Many republican thinkers were convinced that liberty could not be maintained in a society with considerable inequality in wealth. As soon as some citizens became too powerful, or too rich, they would be able to exercise an influence that would limit the independence, and therefore the liberty, of their fellow citizens. In a republican state, luxury and commerce had to be banned. Instead, republican authors preached a particularly

¹ On the dissemination of republicanism in eighteenth-century Europe, see Skinner and van Gelderen (eds.), *Republicanism*.

² This discussion of the republican conception of liberty is based on Skinner, *Liberty before liberalism*.

austere social ideal: that of a poor, agricultural society. Equality between the members of such a society was to be preserved through the periodic division of land – the so-called agrarian law – and through a specific legal system. Republican theorists therefore attached great importance to inheritance laws. These were seen as indispensable to prevent the concentration of property in the hands of one individual or family.³

In other words, classical republicanism was not just an anti-absolutist ideology, as J. G. A. Pocock has emphasized. It was also a deeply reactionary project, which inspired a nostalgic longing for an agricultural utopia essentially at odds with the commercial world of eighteenth-century Europe.⁴ Republicans abhorred modern commercial society almost as much as royal absolutism. They believed that the wealth and luxury which it generated was inimical to their ideal of virtuous self-government, as it created dangerous inequalities in a state. Moreover, the pursuit of commerce turned citizens from the public good to an exclusive preoccupation with their private interests.

In France, the republican ideal was first introduced through the writings of seventeenth- and eighteenth-century English publicists, such as Algernon Sidney, Edmund Ludlow, or Bolingbroke.⁵ But, the French soon developed an indigenous republicanism as well. The second half of the eighteenth century saw a remarkable flowering of republican thought in France.⁶ One of the most influential republican thinkers was undoubtedly Gabriel Bonnot de Mably. His *Observations sur l'histoire de France*, the first part of which was published in 1765,⁷ defended a republican version of French history. His major work, *Des droits et des devoirs du citoyen*, which was composed in 1758 (although it remained unpublished until 1789), likewise propagated the ideal of virtuous self-government. In a dialogue between an English visitor, Lord Stanhope, who acted as Mably's mouthpiece, and a Frenchman, the

³ The republican emphasis on austerity and its distrust of commerce is discussed extensively in J. G. A. Pocock, *The Machiavellian moment. Florentine political thought and the Atlantic republican tradition* (Princeton: Princeton University Press, 1975). Eric Nelson's recent study, *The Greek tradition in republican thought* (Cambridge: Cambridge University Press, 2004) highlights the importance republicans attached to property laws.

⁴ J. G. A. Pocock, *Virtue, commerce and history: essays on political thought and history, chiefly in the eighteenth century* (Cambridge: Cambridge University Press, 1985), pp. 103–124.

⁵ K. M. Baker, 'Transformations of classical republicanism in eighteenth-century France', *The Journal of Modern History* 73 (2001) 35.

⁶ As is pointed out in Baker, 'Transformations', and Marisa Linton, *The politics of virtue in Enlightenment France* (New York: Palgrave, 2001). But compare J.-M. Goulemot, 'Du républicanisme et de l'idée républicaine au XVIIIe siècle' in *Le siècle de l'avènement républicain*, ed. François Furet and Mona Ozouf (Paris: Gallimard, 1993), pp. 25–56. Goulemot argues that republicanism was non-existent as a political doctrine in eighteenth-century France. In his view, it only survived as a cultural ideal.

⁷ The second part remained unpublished until 1788, although it was completed at the time of the Maupeou coup of 1771.

latter was gradually persuaded that an absolute monarchy, such as existed in his country, was necessarily despotic. In order to return liberty to France, Mably argued, a restoration of the Estates General, which would allow the nation to participate in its own government, was therefore necessary.⁸

However, Mably was certainly not the only, nor even the most important republican author in eighteenth-century France. Having absorbed an admiration for classical antiquity from authors such as Cicero and Livy, and from his upbringing in Geneva, whose inhabitants had since long identified with the virtuous Roman citizenry, Jean-Jacques Rousseau's commitment to the republican ideal was, if anything, even more pronounced than Mably's. Rousseau did not believe that the restoration of representative institutions such as the Estates General would bring liberty to France, and he pleaded instead for direct democracy. Nevertheless, his conception of the sovereignty of the law was tributary to the same republican tradition on which Mably drew. Like Mably and the English republicans, Rousseau saw self-government as a necessary condition for the enjoyment of individual liberty.⁹

Classical republicanism also formed an element in the ideological arsenal used by the *parlements* in their opposition to Bourbon absolutism during the Maupeou crisis in 1771–1774, albeit not the dominant one. The magistrates flirted with notions of themselves as Roman senators, and when the very existence of the *parlements* was attacked by the revolutionary actions of Maupeou in 1771, their more radical defenders did not shrink from taking up the ideological weapons offered by the classical-republican tradition. The most radical response to the Maupeou revolution came from a disciple of Mably and Rousseau, the Bordeaux barrister Guillaume-Joseph Saige. His earliest work, *Caton, ou Entretien sur la liberté et les vertus politiques*, published in 1770, sounded all the themes in the classical-republican repertoire, as Saige decried the process by which the growth of luxury and despotism in modern society had destroyed the political virtue that alone could sustain liberty. These themes were further elaborated in his second work, published in 1776, the *Catéchisme du citoyen*.¹⁰

⁸ Baker, 'Transformations', 38–39; Johnson Kent Wright, *A classical republican in eighteenth-century France: the political thought of Mably* (Stanford: Stanford University Press, 1997).

⁹ Maurizio Viroli, 'The concept of *ordre* and the language of classical republicanism in Jean-Jacques Rousseau' in *The languages of political theory in early-modern Europe*, ed. A. Pagden (Cambridge: Cambridge University Press, 1997), pp. 159–178. On Rousseau's place in the republican tradition, see also Linton, *The politics of virtue in Enlightenment France*, pp. 80–100; and Helena Rosenblatt, who puts Rousseau in a Genevan rather than in a French context in her *Rousseau and Geneva: from the First Discourse to the Social Contract, 1749–1762* (Cambridge: Cambridge University Press, 1997).

¹⁰ K. M. Baker, *Inventing the French Revolution. Essays on French political culture in the eighteenth century* (Cambridge: Cambridge University Press, 1990), pp. 128–152.

Even more than their English counterparts, French thinkers were enthusiastic advocates of the Spartan social ideal entailed by the republican paradigm. Rousseau, Mably and Saige all underscored the importance of social equality and more specifically of the equal division of landed property for the preservation of liberty. In his *Observations sur les Grecs*, published in 1749, Mably praised Lycurgus for having introduced an agrarian law and abolished gold and silver so that luxury could never corrupt the Spartans. The repeal of Lycurgus' ban on the sale of property and on the making of wills resulted in the rise of disproportionate wealth and poverty, and doomed the Spartan republic. Later in his career, Mably would expand on this analysis in *Des droits et des devoirs du citoyen*, in which he stressed the importance of inheritance laws. Rousseau likewise believed luxury and social inequality to be corrupting. In his unpublished *Projet de Constitution pour la Corse*, written in 1765, he dwelled at length on the necessity for an agrarian law designed to limit the size of estates, especially through inheritance laws.¹¹ Guillaume-Joseph Saige, in many respects Rousseau's most faithful disciple, underscored the connection between social equality and civic virtue in all of his writings.¹²

THE FEUDAL IDEAL: HENRI DE BOULAINVILLIERS

Thus, in eighteenth-century France, republicanism had become, in the words of Keith Baker, 'a language of opposition to an increasingly administrative state that simultaneously fed and was fed by the individualism of a modern commercial society'.¹³ But republicanism was not the only, nor even the most important, political tradition. The eighteenth century also witnessed an important revival of aristocratic liberalism. Criticism of the monarchy's absolutist pretensions by the nobility had been widespread in the sixteenth century, when the notion of a mixed constitution was frequently invoked to argue for the nobility's right to participate in power. While such claims for aristocratic liberty had all but disappeared under Louis XIV's reign, they made a remarkable come-back after his death.¹⁴ Eighteenth-century aristocratic liberalism, however, was not a coherent ideology. As we shall see, its proponents, while all agreeing that a nobility was necessary for the preservation of liberty, took quite different positions in the pre-revolutionary political debate.

¹¹ Nelson, *The Greek tradition in republican thought*, pp. 176–194.

¹² Baker, *Inventing the French Revolution*, pp. 128–152. ¹³ Baker, 'Transformations', 35.

¹⁴ Cf. Arlette Jouanna, *Le devoir de révolte. La noblesse française et la gestation de l'Etat moderne (1559–1661)* (Paris: Fayard, 1989).

The notion that king and nobility should in some way co-operate in the exercise of power was first revived again at the end of the seventeenth century by Archbishop François de Fénelon. Fénelon's famous educational treatise *Télémaque*, written for his pupil the Duke de Bourgogne, the Sun King's grandson and heir, contained an idealized portrait not just of royal power, but also of the aristocracy as a benevolent class devoted to the public good. The *Plans de gouvernement ou Tables de Chaulnes*, which contained concrete proposals for reform drawn up by Fénelon and two dukes, Beauvillier and Chevreuse, in 1711 in the town of Chaulnes, likewise represented a revival of aristocratic-constitutional ideas. The *Tables* proposed to set up a multilayered set of representative assemblies, modelled on the Languedoc, but with broader powers than any existing representative assemblies. Its authors also called for a restoration of the Estates General, which were to assemble every three years and remain in session as long as they deemed necessary. These proposals were inspired by a nostalgic desire to revive the powers of the old nobility in France. The resident governors drawn from the nobility were to take back powers from the upstart intendants, and the powers of the judiciary and the magistrates were to be curtailed.¹⁵

While Fénelon was working on the *Tables de Chaulnes*, a more radical and influential critique of royal absolutism was developed by Henri de Boulainvilliers. A nobleman-*cum-savant*, Boulainvilliers wrote books on topics as diverse as philosophy, astrology, ancient history and the history of religion. He was most famous, however, for his writings on French history and genealogy, which he produced, like Fénelon, for the heirs of Louis XIV. His most important book, the *Lettres historiques sur les parlements ou états généraux de la France* was written between 1716 and his death in 1722, in response to a political dispute between the *parlements* and the Peers of France, known as the 'affaire du bonnet'. In 1727, the *Lettres* were published, together with an earlier and shorter work on French history, the *Mémoires historiques*, under the title *Histoire de l'ancien gouvernement de la France, avec XIV. Lettres historiques sur les parlements ou états généraux de la France*. This posthumous publication had a considerable and long-lasting impact on French political debate.¹⁶

In both parts of the *Histoire de l'ancien gouvernement*, Boulainvilliers concentrated on the early history of France. The *Histoire* recounted the

¹⁵ Nannerl O. Keohane, *Philosophy and the state in France. The Renaissance to the Enlightenment* (Princeton: Princeton University Press, 1980), pp. 343–346.

¹⁶ The best intellectual biography of Boulainvilliers to date is Harold Ellis' *Boulainvilliers and the French monarchy. Aristocratic politics in early eighteenth-century France* (Ithaca: Cornell University Press, 1988). Note that the *Mémoires historiques* were abridged in the 1727 edition; see *ibid.*, p. 226.

history of French government from the Conquest of the Gauls to Hugh Capet's accession to the throne in 987, focusing on the rise and fall of the different dynasties which had ruled France. The *Lettres* started with the reign of Charlemagne and his creation of the *parlements* and ended with Louis XI, although Boulainvilliers had initially intended to carry his story forward to the seventeenth century and amassed documentation on later meetings of the Estates. The theme of both works was more or less the same. In the *Histoire* as in the *Lettres*, Boulainvilliers made his case against the growth of royal absolutism by invoking the French past. More particularly, both works celebrated an idealized 'feudal government' which had guaranteed liberty to the French (or at least to the noble French) and which had been violently usurped by the French kings in the course of history. Indeed, Boulainvilliers' indictment of the role of the monarchy in the French past is so harsh that it is difficult to believe he wrote his works for the heirs of Louis XIV.

Boulainvilliers identified feudal liberty first and foremost as a right of property. He emphasized that the noble possessors of fiefs had an absolute right of ownership not just over their land but also over its inhabitants, the serfs. The military responsibilities which the possession of a fief entailed (and which could be seen as a restriction of this right of ownership) were consistently downplayed in the *Histoire*. Boulainvilliers believed that the feudal property rights had originally been established by right of conquest during the invasion of Gaul by the Franks. Real feudalism was then instituted by Charlemagne, who created the fiefs in image of the 'police des Lombards' which he had come to admire during the expedition which he undertook against them. According to Boulainvilliers, in other words, it was wrong to claim that feudal rights had been usurped during the reign of Hugh Capet. On the contrary, they had existed from the time of the Conquest, and they had been given the seal of royal approval by Charlemagne.¹⁷

The liberty of the noble Franks did not just consist, however, of their property rights. Boulainvilliers repeatedly emphasized in his writings that the Franks and their descendants had, from time immemorial, a right to participate in government. In the *Histoire*, he explained how the first institution which had guaranteed that participation was the Champs de Mars in which the Franks had assembled after the Conquest. In Charlemagne's time, the Champs de Mars had been replaced with the baronial *parlement*. Boulainvilliers emphasized that this representative body was not a new institution, but an expression of the ancient right of the Franks to participate

¹⁷ Boulainvilliers, *Histoire de l'ancien gouvernement*, I, pp. 105–120.

in legislative power. Praising Charlemagne for re-establishing the *parlement* on a more secure basis, Boulainvilliers wrote:

He considered first and foremost what none of our kings since him have wanted to understand properly, that the French were originally a free People, as much by their natural character, as by the primitive right they had to choose their Princes, & to concur with them in the administration of the government; a participation which necessarily acted as a council to the Kings, & which motivated the entire Nation to work for the success of enterprises determined upon by common consent.¹⁸

Boulainvilliers made it very clear that this Frankish, self-governing liberty had been reserved, like the feudal right of ownership, to the noble part of the French nation. In the *Histoire*, he explained how, after the Conquest, the Franks had remained all free and equal, while the Gauls had become the subjects and serfs of the owners of the land. As he put it in the *Histoire*: 'Since the Conquest, the autochthonous Franks were the true Nobles, & the only ones that could be noble, while the destiny of the Gauls was determined by the will of the Conqueror.'¹⁹ And in the *Lettres*, he again emphasized that the Gauls did not partake in the government: 'Back then the Third Estate was counted for nothing, because the people were slaves, or, if one finds that word too harsh, they were reduced to simple manual labour & the cultivation of the lands.'²⁰

Thus, Boulainvilliers' feudal ideal consisted of two types of liberty which we would now think of as contradictory, but which Boulainvilliers did not really distinguish from one another: participatory rights smacking of republicanism, and the ownership of one's fief, which might, with the necessary changes, be seen as a clear expression of 'possessive individualism', albeit of a noble rather than a bourgeois variant. Both of these rights, however, had been subverted in the course of French history, and they had been subverted by the same cause: the rise of royal absolutism. The demise of feudal liberty at the hands of the French kings was the real theme of Boulainvilliers' history, especially as recounted in the *Lettres*.

¹⁸ *Ibid.*, p. 218: 'Il considéra premièrement, ce qu'aucun de nos Rois depuis lui n'a jamais bien voulu comprendre, que les François étoient originairement un Peuple libre, autant par son caractère naturel, que par son droit primitif qu'il avoit de choisir ses Princes, & de concourir avec eux dans l'administration du gouvernement; concours qui servoit nécessairement de conseil aux Rois, & de motif à la Nation entière pour faire réussir les entreprises résolues d'un commun consentement.'

¹⁹ *Ibid.*, pp. 38–39: 'Depuis la conquête, les François originaires ont été les véritables Nobles, & les seuls qui le pouvoient être, pendant que toute la fortune des Gaulois étoit bornée selon la volonté du Vainqueur.'

²⁰ *Ibid.*, p. 244: 'L'on ne comptoit point alors le Tiers état, parce que le peuple étoit esclave, ou si l'on trouve ce terme dur, réduit au simple travail des mains & à la culture des terres.'

The property rights of the nobles had been violated through the liberation of the serfs, which Boulainvilliers depicted as an illegal act perpetrated by the French kings and their allies, the Third Estate. Boulainvilliers computed that, by the eighteenth century, more than 40,000 families of former serfs had acquired the privileges that were originally reserved for the conquerors of the Gauls. Moreover, the kings had actively worked to destroy the independent fiefs. With Philip Augustus began the alliance between kings and jurists which had led to the corruption of the original system of fief holding. Over time, the laws were changed so as to make the possession of fiefs dependent on the will of the kings rather than on the ancient rights and privileges of the feudal lords and vassals.²¹

At the same time that nobles lost their feudal property rights, the nobility's right to participate in the legislative assemblies had come under attack. The formerly noble *parlements* became dominated by Third Estate legists. Boulainvilliers admitted that this had been partly the result of the nobles' ignorance, as they failed to meet the rising educational standards needed to administer justice in an increasingly complex legal system. But the French kings had deliberately encouraged this tendency. Philip Augustus had turned the *parlements* into purely judicial courts, which no longer participated in the great affairs of the state.²² This policy was continued by Louis XI, who abolished noble privileges and gave preference to the Third Estate in the Estates General. At the end of the feudal period, the kings ruled without the assistance of either the barons or the Estates General. The Estates lost not only the right of the old *parlement* to make laws but also its right to vote subsidies.²³

In short, Boulainvilliers had little doubt about the question of who the main perpetrators were in his history of the demise of feudal liberty: the French kings. Indeed, his animus against the monarchy is quite remarkable. At several points in his history, he drew the attention of his readers to the fact that there was no dynastic continuity in French history, and that therefore the Bourbons could be seen as having obtained their crown illegally. But his more important point was that all the French kings – with Charlemagne as a glorious exception – had strived to subvert the liberty of their subjects. In the *Lettres*, he wrote that the French kings had been possessed by 'the idea of subjugating their Peoples, to annihilate the great Lords, & to render their authority despotic'.²⁴ In the conclusion to his history, he again emphasized that the French nobles should blame Louis XI and Louis XIV for the fact

²¹ *Ibid.*, p. 346. ²² *Ibid.*, II, pp. 1–61. ²³ Ellis, *Boulainvilliers*, p. 164.

²⁴ Boulainvilliers, *Histoire de l'ancien gouvernement*, III, pp. 135–160: 'l'idée de subjuguier leurs Peuples, d'anéantir les grands Seigneurs, & de rendre leur autorité despotique'.

that they had fallen to the last rank in the state, as these kings had ruled by ignoring all precedents, and all laws of the kingdom, and as they had made their authority despotic over the property and liberty of their subjects, 'without any distinction of condition'.²⁵

Boulainvilliers' was in other words a highly pessimistic story. He introduced a dramatic discontinuity into the history of the French monarchy. Customarily, early-modern French historians wrote a continuous history of the monarchy and asserted its antiquity. Boulainvilliers denied this, highlighting the monarchy's modernity and representing it as the product of the fatal decline of France into an iron age of 'submission', 'slavery' and 'despotism'.²⁶ Against this image of the despotic monarchy, he pitted the feudal past as an ideal of liberty. This was necessary, as he wrote in the preface to the *Histoire*, in order to remind his compatriots that the French political system had once been different:

Thus I invoke in my aid the memory of past centuries; not because I have a preference for Antique times beyond what is reasonable, but because it would be a delusion to reject from a Monarchy those means which have maintained it for the course of thirteen centuries, to substitute it with others which have nothing more to recommend them than that they facilitate a despotic power more suitable for Persians, Turks, or other Oriental people, than for our constitution.²⁷

From this perspective, a similarity between Boulainvilliers' aristocratic liberalism and the republican critique of absolutism can be detected.²⁸ Boulainvilliers' defence of the noble's participatory rights and his indictment of monarchy as necessarily despotic were remarkably close to the republican discourse. Indeed, one of the major reforms proposed by Boulainvilliers – a restoration of the Estates General – also figured prominently in the political programme propagated by Mably. Like Mably's and Rousseau's republicanism, moreover, Boulainvilliers' aristocratic liberalism was essentially reactionary in its reformism. With his idealization of feudal liberty, Boulainvilliers appealed to a socio-political model that was no less

²⁵ *Ibid.*, p. 206. ²⁶ Ellis, *Boulainvilliers*, p. 161.

²⁷ Boulainvilliers, *Histoire de l'ancien gouvernement*, I, preface, no pagination: 'Alors j'appelle à mon secours le souvenir des siècles passez; non que je sois prevenu pour l'Antiquité au delà des termes raisonnables, mais parce qu'il y auroit de l'aveuglement à rejeter du régime d'une Monarchie les moyens qui l'ont maintenue pendant le cours de treize siècles, pour en substituer d'autres qui n'ont rien de plus recommandable que de faciliter un pouvoir despotique, plus convenable au genie des Persans, des Turcs et d'autres peuples Orientaux, qu'à notre constitution.'

²⁸ These similarities between Boulainvilliers' historical views and the language of classical republicanism are also pointed out by Johnson Kent Wright, 'The idea of a republican constitution in Old Regime France' in *Republicanism: a shared European heritage*, ed. Quentin Skinner and Martin van Gelderen (Cambridge: Cambridge University Press, 2002, 2 vols.), I, pp. 289–307.

anachronistic in relation to the society of eighteenth-century France than were the republics of classical antiquity. Boulainvilliers in fact admitted as much. In the *Lettres*, he wrote that it would be impossible to reduce the respectable magistrates and deputies of the Third Estate to the rank of serfs from which they came, however illegal their elevation had been.²⁹

But despite these similarities, Boulainvilliers' feudal liberty cannot be wholly equated with the republican ideal. In particular, his defence of feudal rights and the right of ownership of the Franks over the Gauls went against the egalitarian sensibilities of French republicans. In the end, it was Boulainvilliers' goal to argue that liberty was impossible without an aristocracy. As he wrote in the *Lettres*, the expulsion of the Moors from Spain in 1605 and the abrogation of the Edict of Nantes in 1685 showed that the abuse of royal power was an inevitable consequence of the demise of the nobility. There could be 'no security for a People', he concluded, 'except in the states governed on the model provided by the ancient destroyers of the Roman Empire, of which no trace is left apart from England, or at least in those states where there are enough great Lords & Princes left to serve as a refuge for some of the downtrodden which the existence of non-obstructed power will not fail to create, if not by bad intention, then at least by lack of knowledge'.³⁰

THE LIMITED MONARCHY: MONTESQUIEU'S *ESPRIT DES LOIS*

In 1748, twenty-one years after the publication of the *Histoire de l'ancien gouvernement de la France*, Boulainvilliers' fellow-nobleman Charles-Louis de Montesquieu likewise undertook a defence of the nobility as an instrument of liberty in his *Esprit des lois*. At this point in his career, Montesquieu was mainly known as the author of the *Lettres Persanes*, published in 1721, which had made him famous overnight for its playful yet critical analysis of French society under the Regency. The publication of his history of the downfall of the Roman Empire, *Considérations sur les causes de la grandeur et de la décadence des Romains* in 1734 had already indicated that Montesquieu

²⁹ Boulainvilliers, *Histoire de l'ancien gouvernement*, III, p. 204. As Boulainvilliers put it: 'Les avantages que l'Etat entier tire du commerce & l'habitude d'honorer les Juges qui décident tous les jours de nos fortunes, sont de puissans motifs pour ramener l'égalité & pour la faire goûter à la Noblesse la plus intéressée dans la perte de son premier rang.'

³⁰ *Ibid.*, p. 186. 'Il faut conclure qu'il ne peut y avoir de sureté pour les Peuples que dans les états gouvernez sur les modèles donnez par les anciens destructeurs de l'Empire Romain, desquels il ne reste plus de trace qu'en Angleterre, ou du moins dans ceux où reste assez de grands Seigneurs & de Princes établis pour servir de refuge à une partie des misérables, que la puissance non bornée ne sauroit manquer de faire, sinon par mauvaise intention, du moins par défaut de connoissance.'

was not entirely satisfied with his reputation as a *romancier*, and that he aimed to be taken seriously as a political thinker. The *Esprit des lois*, on which he had, as he claimed in the preface, laboured for more than twenty years, amply fulfilled that ambition. Overnight, it made Montesquieu into the most respected and influential political theorist of the eighteenth century.³¹

The goal of the *Esprit des lois* was to show that positive laws were not arbitrary, but that they had a certain logic behind them. Montesquieu investigated, as he put it in the subtitle to his book, the 'relationship which the laws should have with the constitution of each government, as well as with the *moeurs*, the climate, religion, commerce, and so forth'. While Montesquieu developed this principle in many different ways, the first part (consisting of the first eight books) of the *Esprit des lois* was taken up more specifically by developing a typology of political systems and how they diverged structurally from one another. Montesquieu distinguished between republics, monarchies and despotisms. All three of these types of government, he claimed, had their own particular 'nature' and 'principle', which made them dissimilar from one another. Thus, the establishment and preservation of a republican regime required a society with certain characteristics which were unlike those required for the establishment and preservation of monarchies or despotisms.³²

Montesquieu defined republics as forms of government in which 'the people, or part of the people, ruled themselves'. According to Montesquieu, such republican self-government could exist only in small city-states such as those of Ancient Greece, where 'the public good is better felt, better known, lies nearer to each citizen'. For republican self-rule required a virtuous citizenry. As the people had to impose the law onto itself, it had to be prepared at all times to subject its private interests to the public good. Such self-sacrifice was possible only in states characterized by social equality and frugality, because 'wealth gives a power that a citizen cannot use for himself, for he would not be equal' (V, 3). Political equality therefore presupposed social equality: 'Love of the republic in a democracy is love of democracy; love of democracy is love of equality' (V, 3).

Other than in self-governing republics, power was exercised by a sovereign ruler in both despotic and monarchical governments. Montesquieu

³¹ The standard intellectual biography for Montesquieu is still Robert Shackleton, *Montesquieu: a critical biography* (Oxford: Oxford University Press, 1961).

³² Following conventional usage, I will not mention page numbers but the relevant book and chapter numbers in references to the *Esprit des lois*. I have used the English translation of *The spirit of the laws*, trans. and ed. A. Cohler, B. Miller and H. Stone (Cambridge: Cambridge University Press, 1989) and the Pléiade edition of the *Oeuvres complètes*, ed. Roger Callois (Paris: Gallimard, 1949–1951, 2 vols.).

defined despotism as a form of government where 'one alone, without law and without rule, draws everything along by his will and his caprice'. In this sense, despotism differed considerably from monarchy, which Montesquieu defined as a government in which 'one alone governs, but by fixed and established laws' (II, 1). Montesquieu did not believe that the distinction between a monarchy and a despotism depended on the personality of the ruler, on his respect or the lack thereof for the law, as traditional Aristotelian political science taught.³³ The crucial difference between both types of governments was of a more structural nature. While despots ruled unfettered, according to their own caprice, the monarch's power was always checked by the existence of what Montesquieu described as 'intermediary powers', rival centres of authority such as the nobility and the *parlements*. By posing a barrier to the royal government, these intermediary powers prevented any encroachment beyond its legally imposed limits. They were like 'mediate channels through which power flows' (II, 4).

This led Montesquieu to claim that the preservation of liberty in a monarchy depended first and foremost upon the nobility – a hereditary, landowning class with specific privileges that distinguished it from the rest of the nation (V, 9). Different elements in the state could act as intermediary powers. In Spain and Portugal, for instance, the power of the clergy was the only barrier against arbitrary power (II, 4). In France, the *parlements*, 'a depository of laws' (II, 4), functioned likewise as a barrier, useful because they slowed down the executive power by their remonstrances (V, 10). But the nobility was the most suitable barrier or intermediary power. Montesquieu was very explicit on this score. 'The most natural intermediate, subordinate power is that of the nobility', he wrote; 'In a way, the nobility is of the essence of monarchy, whose fundamental maxim is: no monarch, no nobility – no nobility, no monarch; rather one has a despot' (II, 4).

Crucial for the maintenance of liberty, intermediary powers also made the monarchy a far more stable government than despotism, Montesquieu believed. 'Monarchical government has a great advantage over despotic', he wrote; 'As it is in its nature to have under the prince several orders dependent on the constitution, the state is more fixed, the constitution more unshakable, and the persons of those who govern more assured' (V, 11). The danger of popular insurrections was much greater in despotic states, where the people were left without natural leaders. In monarchies, things

³³ On the innovativeness of Montesquieu's distinction between monarchy and despotism, see R. Koebner, 'Despot and despotism: vicissitudes of a political term', *Journal of the Warburg and Courtauld Institute* 14 (1951), 275–302.

were rarely brought to excess: 'The leaders fear for themselves; they fear being abandoned; the intermediate dependent powers do not want the people to have the upper hand too much' (V, 11). In short, by delegating part of his authority to certain bodies, as it was done in France, the sovereign increased both the liberty and the stability of the state.

While the nobility was an essential feature of a monarchy, despotic states were characterized by social equality and atomization. Despotism, Montesquieu made clear, dissolved the social tissue: 'In despotic states, each household is a separate empire' (IV, 3). It was a government 'where men believe themselves bound only by the chastisements that the former [the superior] give the latter [the inferior]' (V, 17). There were no real privileges or distinctions between the despot's subjects. John Law, for instance, had encouraged despotism by attacking social hierarchy: 'He wanted to remove the intermediate ranks and abolish the political bodies' (II, 4). Paradoxically, this made despotic states somewhat similar to republics, which were likewise characterized by equality: 'Men are all equal in republican government; they are equal in despotic government; in the former, it is because they are everything; in the latter, it is because they are nothing' (VI, 2).

With his description of the monarchical model as structurally different from despotism, Montesquieu, like Boulainvilliers, made a powerful case for the aristocracy as an instrument of liberty. Like Boulainvilliers, moreover, Montesquieu located the origin of this model in the feudal past. In Book XI of the *Esprit des lois*, he explained how the monarchical form of government had come into being at the time of the conquest of Europe by the German tribes (XI, 8). This suggestion was further explored in the last two books of the *Esprit des lois*, in which Montesquieu delved deeply into the early history of France to discuss feudal laws, which he described as 'those laws which did infinite good and ill, . . . which produced rule with an inclination to anarchy and anarchy with a tendency to order and harmony' (XXX, 1). He was especially interested in the judicial rights connected to the fiefs, and protested against the idea that these rights had been usurped during the political upheaval of the early Middle Ages.³⁴

Unsurprisingly, Montesquieu showed himself highly critical of the anti-aristocratic policies introduced in France in the sixteenth and seventeenth centuries. By undermining the power of the nobility, he warned, the absolute kings did not serve the cause of liberty, as many of his contemporaries believed, but quite the contrary. Without intermediary powers, a monarchy

³⁴ As Montesquieu wrote: 'Les justices ne doivent point leur origine aux usurpations; elles dérivent du premier établissement, et non pas de sa corruption': XXX, 22.

automatically degenerated into democracy or despotism. 'If you abolish the prerogatives of the lords, clergy, nobility, and towns in a monarchy', he warned, 'you will soon have a popular state or else a despotic state' (II, 4).³⁵ Montesquieu was especially critical of the attacks perpetrated by Louis XIV and Richelieu, a man who had 'despotism in his heart', on the independent bodies in the French state (V, 10; V, 11; IX, 7). Such attacks were fundamentally transforming the nature of the French state: 'For several centuries the tribunals of a great European state have been constantly striking down the patrimonial jurisdiction of the lords and the ecclesiastical jurisdiction. We do not want to censure such wise magistrates, but we leave it to be decided to what extent the constitution can be changed in this way' (II, 4).

However, it should be emphasized that Montesquieu's aristocratic liberalism also differed in crucial ways from Boulainvilliers'. As we have seen, Boulainvilliers' feudal liberty consisted of both the property rights of the nobles and their right to participate in the legislative power. His *Histoire* was designed, in part, to argue for a restoration of these participatory institutions, and in particular of the Estates General. Montesquieu, however, made no attempt to claim for the nobility a right to participate in the government with the king. In his discussion of feudalism, he never mentioned representative institutions or participatory rights.³⁶ At no point in the *Esprit des lois* did he plead for a restoration of the Estates General or for an expansion of parliamentary control over royal power. Indeed, Montesquieu explicitly denied that there was another legal source of power in a monarchical state apart from that of the prince: 'I have said intermediate, subordinate, and dependent powers; indeed, in a monarchy, the prince is the source of all political and civil power' (II, 4). The function of the 'intermediary powers' was merely to make the exercise of royal authority more strenuous and difficult.

In this sense, Montesquieu's monarchical model also differed substantially from the English form of government he praised so vigorously in Book XI of the *Esprit des lois*. According to Montesquieu, the English had become the freest nation in the modern world by introducing innovations such as a representative legislature, a bicameral system and, above all, a separation of functional powers. By making sure that the legislative, executive and

³⁵ Montesquieu repeated this again in chapter 6 of Book VIII: 'Les monarchies se corrompent, lorsqu'on ôte peu à peu les prérogatives des corps, ou les privilèges des villes. Dans le premier cas, on va au despotisme de tous; dans l'autre, au despotisme d'un seul.'

³⁶ On this point, see also Iris Cox, *Montesquieu and the history of French laws* (Oxford: The Voltaire Foundation at the Taylor Institution, 1983).

judicial power were never united in the same person or body, the English had invented a system that preserved liberty through an intricate system of checks and balances. The judicial power was exercised by common people drawn by lot; this prevented it from becoming a separate force which could pose a danger to liberty. The executive and legislative powers checked one another, while the legislative itself was divided into two different chambers to provide yet another restraint on power (XI, 6).

The separation of powers could be maintained, Montesquieu explained, because executive and legislative authorities were exercised by sociologically different bodies. In Venice, for instance, legislative, executive and judicial powers were divided over different councils, but these were all composed of magistrates drawn from the same body of nobles, so that they were really 'one and the same power'. This was very different from the English system, where power was exercised by king, nobles and commons (XI, 6). But even more important for the maintenance of this complex system, as Montesquieu explained in Book XIX, were the fierce passions engendered by the division of powers. Because the opposing interests of legislative and executive stimulated the formation of hostile parties within the English political system, the balance could be maintained in face of the natural tendency of power to expand (XIX, 27).

The balance of the English constitution was therefore a balance of functional powers and of partisan passions, and in this sense the English model was very different from the limited monarchy exemplified by France. Indeed, Montesquieu believed that the English state was in a sense the opposite of the monarchy, because it was characterized by a remarkable absence of intermediary bodies, which made its liberty highly fragile.³⁷ It is therefore hardly surprising that Montesquieu explicitly warned against imitating the English example in continental states such as France. 'In a few European states', he wrote, 'some people had imagined abolishing all the justices of the lords. They did not see that they wanted to do what the Parliament of England did' (II, 4). In Book XI, he likewise emphasized that England's neighbours had no reason to envy its 'extreme' form of liberty, for the English constitution could not be easily transplanted to the Continent (XI, 6).

Rather than through fixed constitutional checks and balances, liberty was preserved in the typical continental monarchy through institutionalized

³⁷ As Montesquieu put it: 'Les Anglais, pour favoriser la liberté, ont ôté toutes les puissances intermédiaires qui formaient leur monarchie. Ils ont bien raison de conserver cette liberté; s'ils venaient à la perdre, ils seraient un des peuples les plus esclaves de la terre': II, 4.

insubordination.³⁸ In particular, the nobility's sense of honour created barriers against arbitrary power. While honour encouraged obedience to the prince, it prevented a blind obedience. Montesquieu illustrated this point with a reference to the famous story of the Viscount d'Orte. This sixteenth-century French nobleman had resisted the order of Charles IX to massacre the Huguenots on Saint Bartholomew's Day because he believed it would be dishonourable to kill innocent people even though this order came directly from the king. To Montesquieu, this example showed that the nobility formed a more or less independent body in the state that made the exercise of a capricious authority more difficult (IV, 2). As he expressed it elsewhere: 'Just as the sea, which seems to want to cover the whole earth, is checked by the grasses and the smallest bits of gravel on the shore, so monarchs, whose power seems boundless, are checked by the slightest obstacles and submit their natural pride to supplication and prayer' (II, 4).

Unlike Boulainvilliers' aristocratic liberalism, in other words, Montesquieu's monarchical model did not imply a return to the feudal past. In Boulainvilliers' view, the absolute monarchy, as it had been established since the reigns of Louis XI and Louis XIV, was clearly incompatible with a free government, which required the participation of the nobles in royal government. He therefore turned towards the distant past to find a model for liberty. Montesquieu, however, believed that liberty, in the sense of protection against royal caprice, was possible in the context of an absolute monarchy. Despite his critique on the gradual erosion of intermediary powers by Louis XIV and Richelieu, he was convinced that sovereign power could be limited without being shared. His version of aristocratic liberalism was therefore conservative, rather than reactionary like Boulainvilliers'. Montesquieu himself emphasized his conservative intent in the preface to the *Esprit des lois*: 'If I could make it so that everyone had new reasons for loving his duties, his prince, his homeland and his laws and that each could better feel his happiness in his own country, government, and position, I would consider myself the happiest of mortals.'³⁹

This crucial difference between Boulainvilliers' and Montesquieu's aristocratic liberalism derived from their very different intent in writing. While Boulainvilliers' main goal was to criticize the rise of royal absolutism, Montesquieu was interested instead in defending monarchical government against its republican detractors. It was his goal to argue that the monarchy,

³⁸ On this point, see as well Elie Carcassonne, *Montesquieu et le problème de la constitution française au XVIIIe siècle* (Paris: Slatkin, 1928), p. 82; and Bernard Manin, 'Montesquieu et la politique moderne', *Cahiers de philosophie politique* (1985), 214–229.

³⁹ Montesquieu, *Spirit of the Laws*, p. xlv.

as it existed in eighteenth-century France, was equally as capable of preserving liberty as the classical republics of antiquity. The typology of governments presented in the *Esprit des lois* must be understood in the first instance as a critique of the republican paradigm, and only in the second instance as a condemnation of the absolutist tendencies of the eighteenth-century French state.

From his early writings, it is clear that Montesquieu, like many of his contemporaries, had great admiration for the classic republics of antiquity. In his *Pensées morales*, written before 1725, he commented:

It is the love of the fatherland which gives to the Greek and Roman histories that nobility which ours lack . . . When one thinks of the smallness of our motifs, of the baseness of our means, of the avarice with which we look for vile rewards, of that ambition which is so different from the love of glory, one is astonished by the differences in image, and it seems as if humankind has been diminished by a cubit since those two great peoples have ceased to exist.⁴⁰

In the *Esprit des lois*, Montesquieu likewise praised the ancient republics. He remarked that republics were based on virtue, 'love of the laws and the homeland', which required 'a continuous preference of the public interest over one's own', and from this sentiment 'all the individual virtues' derived (IV, 5). In ancient times, these virtuous republics had shown themselves capable of things 'that we no longer see and that astonish our small souls' (IV, 4). For this reason, some commentators have described Montesquieu as a republican author. Elena Russo, for instance, regards his commentary on virtue in democratic republics as 'a search for a social ethics for the modern age', and she concludes that 'his references to the ancients are very often covert accusations against the morality of the moderns'.⁴¹

⁴⁰ Montesquieu, *Oeuvres complètes*, I, *pensée* no. 598, p. 1127: 'C'est l'amour de la patrie qui a donné aux histoires grecques et romaines cette noblesse que les nôtres n'ont pas . . . Quand on pense à la petitesse de nos motifs, à la bassesse de nos moyens, à l'avarice avec laquelle nous cherchons de viles récompenses, à cette ambition si différente de l'amour de la gloire, on est étonné de la différence des spectacles, et il semble que, depuis que ces deux grands peuples ne sont plus, les hommes se sont raccourcis d'une coudée.'

⁴¹ Elena Russo, 'The youth of moral life: the virtue of the ancients from Montesquieu to Nietzsche' in *Montesquieu and the spirit of modernity*, ed. David Carrithers and Patrick Coleman (Oxford: The Voltaire Foundation at the Taylor Institution, 2002), pp. 101–123. Montesquieu's interest in and positive evaluation of ancient republics is discussed by, among others, D. Lowenthal, 'Montesquieu and the classics: republican government in the Spirit of the Laws' in *Ancients and Moderns. Essays on the tradition of political philosophy in honor of Leo Strauss*, ed. J. Cropsey (New York and London: Basic Books, 1964), pp. 258–287; Nannerl O. Keohane, 'Virtuous republics and glorious monarchies: two models in Montesquieu's political thought', *Political Studies* 20 (1972), 383–396; Judith Shklar, 'Montesquieu and the new republicanism' in *Machiavelli and republicanism*, ed. Gisela Bock, Quentin Skinner, and Maurizio Viroli (Cambridge: Cambridge University Press, 1990), pp. 265–280.

Nevertheless, Montesquieu must be counted among the critics of the republican paradigm rather than among its supporters. His critique of the republican project started from a rejection of the republican conception of liberty.⁴² In his *Pensées*, he criticized on several occasions the widespread conviction that liberty was to be found in republics rather than in monarchies.

A free people is not that which has such and such a form of government [he wrote], it is that which enjoys the form of government established by the Law, and one should not doubt that the Turks would believe themselves slaves if they were subjugated by the Republic of Venice, and that the peoples of India would consider it a cruel servitude to be ruled by the Company of Holland. From this, one should conclude that political liberty concerns moderate monarchies like it does republics, and that it is no more distant from the throne than from the senate; and that each man is free who has good reason to believe that the fury of a single person or of the many will not cost him his life or property.⁴³

This critique was further developed in Book XI of the *Esprit des lois*, in which Montesquieu discussed at length the meaning of the concept of liberty. He now explained that the republican notion of liberty was based on an incorrect assumption: namely, that people could be free only when they governed themselves. ‘The power of the people has been confused’, he emphasized, ‘with the liberty of the people’ (XI, 2). Instead of doing what one wanted, political liberty – which Montesquieu distinguished from ‘philosophical’ liberty, or ‘the exercise of one’s will’ – was equal to the rule of the law – to ‘security’ (XII, 2). ‘Liberty is the right to do everything the laws permit’, he explained: it was not who made the law that was the important issue, but that it was upheld, that no-one had the opportunity to put himself above the law. Independence was not the same as liberty. If the citizens could do everything the laws prohibited, there would be no more liberty, for they would no longer be bound by the law. From this perspective, it becomes possible to understand Montesquieu’s somewhat

⁴² But compare with Cathérine Larrère, who argues that Montesquieu’s definition of liberty was based on the republican one; cf. ‘L’Esprit des lois: tradition et modernité’ in *1748: l’année de l’Esprit des lois*, ed. Cathérine Larrère and Cathérine Volpilhac-Augier (Paris: Champion, 1999), pp. 141–160.

⁴³ Montesquieu, *Oeuvres complètes*, I, *pensée* no. 631, p. 1152. ‘Un peuple libre n’est pas celui qui a une telle ou une telle forme de gouvernement, c’est celui qui jouit de la forme de gouvernement établie par la Loi, et il ne faut pas douter que les Turcs ne se crussent esclaves qu’ils étoient soumis par la République de Venise, et que les peuples des Indes ne regardent comme une cruelle servitude d’être gouvernés par la Compagnie de Hollande. De là, il faut conclure que la liberté politique concerne les monarchies modérées comme les républiques, et n’est pas plus éloignée du trône que d’un sénat; et tout homme est libre qui a un juste sujet de croire que la fureur d’un seul ou de plusieurs ne lui ôteront pas la vie ou la propriété de ses biens.’ He expressed a very similar thought in *pensée* no. 1802, *Oeuvres complètes*, I, p. 1431.

enigmatic definition of liberty as the capability to do what one should want to do: 'In a state, that is, in a society where there are laws, liberty can consist only in having the power to do what one should want to do and in no way being constrained to do what one should not want to do' (XI, 3).

In other words, Montesquieu made a very specific claim about liberty. He did not argue that liberty was an essentially negative concept, that could be maintained in any type of government. If the sovereign was allowed to rule according to his own caprice, liberty or security were by definition impossible. Arbitrary governments, where the prince could change the laws at will, were automatically despotic; indeed, the very definition of despotism was that it was a government where the ruler could do as he liked (II, 1). Even if the prince did not actually abuse his power in a tyrannical way, the danger always existed that he would do so, as those in power had a natural tendency to use it wrongly: 'It has been eternally observed that any man who has power is led to abuse it; he continues until he finds limits' (XI, 4). Power should therefore be limited by the rule of the law.

Montesquieu believed that both republics and monarchies were capable of guaranteeing the rule of the law. At the same time, however, he was convinced that, in the modern world, the republican model had become an anachronistic one.⁴⁴ In his first published work on classical antiquity, the *Considérations*, he stressed the temporal and mental differences separating the Roman republic from modern Europe. In the *Esprit des lois*, he further elaborated on this theme by arguing that both the necessarily small size of republican states and the virtue they demanded from their citizenry made the republican form of government unsuitable for modern states. In order to allow a nation to govern itself, Montesquieu argued, citizens had to be able to make decisions collectively, which was impossible in the large nations of modern Europe (VIII, 16). Even more importantly, the mentality of modern citizens, characterized by a general corruption ('the dregs and corruption of modern times') (IV, 6), precluded the virtuousness necessary for self-government. Modern citizens were more concerned with their private interests than with the public good. In Montesquieu's view, public virtue, the renunciation of private happiness for public good, was something 'we find in the ancients and know only by hearsay' (III, 5).

⁴⁴ That Montesquieu took a position on the side of the moderns in the epochal 'querelle des anciens et modernes' is an argument which can be traced back to Leo Strauss; more recently David Carrithers has described him as a 'modern', albeit with 'certain reservations': 'Introduction: Montesquieu and the spirit of modernity' in *Montesquieu and the spirit of modernity*, ed. David Carrithers and Patrick Coleman (Oxford: The Voltaire Foundation at the Taylor Institution, 2002), p. 21.

Limited monarchies, on the contrary, were depicted by Montesquieu as more suitable for the preservation of liberty in the modern world.⁴⁵ On repeated occasions in the *Esprit des lois*, Montesquieu drew the attention of his readers to the differences between monarchies and republics. In Book VIII, for instance, he pointed out that, unlike the republican form of government, the limited monarchy was the proper form of government for medium-large nations such as the states of eighteenth-century Europe (VIII, 17). Moreover, monarchies were also better tailored to the mentality of modern citizens. Thus, Montesquieu emphasized that monarchy did not require the public virtue which it was impossible to obtain from modern citizens anyway. 'In monarchies', he wrote, 'politics accomplishes great things with as little virtue as it can, just as in the finest machines art employs as few motions, forces, and wheels as possible' (III, 5). Monarchical subjects were motivated by honour, the selfish love of distinctions, to make sacrifices for the common good: 'Honour makes all parts of the body politic move; its very action binds them, and each person works for the common good, believing he works for his individual interests' (III, 7).

Montesquieu's monarchical model, moreover, implied a social ideal that was very different from the austere poverty idealized in the republican paradigm. He accepted the republican axiom that a self-governing republic could only survive if the laws inspired a love of 'equality' and 'frugality' (V, 4–6). Monarchies, however, as Montesquieu emphasized, could accommodate a good deal of luxury and inequality. Indeed, social hierarchy, inequality of wealth and privileges, were essential to the monarchical system. 'Monarchical government assumes, as we have said, pre-eminences, ranks, and even an hereditary nobility', he wrote (III, 7), and 'By the constitution of monarchies, wealth is unequally divided in them' (VII, 4).⁴⁶ Inequality helped to safeguard liberty in the monarchical system rather than

⁴⁵ For a similar reading of Montesquieu's defence of the monarchical model as a more suitable alternative to the classical republic for modern nations, see Melvin Richter's introduction to his *The political theory of Montesquieu* (Cambridge: Cambridge University Press, 1977). Montesquieu's enthusiasm for the limited monarchy was long downplayed in the literature in favour of his admiration for the English example. See Thomas L. Pangle, *Montesquieu's philosophy of liberalism. A commentary on The Spirit of the Laws* (Chicago: University of Chicago Press, 1973). More recently, however, commentators have come to highlight the importance of the 'modern monarchy' in the general economy of his political system. See Céline Spector, *Montesquieu: pouvoirs, richesses et sociétés* (Paris: Presses Universitaires de France, 2004); David Carrithers' introduction to David Carrithers, Michael A. Mosher and Paul A. Rahe, eds., *Montesquieu's science of politics. Essays on The Spirit of the Laws* (Lanham: Rowman and Littlefield Publishers, 2001); and Michael Sonenscher's brief but brilliant discussion of the *Esprit des lois* in the introduction to his edition of *Sieyès: political writings, including the debate between Sieyès and Tom Paine in 1791* (Indianapolis: Hackett Publishing, 2003), pp. 1–lii.

⁴⁶ This is my own translation of the original French: 'Par la constitution des monarchies, les richesses y sont inégalement partagées.'

to undermine it. For this reason, Montesquieu even defended the feudal privileges so much despised by the *philosophes*: 'There must be privileges in governments where there are necessarily distinctions between persons' (VI, 1). He moreover emphasized that commerce, which was seen as a threat to liberty by most republicans, was a beneficial force in a monarchy: 'The laws must favour all the commerce that the constitution of this government can allow, so that the subjects can, without being ruined, satisfy the needs of the prince and his court' (V, 9).

The differences between monarchies and republics become especially clear in Montesquieu's discussion of the property laws required in both forms of government. Above, we saw how their commitment to social equality led republican thinkers to attach great importance to inheritance laws that encouraged the division of property. In Book V of the *Esprit des lois*, entitled 'How the laws establish equality in a democracy', Montesquieu likewise claimed that, in a republic, the dowries, donations, inheritances, testaments and all other means of contracting away property needed to be regulated so that they would encourage the equal division of property over all the citizens (V, 5). Montesquieu developed this idea at greater length in Book XXVII of the *Esprit des lois*, 'On the origin and revolutions of the Roman laws on successions', in which he made clear how the entire Roman legal system had encouraged the division of property. At the time of the demise of the republic and the establishment of the empire, the inheritance laws had been changed as well (XXVII, single chapter).

In monarchies, however, Montesquieu explained, inheritance laws should encourage the concentration of landed property in the hands of noble families.⁴⁷ Monarchical law needed to 'sustain' the nobility, 'not in order to be the boundary dividing the power of the prince from the weakness of the people, but to be the bond between them'. This meant that the laws should maintain the hereditary character of the elite, without which no nobility could exist. Even more importantly, they should maintain the concentration of landed property in the hands of the same families. Montesquieu pleaded for entailments, 'which keep goods in families' as being 'very useful in this government [monarchy], though they are not suitable in others'. The right of redemption,⁴⁸ which 'will return to the noble families the lands that a prodigal relative has transferred', and primogeniture were necessary as well: 'In monarchies, a man can be permitted to

⁴⁷ But compare with Eric Nelson, who sees Montesquieu as a defender of the republicans' austere social ideal rather than as a critic. Nelson, *The Greek tradition in republican thought*, pp. 155–195.

⁴⁸ The 'retrait lignager' is a customary right whereby certain relatives of a vendor of real estate are entitled to repurchase the property from the purchaser.

leave most of his goods to one of his children; this permission is good only there' (V, 9).

These rights of property, Montesquieu emphasized, should belong solely to the nobility: 'All these prerogatives will be peculiar to the nobility and will not transfer to the people, unless one wants to run counter to the principle of government, unless one wants to diminish the force of the nobility and the force of the people.' Unlike Boulainvilliers, however, Montesquieu made no attempt to legitimate such aristocratic privileges as ancient rights of conquest. Rather, they were justified by their general utility. Despite the inconveniences they might cause, Montesquieu explained, in a monarchy they were necessary for the maintenance of aristocratic honour, and therefore of liberty: 'These are the peculiar drawbacks of a nobility, which disappear in the face of the general utility it procures' (V, 9).

With his description of the limited monarchy, in short, Montesquieu provided his readers with a political model that was constructed quite explicitly in opposition to the republican ideal. He made this clear again in Book XI of the *Esprit des lois*, in which he depicted the monarchy as a relatively new invention in the science of freedom. Modern monarchies, he pointed out, were the result of the corruption of the form of government the Germanic people had brought with them at the time of the conquest of the Gallo-Roman Empire. They had been unknown in the ancient world. Although the Greeks or the Romans had had monarchical rulers, they had not been familiar with the monarchy as a form of government in which the rule of the prince was checked by the existence of intermediary powers. 'The ancients did not at all know the government founded on a body of the nobility', he wrote (XI, 8). Montesquieu found evidence for this view in Aristotle's *Politics* which clearly showed, in his opinion, a certain awkwardness in its discussion of the monarchy, illustrating that the ancients 'could not achieve a correct idea of the monarchy' (XI, 9).

It has become clear by now that Montesquieu's version of aristocratic liberalism was very different from Boulainvilliers'. It was designed to uphold the status quo and to defend the monarchy from republican attacks rather than to criticize it.⁴⁹ In doing so, Montesquieu developed a particular definition of liberty. Contrary to the republican paradigm, he argued that freedom could exist under royal sovereignty, with the precondition that the power of the prince was checked by intermediary bodies.

⁴⁹ But compare Denis Richet, 'Autour des origines idéologiques lointaines de la Révolution française: élites et despotisme', *Annales ESC* (1969), 1–23, which stresses the anti-monarchical nature of Montesquieu's thought.

ARISTOCRATIC LIBERALISM AFTER 1748

The theories of Boulainvilliers and Montesquieu caused a considerable stir in the political debate of eighteenth-century France. Montesquieu's claims about the role of the nobility and its spirit of honour in a monarchy became the subject of a heated discussion upon the publication of Abbé Coyer's *Noblesse commerçante* (1756). Taking an explicit stance against Montesquieu, Coyer demanded in this brochure political encouragement of noble enterprises in maritime, wholesale, and even retail trade. His ideas immediately caused a furor in Paris and scandalized the French reading public, leading to a heated debate. In March 1756, the publication of the *Noblesse militaire* by the Chevalier d'Arc marked the first elaborate attempt to refute Coyer's ideas and to defend Montesquieu's vision of an honourable nobility. Within a year, Coyer's and d'Arc's texts had gone through several editions, and no fewer than thirty pamphlets, written by key figures in Parisian intellectual life, had appeared on the subject. Many others, such as Mirabeau, referred to the debate in their extensive works.⁵⁰

Boulainvilliers' *Histoire de l'ancien gouvernement* proved perhaps even more controversial than Montesquieu's defence of nobility and honour. It has been argued that Boulainvilliers single-handedly revived historical production in eighteenth-century France through the upheaval his book provoked about the genesis of the feudal system and the position of the Third Estate in the Old Regime monarchy. His arguments about the origins of the fiefs and the subsequent usurpation of feudal rights by the monarchy were refuted at length by Abbé Dubos, engendering a debate in which Montesquieu participated as well. No less contentious were Boulainvilliers' views about the racial distinctions between the nobility and the Third Estate. His claims about the illegal nature of the emancipation of the serfs (which he had depicted as an infraction of the nobility's right of ownership) provoked a storm of protest from defenders of the Third Estate. Indeed,

⁵⁰ Recent discussions of the debate provoked by Abbé Coyer's pamphlet include Jay M. Smith, 'Social categories, the language of patriotism, and the origins of the French Revolution: the debate over *noblesse commerçante*', *The Journal of Modern History* 72 (2000), 339–374; John Shovlin, 'Toward a reinterpretation of revolutionary antinobility: the political economy of honour in the Old Regime', *Journal of Modern History* 72 (2000), 35–66; Ulrich Adam, 'Nobility and modern monarchy – J. H. G. Justi and the French debate on commercial nobility at the beginning of the Seven Years War', *History of European Ideas* 29 (2003), 141–157. For a discussion of later responses to Montesquieu's *Esprit des lois*: Jay M. Smith, 'Recovering Tocqueville's social interpretation of the French Revolution: eighteenth-century France rethinks nobility' in *Tocqueville and beyond. Essays on the Old Regime in honor of David D. Bien*, ed. Robert M. Schwartz and Robert A. Schneider (Newark and London: University of Delaware Press, 2003), pp. 52–70.

Boulainvilliers' arguments were often turned against the nobility, as evidence of the inhuman and violent character of aristocratic government.⁵¹

If Boulainvilliers' more extreme claims about the rights and privileges of the nobility were generally rejected, it is nevertheless possible to argue that his feudal ideal had a more widespread influence on political debate in eighteenth-century France than Montesquieu's more complex defence of the limited monarchy. In the charged political atmosphere of the second half of the eighteenth century, Boulainvilliers' depiction of feudal liberty, as well as his ranting against the monarchy's ill-begotten power, proved highly contagious.⁵² Invocations of an ancient feudal constitution – stripped of its offensive racial characteristics – held a central place in the violent clash between the monarchy and the elites of the Old Regime which was triggered in 1771 by Maupeou's reforms of the *parlements*. Like Boulainvilliers, the more extreme parliamentarians came to see a restoration of the Estates General as the only way to halt the growth of despotism in France.⁵³

The ideal of ancient liberty also held a central place in the debate which was started with the calling of the Assembly of the Notables by Calonne. Between July 1787 and the end of September 1788, hundreds of pamphlets appeared in which French history was presented as a crescendo of usurpations of national constitutional rights by the forces of 'ministerial despotism'. Again, the cure for this problem was sought in a restoration of the Estates General, which was attributed the task of reconfirming or perfecting France's ancient constitution.⁵⁴

However, the political crisis of 1788–1789 eventually led to a series of events which had far more radical implications than the patriot pamphleteers had envisaged. With the calling of the Estates General, and its transformation into the National Assembly, the monarchy of the Old Regime was not so much restored to its pristine feudal condition as overthrown.

⁵¹ J. Q. C. Mackrell, *The attack on 'Feudalism' in eighteenth-century France* (London: Routledge, 1973), pp. 17–47.

⁵² Of course, the revival of ancient constitutionalism should not be written solely on Boulainvilliers' *conto*. Eighteenth-century anti-absolutists could also draw on the older texts of the sixteenth-century monarchomachs.

⁵³ Carcasonne, *Montesquieu*, pp. 379–467, extensively discusses the *parlementaire* discourse, which he describes as being influenced primarily by Montesquieu; but compare Durand Echeverria, who argues that the parliamentarians were far more radical in their anti-absolutism than Montesquieu: *The Maupeou Revolution. A study in the history of libertarianism. France, 1770–1774* (Baton Rouge and London: Louisiana State University Press, 1985), p. 62.

⁵⁴ Dale Van Kley, 'From the lessons of French history to truths for all times and all people. The historical origins of an anti-historical declaration' in *The French idea of freedom. The Old Regime and the Declaration of Rights of 1789*, ed. Dale Van Kley (Stanford: Stanford University Press, 1994), pp. 72–113.

As a result, the attack on monarchical despotism in the name of feudal liberty lost its *raison d'être*. Erstwhile aristocratic reformers, such as Emmanuel d'Antraigues, suddenly found themselves on the side of the embattled king. Antraigues' *Mémoire sur les Etats-généraux*, one of the most popular pamphlets of the pre-Revolution, had been almost as critical of the monarchy's historical role as Boulainvilliers' *Histoire*. As the Revolution radicalized, however, Antraigues became a staunchly pro-monarchical, counter-revolutionary theorist, who even acted as a secret agent for the exiled Bourbon princes.⁵⁵

If the downfall of the Old Regime monarchy deflated the polemical value of Boulainvilliers' feudalism, this was not the case, however, with Montesquieu's defence of the limited monarchy. As the ideals of classical republicanism became ever more prominent in the revolutionary discourse, and in particular in its Jacobin incarnation,⁵⁶ opponents of the Revolution increasingly turned towards Montesquieu. In the *Esprit des lois*, they found both a critique of and an alternative to the revolutionary equation between liberty and equality.

One of the first political theorists to develop such a Montesquieuan critique of the revolutionary discourse was Jacques Necker. After his dismissal from office in 1790, Necker had returned to Switzerland, where he continued to follow and comment upon French politics. After his apologetic *Sur l'administration de M. Necker* (1791), Necker published a more comprehensive political treatise, *Du pouvoir exécutif dans les grands états* in 1792, in which he criticized the Constitution of 1791, which he believed to be too hostile towards royal power. Instead, Necker proposed as a model the English constitution, where the executive power was much more respected. *Du pouvoir exécutif* provoked much interest in France, although most reviewers violently disagreed with its arguments. It was also translated into English and German, and it had a considerable influence on German political thinkers.⁵⁷

But Necker did not just develop a critique of the excessive separation of powers established in 1791. He also attacked what was in his view the egalitarian ideology of the National Assembly – an attack which he would later expand in his *Réflexions sur l'égalité*.⁵⁸ In a chapter entitled 'Whether

⁵⁵ On the evolution of Emmanuel d'Antraigues, see Paul Beik, *The French Revolution seen from the Right. Social theories in motion, 1789–1799* (Philadelphia: The American Philosophical Society, 1956), pp. 11–13, 17–19, 48–51.

⁵⁶ On the survival of classical republicanism in the Jacobin discourse, see Baker, 'Transformations', and Linton, *The politics of virtue in Enlightenment France*, p. 6.

⁵⁷ Henri Grange, *Les idées de Necker* (Paris: Klincksieck, 1974), pp. 63–71.

⁵⁸ The *Réflexions sur l'égalité* were published as a part of Necker's 1796 treatise *De la Révolution française*.

absolute equality is a necessary condition of liberty', Necker took issue with the idea 'that without absolute equality, there is no liberty, and that equality is the principal and basic idea of the French Constitution'.⁵⁹ He started out by reminding his readers that the equation between liberty and equality was of recent date, and that the Revolution had originally aimed at the first rather than the latter. The 'rigorous principle of absolute equality' had only taken hold in France on 19 June 1790, with the legislation against the use of noble titles – and even this decree, Necker claimed, had not really reflected a consensus in the National Assembly.⁶⁰ In other words, equality, 'that pretended original idea of the French Constitution', had been forced upon the Assembly 'like so many others, by the flow of public opinion'.⁶¹

In Necker's view, the revolutionary equation between liberty and equality was deeply flawed. An aristocracy – albeit not the caste-like nobility of the Old Regime – was a necessary prerequisite for liberty, as was proven by the English example. If the hierarchy of ranks was destroyed, the monarchy, and therefore liberty, could not be maintained:

There is no liberty without public order, there is no public order without Executive Power, in a great Kingdom, without the maintenance of Royal Majesty, and that Majesty cannot subsist without a mediating rank between the Throne and the People. Thus, the system of equality, pushed to an extreme, far from being favourable to liberty, in a Monarchical Government, is completely contrary to it.⁶²

Necker therefore pleaded for the creation, in imitation of the English example, of a 'Chamber of Peers', which would act as 'an intermediary Body between the Throne and the People'.⁶³

The claim that liberty and equality were incompatible ideals rather than natural bedfellows was also made by other critics of the Revolution. In his two-volume treatise *De l'égalité* (1796), the somewhat eccentric Swiss political thinker and *philosophe* François-Louis d'Escherny made an ambitious, if not entirely successful, attempt to refute Rousseau's *Du contrat social*. Escherny emphasized that his critique had been triggered by what he

⁵⁹ Jacques Necker, *Du pouvoir exécutif dans les grands états* (n.p., 1792, 2 vols.), I, p. 364: 'que sans l'égalité absolue, il n'y a point de liberté, et que cette égalité est l'idée savante, l'idée mère de la Constitution Française'.

⁶⁰ *Ibid.*, p. 366: 'le principe rigoureux de l'égalité absolue'.

⁶¹ *Ibid.*, p. 369: 'cette prétendue idée mère de la Constitution Française . . . comme tant d'autres, par le flot des opinions populaires'.

⁶² *Ibid.*, p. 379: 'Il n'y a point de liberté sans ordre public, il n'y a point d'ordre public sans Pouvoir Exécutif, dans un grand Royaume, sans le maintien de la Majesté Royale, et cette Majesté ne peut subsister sans un rang médiateur entre le Trône et le Peuple. Ainsi, le système de l'égalité, porté à son dernier période, loin d'être favorable à la liberté, dans un Gouvernement Monarchique, lui est absolument contraire.'

⁶³ *Ibid.*, p. 386: 'un Corps intermédiaire entre le Trône et le Peuple'.

believed to be the revolutionary attempt to put Rousseau's egalitarian doctrine into practice. With the Revolution, he explained, the issue of equality and popular sovereignty had come to the forefront of the political debate. For the first time in history, a people had attempted to put the abstract principle of equality into practice.⁶⁴

Eschery condemned this enterprise for many different reasons. In his view, equality was an 'anti-social' principle, because it ignored the natural distinctions between individuals and therefore helped to undermine the social order. Indeed, equality was 'an inexhaustible source of rivalry, bitterness, animosity and hatred'.⁶⁵ As a political principle, equality was no less dangerous. Paraphrasing Montesquieu, Eschery explained that equality was compatible with democracy or despotism, while the maintenance of a monarchy required social hierarchy. Indeed, Eschery went even further than Montesquieu by arguing that even a 'republic' – which, he explained, differed from a 'democracy' by virtue of the representative nature of its legislative body – was incompatible with a levelled society. Social distinctions prevented such a representative system from degenerating into despotism: 'Orders are formed, people join forces: those distinctions give rights, they are defended, and a force is created in opposition to arbitrary power which it is bound to respect.'⁶⁶

The French revolutionaries, however, with their egalitarian drive, had taken the same road as the despotic monarchies of the Old Regime. 'The closer the distance between people in a society', Eschery wrote, 'the more authority is arbitrary; and conversely, the less equality there is, the less despotism makes itself felt'. This was abundantly illustrated by the history of absolutism: 'When kings want to augment their authority, they seem to tend by instinct towards equality, while if they encounter obstacles, these are always among the ranks of the powerful and the privileged.'⁶⁷ To emphasize this point, Eschery cited the examples of Joseph II – who had marched to arbitrary power by 'the downtrodden route of equality'⁶⁸ – and of the French monarchy itself, which had come to resemble an oriental despotism after the destruction of the nobility by the French kings. In short,

⁶⁴ F. L. d'Eschery, *De l'égalité ou principes généraux sur les institutions civiles, politiques et religieuses; précédé de l'éloge de J. J. Rousseau en forme d'Introduction* (Paris, 1814, 2 vols.), I, p. 31.

⁶⁵ *Ibid.*, p. 155: 'une source intarissable de rivalité, d'aigreur, d'animosité et de haine'.

⁶⁶ *Ibid.*, p. 174: 'On y fait corps, on se rallie: ces distinctions donnent des droits, on les défend, et on oppose au pouvoir arbitraire des masses qu'il est forcé de respecter.'

⁶⁷ *Ibid.*, pp. 220–222: 'Plus ces distances sont rapprochées, plus l'autorité y est arbitraire; et réciproquement, plus on y diffère de l'égalité, et moins le despotisme s'y fait sentir. Et lorsque les rois, qui, pour augmenter leur autorité, paroissent tendre comme par instinct à l'égalité, rencontrent des obstacles, c'est toujours dans des ordres puissants et privilégiés.'

⁶⁸ *Ibid.*, p. 222: 'la route battue de l'égalité'.

he concluded, 'despotism and equality strengthen each other, and there is always action and reaction of the one on the other'.⁶⁹

A very similar argument was made by Antoine Ferrand, a member of an old parliamentary family. Although Ferrand had started out with revolutionary sympathies, the transformation of the Estates General into the National Assembly had led him to adopt a more conservative position. In his *Théorie des révolutions*, which he had written in 1811 (although it remained unpublished until 1817), Ferrand attempted to make a scientific study of the revolutionary phenomenon. He started from the principle that revolutions were caused by simmering human passions, just like volcanic 'revolutions' were caused by fires which lurked underneath the crust of the earth. By a careful comparison of different revolutions over time, it would become possible to identify those causes and passions, and thus, Ferrand hoped, to prevent such upheavals in the future.⁷⁰

Among the revolutionary passions Ferrand discussed was the drive for popular sovereignty and equality.⁷¹ Like Escherny, he explained that a condition of absolute equality was incompatible with a regular government. It could lead to democracy, which would, in his view, result in revolution, or in tyranny. Equality was the greatest enemy of liberty, and the staunchest support of despotism.⁷² Great geniuses like Montesquieu had always combated it, Ferrand wrote, because they recognized 'that man, and in particular an all-powerful man, needs counterweights, to make him feel, as Montesquieu puts it, the inconveniences of greatness'.⁷³ In short, inequality was necessary for liberty and stability: 'The true supports of a sage and equal liberty are in the maintenance of those very inequalities necessary for the political order.'⁷⁴

From this perspective, the failure of the revolutionaries to establish liberty in France was, of course, hardly surprising. In the *Esprit des lois*, as Ferrand reminded his readers, Montesquieu had warned that the policy of the absolute kings – actively undermining the independence of the nobility – would lead either to a despotic or to a popular state. According to

⁶⁹ *Ibid.*: 'le despotisme et l'égalité s'entr'aident réciproquement, et il y a toujours action et réaction de l'un à l'autre'.

⁷⁰ Antoine de Ferrand, *Théorie des révolutions, rapprochée des principaux événements qui en ont été l'origine, le développement ou la suite; avec une table générale et analytique* (Paris, 1817, 4 vols.), I, preface. On Ferrand, see Beik, *The French Revolution*, pp. 19–20, 40–43, 55–57.

⁷¹ Ferrand, *Théorie*, II, pp. 248–265. ⁷² *Ibid.*, p. 261.

⁷³ *Ibid.*, p. 262: 'qu'il falloit à l'homme, et sur-tout à l'homme tout-puissant, des points d'arrêt, pour lui faire sentir, comme dit Montesquieu, les inconvénients de la grandeur'.

⁷⁴ *Ibid.*, p. 264: 'Les vrais soutiens d'une liberté sage et égale sont dans le maintien même des inégalités nécessaires à l'ordre politique.'

Ferrand, the history of the Revolution taught as much. Although feudalism, in its unmitigated form, was not a stable regime, feudal remnants had played an important role in the monarchy of the Old Regime, restricting the power of the monarch. When the last remains of feudalism had been destroyed in France, liberty had been lost, Ferrand wrote. Thus, the failure of the Jacobin republic helped to underscore the incompatibility of liberty and equality which had already been highlighted by Montesquieu:

The prophecy of Montesquieu has fulfilled itself; and France, condemned by itself to become a popular State or a despotic State, has, for ten years, tried and used democracy by dint of its crimes, and for ten more years, it has abased itself under a despotism which it sustained by dint of baseness, but which has extinguished itself by dint of folly.⁷⁵

In short, after 1789, aristocratic liberalism *à la* Montesquieu was revived as a critique on and an alternative for revolutionary republicanism and its egalitarian political ideal by writers on very different sides of the political spectrum. While the Revolution was still in full spate, such calls for the restoration of social hierarchy in the name of liberty did not resonate very loudly. But that changed once the revolutionary upheaval had ended. In the years immediately following the restoration of the Bourbon dynasty in 1814, a particular set of circumstances made aristocratic liberty into one of the central political concepts of the post-revolutionary era. As we shall see, this revival of aristocratic liberalism was started by a hitherto largely neglected group of Restoration thinkers, the royalist heirs of the counter-revolutionary movement.

⁷⁵ *Ibid.*, pp. 304–305: ‘La prophétie de Montesquieu s’est accomplie; et la France, condamnée par elle-même à devenir ou un État populaire ou un État despotique, a, pendant dix ans, essayé et usé la démocratie à force des crimes, et, pendant dix autres, s’est avilie sous un despotisme qu’elle soutenoit à force de bassesse, mais qui s’est usé lui-même à force de folies.’

Liberty and inequality: the royalist discourse

To the publicists and political thinkers who came to maturity during the July Monarchy or the Second Empire, the Restoration period seemed in retrospect to have been a period of vigorous and intellectually elevated ideological strife.¹ In 1841, the historian and liberal-Catholic political thinker Louis de Carné looked back nostalgically on the years between 1814 and 1830 as a time in which there was still a debate between ‘great political schools’, when orators and politicians defended great political principles rather than their own petty interests.² Likewise, Alexis de Tocqueville was to call the Restoration the time of ‘great issues’ and ‘great parties’, contrasting it favourably with the July Monarchy and the Second Empire.³

The vibrancy of Restoration debate was to an important degree stimulated by the prominent political and intellectual role of the heirs of the Counter-Revolution, the royalists (also described as ultra-royalists or ultras by their political opponents). While Louis XVIII’s supporters were initially disappointed with the settlement of 1814 – which, despite the return of the Bourbon dynasty to France, did not restore the monarchy of the Old Regime but instead introduced an English-style constitutional monarchy with a bicameral legislature – they quickly adapted to the new situation. The royalists transformed themselves into a political party with a more or less disciplined parliamentary faction and electoral associations, as well as founding their own political journal, *Le Conservateur*, to influence public opinion.⁴

In the course of the Restoration period, the royalists managed to turn themselves into an important political force. The first elections after the

¹ This chapter draws on De Dijn, ‘Aristocratic liberalism in post-revolutionary France’, *The Historical Journal* 48 (2005), 661–681.

² Louis de Carné, *Du gouvernement représentatif en France et en Angleterre* (Paris, 1841), pp. 249–279, quote p. 264.

³ Larry Siedentop, *Tocqueville* (Oxford: Oxford University Press, 1994), p. 21.

⁴ J. J. Oechslin’s account of the royalist party *Le mouvement ultra-royaliste sous la Restauration. Son idéologie et son action politique* (Paris: R. Pichon, 1960) is still the most comprehensive.

restoration of the monarchy resulted in a considerable electoral victory for the royalist party. Louis XVIII's initial satisfaction with this royalist victory soon disappeared when it became clear that they intended to act as an independent political force rather than as the king's ministers' supporters, and he thereupon decided, to the royalists' great dismay, to dissolve the Chamber – an experience which convinced many of them that even a Bourbon king's powers should be limited. After a new electoral victory in 1820, however, it became clear that the king's ministers could no longer govern without the royalists' support, and an exclusively royalist government headed by the provincial nobleman Joseph de Villèle came to power. With the exception of a brief interlude in 1827–1828 (when a centrist government headed by Jean Baptiste de Martignac was in power), the royalists continued to dominate the government until the end of the Restoration period.⁵

Intellectually, the royalists played just as prominent a role as they did on the political level. They were supported by some of the most talented publicists and political thinkers of the early nineteenth century. If most of these writers have been completely, and undeservedly, forgotten,⁶ they were quite well known in their own day; indeed, some of the tracts written to propagate the royalist cause were best-sellers in the Restoration period. Between 1814 and 1830, these royalist publicists and political thinkers developed a coherent analysis both of the problems confronting the post-revolutionary political system and of the solutions to them. As we shall see, the more moderate royalist thinkers, like their counter-revolutionary predecessors, drew heavily on Montesquieu's *Esprit des lois* for this analysis.

LIBERTY AND INEQUALITY: THE ROYALISTS' CONCEPTION OF FREEDOM

During the Revolution, a number of royalist theorists had renounced liberty as a political ideal. In face of the chaos which resulted from the rebellion against royalist authority, these counter-revolutionary thinkers had

⁵ Emmanuel de Waresquiel and Benoît Yvert, *Histoire de la Restauration, 1814–1830. Naissance de la France moderne* (Paris: Perrin, 1996), pp. 331–476.

⁶ There are biographical studies of a limited number of individual royalist pamphleteers, such as René de Chateaubriand, Louis de Bonald and Joseph Fiévée. See Jean-Paul Clément, *Chateaubriand. Biographie morale et intellectuelle* (Paris: Flammarion, 1998); David Klinck, *The French counter-revolutionary theorist Louis de Bonald (1754–1840)* (New York: Peter Lang, 1996); Jean Tulard, *Joseph Fiévée, conseiller secret de Napoléon* (Paris: Fayard, 1985). But a comprehensive investigation of royalist thinkers as a group, comparable to André Jardin's *Histoire du libéralisme politique* (Paris: Hachette, 1985), still remains to be written.

come to support an absolutist ideology.⁷ In his *Théorie du pouvoir politique et religieux* (1796), for instance, the counter-revolutionary theorist Louis de Bonald propagated the absolute monarchy as the ideal form of government. In Bonald's view, the king's authority, modelled on that of the *paterfamilias*, should have no limits except that of morality. Contrary to what Montesquieu had claimed, no fundamental distinction could be made between despotism and the monarchical form of government. An aristocratic class was necessary in the monarchy to serve power rather than to limit it. As such, Bonald argued, monarchy was the most natural form of government. The unity of the monarchy was an expression of the natural unity of social power, as represented by the family.⁸ These and similar arguments by other counter-revolutionary thinkers gave plausibility to the claim that the royalists wanted to install 'absolute power' again in France.⁹

Throughout the Restoration period, however, prominent royalist spokesmen denied such accusations vigorously. Far from dreaming of a return to the days of absolutism, they emphasized, they were staunch supporters of liberty. In *Le Conservateur*, the famous writer and prominent royalist politician René de Chateaubriand described the royalists as having 'an extreme independence of opinion and character, a frank horror of arbitrariness'.¹⁰ Joseph Fiévée, another prominent royalist journalist, protested loudly against the accusation that the royalists were lovers of despotism, pointing out that 'when power is without limits, it is also without support, and that reflection alone suffices not to desire an unlimited power'.¹¹ And a few years later, in 1817, Fiévée again emphasized that liberty had become 'the dominant sentiment of France', shared by the royalists no less than by the liberals.¹² Indeed, liberty held such an important place in the royalist discourse of the Restoration period that Bonald – although he never explicitly repudiated his absolutist preaching of the revolutionary period – saw

⁷ As is shown in Beik, *The French Revolution*.

⁸ Louis de Bonald, *Oeuvres complètes* (Paris, 1859, 3 vols.); this is still the only complete edition of Bonald's work. An excellent account of Bonald's absolutist political theory is to be found in David Klinck, *The French counterrevolutionary theorist Louis de Bonald (1754–1840)* (New York: Peter Lang, 1996).

⁹ A. J., 'Note secrète exposant les prétextes et le but de la dernière conspiration', *La Minerve française* 3 (1818), 3–14.

¹⁰ René de Chateaubriand, 'Politique', *Le Conservateur* 4 (1819), 365: 'une extrême indépendance d'opinion et de caractère, une franche horreur de l'arbitraire'.

¹¹ Joseph Fiévée, 'Du pouvoir souverain et de l'isolement des français', *Correspondance politique et administrative* 1 (1815), p. 96: 'Quand le pouvoir est sans bornes, il est aussi sans appui; et cette seule réflexion suffiroit pour ne pas faire désirer une puissance illimitée.'

¹² Joseph Fiévée, *Histoire de la session de 1817* (Paris, 1818), p. 9: 'le sentiment dominant de la France'.

himself obliged, as his most recent biographer puts it, to 'mask his liking for the centralisation of power in the government and the state'.¹³

But at the same time, several royalist publicists made clear that the liberty they supported was very different from the republican liberty that had been defended by the revolutionaries. In 1832, A. Creuzé de Lesser, a former prefect and a staunch royalist, published a treatise entitled *De la liberté*, that contained a sustained criticism of the revolutionary identification between republican self-government and liberty. Creuzé de Lesser started out by defining liberty as the right to do what one wanted and what did not harm others.¹⁴ In his view, liberty in this sense, 'civil' or 'individual' liberty, had often been confused with popular sovereignty, or 'political' liberty. Creuzé de Lesser believed that such confusion was dangerous. Political liberty was not just different from civil liberty, it was often actively harmful to it. With an endless range of historical examples, *De la liberté* showed that so-called free peoples, such as the Spartans or the Romans, had really suffered from the most oppressive regimes with respect to their civil liberty.

According to Creuzé de Lesser, this implied that liberty could be safeguarded just as easily in a monarchy as in a self-governing republic. To identify monarchies with slavery was simply wrong.¹⁵ Indeed, liberty was more easily preserved in nations that had no self-government, Creuzé de Lesser continued, than it was in republics, because without order there could be no liberty: 'I do not preach despotism, whatever one might say. But order, order without which no liberty can exist.'¹⁶ Throughout history, he pointed out, regimes in which the nation had been unfree had often guaranteed a high degree of civil liberty. During the Revolution, for instance, liberty was constantly invoked, but the individual Frenchman had remained a slave. Under Napoleon's regime, on the contrary, in which public liberty had been usurped, order-loving citizens had enjoyed great individual liberty.

In response to the revolutionary ideology, in other words, Creuzé de Lesser defended an essentially negative conception of liberty. In his view, liberty was an individual condition distinct from and even antithetical to the republican self-government propagated during the more radical phases of the Revolution as the only foundation for liberty. However, this purely negative conception of liberty was rejected by most royalist

¹³ Klinck, *Bonald*, p. 192. ¹⁴ A. Creuzé de Lesser, *De la liberté* (Paris, 1832), p. 1.

¹⁵ *Ibid.*, p. 228.

¹⁶ *Ibid.*, p. 126: 'C'est nullement, quoi qu'on en puisse dire, que je prêche le despotisme. C'est l'ordre, l'ordre sans lequel il n'y a point de liberté.'

publicists.¹⁷ Although they agreed with Creuzé de Lesser that liberty was not identical with self-government, they did not believe that liberty was a negative concept, a condition independent from any political guarantee. Instead, they argued, like Montesquieu, that liberty could not exist in a society without an aristocracy, a class of powerful, influential and wealthy citizens, which could function as an 'intermediary power' between the people and the government. In a levelled society, royalists believed, the state would automatically degenerate into despotism or anarchy, and liberty would be lost.

One of the most interesting and extensive discussions of the concept of liberty in the royalist pamphlet-literature can be found in Charles Cottu's *De l'administration de la justice criminelle en Angleterre, et de l'esprit du gouvernement anglais* (1820).¹⁸ Cottu, a lawyer at the Royal Court in Paris, was not an active politician. Although he was seen as a liberal at the beginning of the Restoration period, he moved considerably to the right in the course of time. He supported the royalist government of Joseph de Villèle when it came to power in 1820, and, by 1826, he was generally seen as representing, together with Bonald, the voice of the *pointus*, the most virulently anti-liberal element in the royalist party.¹⁹ *De l'esprit du gouvernement anglais*, which was reprinted twice, was his most important and well-known contribution to the political debate of the Restoration period. Although the main part of this book was devoted to a detailed analysis of the English socio-political model, the last chapter contained a more general, theoretical discussion of the notion of liberty, in which Cottu developed a sustained criticism of the revolutionary conception of freedom.

Cottu started out by arguing that the French had a mistaken view of liberty. They believed that liberty consisted in the government of the masses; in handing over the administration to 'the caprices of the multitude'. But further reflection would make clear that liberty was something very different. A state was free when its citizens enjoyed certain rights and liberties, which in turn were guaranteed by a specific constitutional framework. To be free, Cottu wrote, – echoing in many respects the definition of

¹⁷ But compare Gerd van den Heuvel, 'Liberté' in *Handbuch politisch-sozialer Grundbegriffe in Frankreich 1680–1820*, ed. Rolf Reichardt and Hans-Jürgen Lüsebrink (Munich: Oldenbourg, 1996, 18 vols.), XVI, pp. 85–121, who identifies the royalist conception of liberty with that of Creuzé de Lesser.

¹⁸ I have used the second edition of 1822, reissued by Slatkin Reprints: Charles Cottu, *De l'administration de la justice criminelle en Angleterre, et de l'esprit du gouvernement anglais* (Paris, 1822).

¹⁹ On Charles Cottu and his political role, see Prosper Duvergier de Hauranne, *Histoire du gouvernement parlementaire en France, 1814–1848* (Paris: Michel Lévy frères, 1857–1871, 10 vols.), X, pp. 399–400; Eugène Hatin, *Histoire politique et littéraire de la presse en France, avec une introduction historique sur les origines du journal et la bibliographie générale des journaux depuis leur origine* (Geneva: Slatkin, 1967, 8 vols.), VIII, p. 517.

modern liberty developed by one of his political opponents, Benjamin Constant –²⁰ was never to be subjected to the authority of man, but solely to that of the magistrate; never to be arrested or detained except according to legal rules; to be able to profess one's religion without constraint; to be allowed to censure all acts of the administration; never to pay taxes and never to be submitted to laws except those judged necessary and just by the nation itself; never to be excluded from public office or dignity by considerations of birth. For this kind of liberty, Cottu emphasized, the existence of an aristocracy formed no threat, as the revolutionary party had claimed. 'Wherever those principles are in operation, there is liberty; and this liberty is not infringed upon by establishing some purely honorific prerogatives, which can become a noble subject of emulation for all other citizens.'²¹

Indeed, far from being a threat to this kind of liberty, Cottu continued, the aristocracy was a necessary precondition for it: 'I will say more, and I will make a claim which might seem paradoxical, but whose correctness will make itself felt, I believe, to each impartial mind, if it is examined with care; and that is, that no moderate government can exist, and even less so true liberty, without an aristocracy.'²² Without an intermediary level between the prince and the people, a government became despotic. In Turkey, or in France under Napoleon, for instance, all decisions were imposed by military force. An aristocracy capable of protecting the people against the excesses of the prince, and the monarch against the people, was therefore a necessary prerequisite of a moderate or free government. For this reason, Cottu pointed out, liberty had established itself without difficulties

²⁰ To modern citizens, Constant wrote, liberty is 'the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose a profession and practice it, to dispose of property, and even to abuse it; to come and go without permission, and without having to account for their motives or undertakings. It is everyone's right to associate with other individuals, either to discuss their interests, or to profess the religion which they and their associates prefer, or even to simply occupy their days and hours in a way which is most compatible with their inclinations or whims. Finally it is everyone's right to exercise some influence on the administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which authorities are more or less compelled to pay heed': Benjamin Constant, *Political writings*, trans. and ed. Biancamaria Fontana (Cambridge: Cambridge University Press, 1988), pp. 310–311.

²¹ Cottu, *De l'esprit du gouvernement anglais*, p. 233: 'Partout où ces principes sont en vigueur, il y a de la liberté; et ce n'est point y porter atteinte que d'établir quelques légères prérogatives purement honorifiques, et qui pourraient devenir pour tous les autres citoyens un noble sujet d'émulation.'

²² *Ibid.*, p. 236: 'Je dis plus, et je vais énoncer une proposition qui paraîtra peut-être un paradoxe, mais dont la justesse se fera sentir, je crois, à tout esprit impartial, s'il veut l'examiner avec soin; c'est qu'il ne peut exister aucun gouvernement modéré, et bien moins encore aucune véritable liberté, sans aristocratie.'

in aristocratic England, while exactly the opposite was the case in France, where the revolutionaries had attempted to found liberty on a democracy.²³

Cottu's definition of liberty was clearly inspired by Montesquieu's *Esprit des lois*. Like Montesquieu, he defined liberty as individual security rather than popular self-government, and, like Montesquieu, he believed that the existence of an aristocracy was necessary to protect this kind of liberty. There are, moreover, some indications in his writings that Cottu explicitly recognized the *Esprit des lois* as a source of inspiration. Although he did not refer to Montesquieu in his *De l'esprit du gouvernement anglais*, the very name of his brochure shows a certain willingness to invoke Montesquieu's authority. And in a later brochure, written to defend a reform of the electoral system so as to increase the influence of the aristocracy, Cottu reminded his readers how Montesquieu had recognized, 'by the sole force of his genius', how much it was necessary, 'in a free state more than anywhere else', to confer a great political power on the aristocracy.²⁴

In short, royalist publicists explicitly rejected the revolutionary conception of freedom as republican self-government, arguing instead that the preservation of individual liberty was the hallmark of a free state. According to Cottu, this implied that liberty required the existence of social hierarchy, because only an aristocracy could prevent the monarchy from degenerating into despotism. This argument allowed royalist publicists to attack the republican definition of liberty from yet another perspective as well. In the revolutionary discourse, liberty had been identified with social and political equality, seen as necessary for the preservation of self-government. From the royalist perspective, however, liberty and equality were far from compatible. Rather, they were inherently opposite principles, as the absence of social hierarchy left a nation without protection against despotism. As Mathieu de Montmorency, royalist Minister of Foreign Affairs, exclaimed in parliament, 'absolute equality was the most irreconcilable enemy of liberty'.²⁵

This point was elaborated by N. A. Salvandy in his brochure *Vingt mois ou la révolution et le parti révolutionnaire* (1831).²⁶ Salvandy, a novelist, pamphleteer and political journalist, had been a member of the liberal

²³ *Ibid.*, p. 247.

²⁴ Charles Cottu, *De la nécessité d'une dictature. Par M. Cottu, conseiller à la cour royale de Paris* (Paris, 1830), pp. 22–23: 'par la seule force de son génie' . . . 'dans un état libre plus que partout ailleurs'.

²⁵ Mathieu de Montmorency in *Archives parlementaires de 1787 à 1860. Recueil complet des débats législatifs des Chambres françaises. Deuxième série (1800 à 1860)*, ed. J. Madival and E. Laurent (Paris, 1867–1871, 67 vols.), vol. XXXIV, 13 January 1822, p. 311.

²⁶ The title of the original edition of 1831 was *Seize mois*. I have used the third edition of 1849, which is the same as the edition of 1832, with a new preface added.

opposition for most of the Restoration period. In his *Vues politiques* (1819), he had expressed himself in very critical terms about the royalists. However, Salvandy was so appalled by the effects of the July Revolution that he moved considerably to the right of the political spectrum after 1830. While he started to frequent the royalist salon of the Duchess de Rauzan, he became a fierce critic of the levelling tendencies in French society. His brochure *Vingt mois*, which went through two editions in the 1830s, and which was reprinted in 1849, was the result of this shift to the right. More specifically, *Vingt mois* was written to condemn the democratization of the political system effected by the July Revolution, which had abolished the hereditary peerage, lowered the suffrage qualification level and democratized the municipal administration.²⁷

While the larger part of his brochure was devoted to a criticism of concrete political reforms brought about in 1830–1831, Salvandy also provided his readers with an extensive and highly theoretical discussion of the principles on which his condemnation of the July Revolution was based. He argued that ‘democracy’ – by which he meant both social and political equality – and liberty were distinct, if not contradictory, principles. Institutions could become more democratic without becoming more liberal. ‘It has often been said, and with reason, that the feudal monarchy came ever closer to equality under Richelieu and under Louis XIV’, Salvandy wrote; ‘and surely, it did not come closer to liberty’.²⁸ A society without an enlightened elite degenerated into despotism, as the masses were incapable of opposing royal abuse of power. Indeed, they even welcomed despotism, because the common people took pleasure in the fact that the high and mighty were put down by despotic kings. Alternatively, a democratic state might also disintegrate into anarchy, but this situation would result again in despotism in the long run: ‘[Democracy] has but one way of escaping from its destiny, but one way of preserving order, and that is despotism; and that explains why it always ends up, bloody and weary, by finding a resting place in its shadow’.²⁹

In order to illustrate the truth of these assertions, royalist publicists invoked, as their counter-revolutionary predecessors had done, the events of 1789. The revolutionaries, they pointed out, had set out to annihilate

²⁷ Louis Trénard, ‘Salvandy, disciple de Chateaubriand’ in *Romantisme et politique, 1815–1851. Colloque de l’Ecole Normale Supérieure de Saint-Cloud (1966)* (Paris: Colin, 1969), pp. 73–98.

²⁸ N. A. Salvandy, *Vingt mois ou la révolution et le parti révolutionnaire* (Paris, 1849), p. 43: ‘On a beaucoup dit, et avec raison, que la monarchie féodale se rapprocha par degrés de l’égalité sous Richelieu et sous Louis XIV; assurément, elle ne se rapprochait pas de la liberté.’

²⁹ *Ibid.*, p. 70: ‘Elle n’a qu’un moyen d’échapper à sa destinée, qu’un moyen de sauver l’ordre, c’est le despotisme; et de là vient qu’elle finit toujours par aller, lasse et sanglante, se reposer à son ombre.’

the nobility; indeed, they had aimed to exterminate all social hierarchy in the French state. But this attempt had resulted in anarchy and despotism. The Revolution proved in other words that the ideals it had propagated – liberty and equality – were mutually incompatible.³⁰ Far from making Montesquieu's aristocratic liberalism redundant, the failure of the French Revolution, and of its attempt to found liberty on equality, had, in the view of the royalists, merely confirmed the truth of his prescriptions.

This critique of revolutionary egalitarianism was developed, for instance, in an important contribution to the royalist journal *Le Conservateur* by René de Chateaubriand. While most outside observers believed the Revolution to have been a legitimate rebellion against an oppressive regime, Chateaubriand argued, it had in fact been waged for equality, and liberty had suffered as a result. For the principle of absolute or social equality, far from being the natural counterpart of liberty, as the revolutionaries claimed, was 'the greatest obstacle to the establishment of the constitutional government', because 'absolute equality can be accommodated to despotism which levels everything, but is incompatible with a monarchy which establishes a division of powers'. Equality was, in other words, the 'natural principle of democracy and despotism'.³¹

The end of the Revolution had not dispelled this threat completely, Chateaubriand warned. France was still disturbed by 'a great democratic faction', which was inspired by love of equality rather than by love of liberty. 'In the writings of the revolutionaries', Chateaubriand wrote, 'you will distinguish a violent hatred of the clergy and the nobility, and of all social superiority; you will find the explicit wish to divide property, which leads to agrarian law, and from agrarian law to democracy, and from democracy to despotism'.³²

A similar idea was developed at great length in *De la restauration considérée comme le terme et non le triomphe de la révolution*, a brochure written in response to François Guizot's polemical pamphlet *Du gouvernement de la*

³⁰ I disagree in this respect with Stanley Mellon's interpretation of the royalist view on the French Revolution; he argues that the royalists merely dismissed the Revolution as a monstrous accident: Mellon, *The political uses of history: a study of historians in the French Restoration* (Stanford: Stanford University Press, 1958), pp. 58–100.

³¹ Chateaubriand, 'Politique', 364: 'est le plus grand obstacle à l'établissement du gouvernement constitutionnel, car l'égalité absolue s'accommode du despotisme qui nivelle tout, mais ne peut s'arranger d'une monarchie qui établit une distinction de pouvoirs . . . principe naturel de la démocratie et du despotisme'.

³² *Ibid.*: 'Dans les écrits des révolutionnaires vous distinguerez une haine violente du clergé et de la noblesse, comme de toute supériorité sociale; vous y trouverez le vœu bien formel de la division des propriétés, ce qui conduit à la loi agraire, par la loi agraire à la démocratie, et par la démocratie au despotisme.'

France depuis la restauration. In this brochure, the liberal historian Guizot had celebrated the Revolution for bringing about the victory of the 'Gauls' (the Third Estate) over their ancient oppressors, the 'Franks' (the nobility), and thus ending the domination of the nobility over the rest of the population. The anonymous royalist publicist P. L. B., however, argued that the Revolution's attempts to destroy the nobility, far from being evidence of the love of liberty, had undermined the foundation of a free political system. By abolishing the aristocracy, the revolutionaries had paved the way for despotism, not for liberty. 'Let there be no mistake', he wrote, 'the inferior classes, which will always exist, have no true security in their small social sphere, but to the extent that the more considerable classes, associated with them, protect and defend their interests, as one sees in England!'³³

LIBERTY AND PRIMOGENITURE: THE ROYALISTS' SOCIAL IDEAL

The indebtedness of royalist publicists and political thinkers to Montesquieu's *Esprit des lois* did not just lead them to identify liberty and aristocracy, equality and despotism. It also encouraged them to connect freedom to primogeniture. For, like Montesquieu, they believed that the maintenance of an aristocracy entailed support for a specific legal system, in which land was kept in the same hands over time through primogeniture and entailments. The preservation of a stable, liberal regime, they argued, presupposed a society dominated by great landowners, whose property was not a simple commodity but a bequest to be passed down the generations. Conversely, royalists were convinced that the mobility of property posed a threat to liberty. It tended to make land into a commodity like any other, which undermined the position of the traditional ruling elite.

The royalist journalist Joseph Fiévée, for instance, vigorously defended landed property in his writings of the early Restoration period. He criticized the centrist government of the Duke de Richelieu in his *Correspondance politique et administrative* because it did nothing to counteract the division of landed property in France. Landowners were heavily taxed, while commercial property had become sacred and enjoyed the tax privileges the territorial aristocracy used to have. Yet the ever-increasing division of the land was, Fiévée concluded, one of the main causes of France's problems of the last

³³ P. L. B., *De la restauration considérée comme le terme et non le triomphe de la révolution; et de l'abus des doctrines politiques, en réponse à l'ouvrage de M. F. Guizot, intitulé: Du gouvernement de la France depuis la restauration, et du ministère actuel* (Paris, 1820), p. 31: 'Car ne nous y trompons pas, les infériorités, et il y en aura toujours, n'ont de véritable sécurité dans leur petite sphère sociale, qu'autant que de grands intérêts, associés aux leurs, les protègent et les défendent, comme on le voit en Angleterre!'

twenty-five years.³⁴ Chateaubriand likewise emphasized the importance of primogeniture in his article 'Politique', describing the royalists as having 'a pronounced hatred for democratic equality, a decided penchant for social hierarchy without which no monarchy can exist, and a sincere desire of seeing the expansion of large properties, which alone founds families, and gives defenders to both kings and peoples'.³⁵

A more extensive reflection on the issue of the legal protection of landed property can be found in Nicolas Bergasse's *Essai sur la propriété* (1821). Bergasse, of bourgeois stock and a lawyer by training, had started out on his career as a pamphleteer in 1789 with a virulent anti-noble pamphlet, *Observations sur le préjugé de la noblesse héréditaire*. In this brochure, he explicitly attacked Montesquieu's doctrine that the nobility was necessary as an intermediary body.³⁶ However, while the Revolution radicalized, Bergasse evolved to a very different ideological position, and he became, like Bonald, an important counter-revolutionary theorist.³⁷

During the Restoration period, Bergasse continued to support the royalist cause in his brochures and pamphlets. In 1821, he published a brochure entitled *Essai sur la propriété*, in which he pleaded for a restitution of the *biens nationaux*.³⁸ In the course of the Revolution, the property of *émigré* nobles had been expropriated and sold by successive governments, and the Charter of 1814 guaranteed the new owners of these *biens nationaux* the peaceful possession of their property. This situation was deeply resented by the *ex-émigrés*, who had often suffered severe financial losses. The royalist party therefore proposed to compensate them for their losses. The most radical royalists even pleaded for a legal restitution of the *biens nationaux*,

³⁴ Joseph Fiévée, 'Situation politique de la France dans l'intérieur', *Correspondance politique et administrative* 19 (1818), 11. On Fiévée's political thought, see Benoît Yvert, 'La pensée politique de Joseph Fiévée', *Revue de la société d'histoire de la Restauration et de la monarchie constitutionnelle* 4 (1990), 11–25; and Jeremy Popkin, 'Conservatism under Napoleon: the political writings of Joseph Fiévée', *History of European Ideas* 5 (1984), 385–400.

³⁵ Chateaubriand, 'Politique', 365: 'une haine bien prononcée de l'égalité démocratique, un penchant bien décidé aux hiérarchies sociales sans lesquelles aucune monarchie ne peut exister, un désir bien sincère de voir s'accroître la grande propriété qui seule fonde les familles, et donne à la fois des défenseurs aux rois et aux peuples'.

³⁶ Nicolas Bergasse, *Observations sur le préjugé de la noblesse héréditaire* (London, 1789).

³⁷ On Bergasse's intellectual development during the Revolution, see E. Lamy, *Un défenseur des principes traditionnels sous la Révolution. Nicolas Bergasse, avocat au parlement de Paris, 1750–1832* (Paris: Perrin, 1910).

³⁸ Nicolas Bergasse, *Essai sur la propriété, ou considérations morales et politiques sur la question de savoir s'il faut restituer aux émigrés les héritages dont ils ont été dépouillés durant le cours de la révolution; ouvrage où il est parlé de quelques-unes des causes qui préparent la chute des états, et surtout des états monarchiques* (Paris, 1821).

although this was explicitly prohibited by the Charter. Bergasse's brochure was written to support this latter claim; for this reason, it was censured by the government upon its first publication in 1815, which gave Bergasse a considerable notoriety. However, the scope of Bergasse's argumentation was much broader than this description would lead us to suppose. In the *Essai sur la propriété*, he couched his arguments about the *biens nationaux* in a general reflection about property and politics, which was described by a contemporary as 'a remarkable commentary on Montesquieu's principal ideas about the monarchical government'.³⁹

Bergasse gave several reasons to explain why the confiscation of the *émigrés'* property endangered social and political stability in France. This revolutionary measure had been an attack on the social order, he wrote, because it condoned nothing less than theft. The possession of *biens nationaux* taught the population that no rights were sacred, and this sentiment posed a danger to property of all kinds. Because it was contrary to any moral law, the confiscation of the *émigrés'* property also undermined religion, which could not survive in an amoral society. But Bergasse was especially worried about the effects of the *biens nationaux* on the liberty and stability of the post-revolutionary political system. In his view, the expropriation of the *émigrés'* property, by undermining the existence of a territorial aristocracy, prevented the stabilization of a limited monarchy in France. Bergasse therefore argued that a restitution of the *biens nationaux*, together with the introduction of primogeniture and entailments, were necessary to prevent the monarchy from degenerating again into despotism.

Bergasse structured his argument around a fundamental opposition between landed and commercial property. Mobile property had no fixed character, it circulated without leaving a trace. Commercial man was swayed by a continual motion of hope and fear, between the desire to accumulate and the fear of losing property. The possession of real estate, however, engendered a wholly different mentality. It instilled a more quietist disposition than the acquisitive attitude of commercial man. Moderation was the most common characteristic of landowners, and if land brought wealth, it did so slowly. For this reason, the predominance of either mobile or landed property had an important impact on the social structure. According to Bergasse, a commercial society was necessarily a levelled society. Although great disparities in fortune could exist in such societies, property changed

³⁹ Louis de Carné, *Vues sur l'histoire contemporaine* (Paris, 1833, 2 vols.), I, p. 233: 'une commentaire fort remarquable des principales idées de Montesquieu sur la nature du gouvernement monarchique'.

hands so frequently that it could not provide the basis of a nobility. An economic system in which landed property was concentrated in the hands of a limited number of families, on the contrary, would allow the growth of a stable aristocracy, which was used to the possession of wealth and its concomitant responsibilities.⁴⁰

In Bergasse's view, such a powerful and privileged hierarchy, independent from the will of the government, was necessary to protect the people against the abuse of government power. It was 'a truth that might surprise', Bergasse wrote, that liberty was impossible without a territorial aristocracy: 'There can be no liberty in a monarchy, if everyone belongs to the same mob, to the same multitude.'⁴¹ Landed property inspired honour, a sentiment of one's own dignity. In imitation of Montesquieu, Bergasse explained that this sentiment was an important protection against despotism. Honour was simultaneously 'the firmest support of power and the best way to prevent its abuse'. It was a mental force that allowed one to obey, but to obey independently. For this reason, it prevented despotism in a monarchy without impeding the government. Bergasse illustrated this argument with an example taken from the *Esprit des lois*: had not Viscount d'Orte refused to execute the Huguenots on Saint Bartholomew's Day, because this was contrary to the code of honour?⁴²

Like the anonymous P. L. B., Bergasse referred to the history of the French Revolution to illustrate the validity of these principles. The Revolution had got out of hand, Bergasse argued, when paper money was issued, backed by the *biens nationaux*. The complete mobility of property which had resulted from this had fatally undermined honour, the mainstay of the monarchy, and, as a result, the Revolution had gone completely astray. French society had been in a state of flux ever since. 'People talk a lot about liberty in France', Bergasse wrote; 'I confess that I see nothing but a prince, two Chambers and a multitude. Certainly, something else is needed, not just to establish liberty, but even to establish the authority of the Prince on a durable basis.'⁴³ For this reason, Bergasse concluded, the *émigrés'* property needed to be restored. As long as the alienation of their property continued to exist, neither freedom nor stability were possible. 'Montesquieu

⁴⁰ Bergasse, *Essai sur la propriété*, pp. 38–42.

⁴¹ *Ibid.*, pp. 48–49: 'Il n'y a point de liberté dans une monarchie, si tous n'y composent qu'une même foule, une même multitude.'

⁴² *Ibid.*, quotes pp. 58–60.

⁴³ *Ibid.*, p. 49: 'On parle beaucoup de liberté en France: j'avoue que je n'y vois qu'un prince, deux Chambres et une multitude; et certes, il faut autre chose, non seulement pour constituer la liberté, mais même aussi pour établir sur des fondemens durables l'autorité du Prince.'

complained that, in his time, the *parlements* undermined the seignorial justices', he wrote; 'I do not believe one should revert to what has been abolished, but am I mistaken to think that one really needs to find something to replace them with?'⁴⁴

In short, royalist publicists were committed to the ideal of a society in which the concentration of landed property was maintained through a legal structure of entailments and primogeniture. However, royalists at no point suggested that they wanted to return to the social order of the Old Regime, in which this ideal had been more or less realized. The memory of feudal times, which was so prevalent in the Romantic literature of the early nineteenth century, was surprisingly absent from the royalist discourse. Instead, a number of royalist publicists buttressed their ideal of a society dominated by mighty landowners by referring to the example of a contemporary, far from backward society. In England, as royalists pointed out in several treatises and pamphlets, the existence of a strong aristocracy, and, more specifically, of a strong territorial aristocracy, was guaranteed by inheritance laws that prevented the division of landed property. Thanks to this social structure, England was blessed with a stable, liberal regime that had proven itself capable of resisting the upheaval caused by the French Revolution.

By making this argument, royalists took a position that was different from Montesquieu's. Montesquieu had depicted France as the prime example of a limited monarchy, while he saw England as a society characterized by a lack of intermediary bodies. After the Revolution, however, France could hardly be considered as a country characterized by a moderate love of liberty and a stable social structure, as it had seemed to Montesquieu. By focusing on England rather than on France as the embodiment of their social and political ideal, royalists were therefore responding to the changed self-image of the French. But, at the same time, this change can also be seen as a deliberate ideological move on the part of the royalists. By making English society into their ideal, royalists were appropriating a model the French had admired since the beginning of the eighteenth century as the home of modern liberty.⁴⁵ When J. C. L. Sismondi, who was an influential economist and political thinker of Swiss-Italian origin,

⁴⁴ *Ibid.*, p. 42: 'Montesquieu se plaignait de ce que, de son temps, les Parlements frappaient trop sur les justices seigneuriales. Je ne pense pas qu'il faille revenir sur ce qui est aboli; mais me tromperais-je si je prétendais qu'il faut absolument trouver quelque chose qui en tienne lieu?'

⁴⁵ G. Bonno, *La constitution britannique devant l'opinion française de Montesquieu à Bonaparte* (Paris: Perrin, 1931).

celebrated the English in 1818 as the inventors of 'passive', individual liberty, as opposed to the 'active', participatory liberty of the ancient republics, he repeated what had for a long time been a commonplace in French political discourse.⁴⁶

While an admiration for the English model had a long pedigree in French political thought, it should be noted that the royalists' focus on the English socio-economic structure, as the foundation of its liberty, added an innovative element to the existing discourse about English liberty. During the eighteenth century, Anglophile thinkers, such as Montesquieu himself, had pointed to England's institutions to explain why their neighbour seemed so much more free than France. England's mixed constitution, together with the representative system, it was argued, had made its liberty possible. This view was echoed by a number of liberal thinkers in the Restoration period. Germaine de Staël's *Considérations sur la Révolution française* (1818) contained an enthusiastic celebration of those English institutions and their importance for the preservation of liberty.⁴⁷ Staël's royalist contemporaries argued that, on the contrary, the secret of English liberty was to be found in its social structure, rather than in its institutions. They were interested not so much in the working of the actual constitution, but in those features of the system that allowed for the continued economic and political clout of the English nobility.

This is clearly illustrated by Charles Cottu's *De l'esprit du gouvernement anglais* (1820). At the beginning of the Restoration period, Cottu had been sent on a government mission to study the English jury system, and his book was the result of that visit. While, as we have seen, the last chapter was devoted to a more theoretical discussion of the concept of liberty, Cottu provided his readers with a detailed discussion of English laws and customs in the main part of his book. In doing so, Cottu did not limit himself to an analysis of the jury system, as was suggested by the title of his book. Rather, he sketched the working of the English political system in general, as well as the particular customs and habits on which it was based. In Cottu's view, this subject was of the greatest importance to the French. If they wanted to stabilize their new institutions, which were modelled on the English ones, he wrote, his countrymen needed to understand and imitate the 'spirit' of the English system.⁴⁸

⁴⁶ J. C. L. Sismondi, *Histoire des républiques italiennes du moyen âge* (Paris, 1815–1818, 18 vols.), XVIII, pp. 353–406.

⁴⁷ Germaine de Staël, *Considérations sur la Révolution française*, ed. Jacques Godechot (Paris: Tallandier, 1983), esp. part 6, chapter 4.

⁴⁸ Cottu, *De l'esprit du gouvernement anglais*, pp. ix–x.

In particular, Cottu attached great importance to the English succession laws, which he discussed in his very first chapter. The English system, as Cottu pointed out, was based on primogeniture, which implied that the largest portion of the estate went to the eldest son. This system was based on habit as much as on existing succession laws. Even when the law admitted free choice on the part of the testator, the eldest was usually preferred. According to Cottu, this system had considerable influence on the social stratification of England. It allowed individual families to amass and consolidate considerable fortunes over the generations. At the same time, it encouraged social stability, connecting noble families firmly to their estates and to their provinces. As a result, English society was characterized by the existence of a wealthy, local aristocracy, which, unlike the absentee French landlords of the Old Regime, played a crucial role in the political and social life of the provinces.⁴⁹

The dominance of this territorial aristocracy brought many benefits with it. It accounted for the superior administration of justice in England. It assured small government: in England everything went of its own accord, the government needed to interfere but little.⁵⁰ But, above all, it made the particular combination of English liberty and stability possible. On the national level, the English political system institutionalized a permanent battle between the different classes of society.⁵¹ Even more important was the existence of a locally entrenched aristocracy, capable of resisting the central government when necessary. The existence of a class of landowners spread throughout the country created 'a powerful dyke, both against the excesses of the democratic spirit, and against the encroachments of arbitrary power'.⁵² In short, the English example taught that the preservation of liberty depended on the existence of an aristocratic body, which, by defending its privileges against the encroachments of the king, would preserve the people's rights at the same time.⁵³

Cottu's idealization of the English socio-political model was shared by many other royalist publicists. This is illustrated by the writings of Maurice Rubichon, a royalist pamphleteer who made his name as a 'Christian economist'.⁵⁴ Between 1815 and 1819, Rubichon published a two-volume book, entitled *De l'Angleterre*, which was the result of his stay in England

⁴⁹ *Ibid.*, pp. 1–19. ⁵⁰ *Ibid.*, pp. 218–232. ⁵¹ *Ibid.*, p. 151.

⁵² *Ibid.*, p. 18: 'une digue puissante, tant contre les excès de l'esprit démocratique, que contre les empiètements du pouvoir arbitraire'.

⁵³ *Ibid.*, p. 235.

⁵⁴ Alfred Nettement described him as having 'un mouvement d'idées et une originalité d'esprit très-rares', in his *Histoire de la littérature française sous le gouvernement de juillet* (Paris: Jacques Lefort, 1859, 2 vols.), II, pp. 511–512.

as an *émigré*. In the first volume, he explained his views on the English political system, while the second volume was devoted to its economic system. Rubichon was far from being an Anglophile. He was very critical of the lack of religious corporations in England. The Reformation had led, in his view, to the moral and intellectual decline of the English people, so that the English bourgeoisie had become 'the most criminal and the most crude'.⁵⁵ But the absence of a clergy comparable to the Catholic priesthood was compensated by other elements in the English political system. According to Rubichon, the concentration of landed property was the most important characteristic of English society. England, he argued, was still a 'feudal society'; its economic, social and legal framework encouraged the centralization of land in the hands of a small number. English property laws hampered both the division of property and its mutation in the hands of different owners. The eldest son of a noble family usually had an absolute right to his father's property. Entailments were customary, *mainmorte* was predominant for the property of religious corporations. This tendency had, if anything, been encouraged in recent history. The enclosures of the commons had greatly increased the concentration of landed property, so that 'feudalism' had become even more consolidated in England.⁵⁶

As an economist, Rubichon was mainly interested in the economic effects of English property laws – they were responsible, in his view, for England's prosperity.⁵⁷ But *De l'Angleterre* explained the important political effects of English property laws as well. Because primogeniture and entailments favoured the concentration of property, the English nobility had been able to retain its strength. In no other country was the aristocracy more powerful than in England.⁵⁸ For this reason, liberty was much safer across the Channel, where a wealthy and powerful nobility could oppose the sovereign when necessary, than on the Continent.⁵⁹ This had once been the case in France as well, as Rubichon reminded his readers. There, too, primogeniture had allowed the existence of a permanent territorial aristocracy, 'the only barrier that can stop the throne in the exercise of its absolute power'.⁶⁰ In short, entailments and primogeniture were an important guarantee for liberty. According to Rubichon, the whole code of civil laws was of less importance for public liberty than the ancient laws on entailments.

Royalist publicists continued to make references to the English example throughout the Restoration period. The royalist journal *Le Défenseur*, in which Rubichon's *De l'Angleterre* was favourably reviewed, showed itself

⁵⁵ Maurice Rubichon, *De l'Angleterre* (Paris, 1815–1819, 2 vols.), I, p. 163.

⁵⁶ *Ibid.*, II, pp. 1–11.

⁵⁷ As he explained at length in the second volume of *ibid.*

⁵⁸ *Ibid.*, I, pp. 220–221.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, p. 191.

particularly enthusiastic about the English social structure.⁶¹ In a contribution to this journal, Bonald explained that English liberty depended on the existence of its territorial aristocracy rather than on its democratic institutions. In his view, English liberty could not be attributed to the fact that over half of its citizens, or their representatives, could impose laws and taxes on the other half, and pose the law to the king himself. That would be servitude for the minority and tyranny for the majority, rather than liberty for all. Instead, England was free, because its landed nobility had the necessary force to serve as a 'last bulwark for the monarchy' and to save it from the 'encroachments of the democracy'.⁶² In the same periodical, a long extract from the writings of the conservative thinker Carl von Haller was published, in which Haller described the English succession laws as a model for the rest of Europe. Primogeniture and entailments encouraged the concentration of large estates in the hands of the same families, contrary to the spirit of the century that wanted to divide everything. Only these laws would allow the restoration of a territorial aristocracy, 'a natural nobility'.⁶³

THE DANGER OF DESPOTISM: THE ROYALISTS' CRITICISM OF FRENCH SOCIETY

Thus, royalist publicists defended, often with explicit reference to Montesquieu, a particular political and social ideal that was clearly influenced by the *Esprit des lois*. But royalists did not just discuss these ideas in the abstract. Their aristocratic liberalism inspired them to formulate a sustained critique of the condition of French society. From the royalist perspective, France was on the brink of degenerating again, as it had during the Revolution, into despotism or anarchy. Various factors, such as the Reformation, the Revolution, and the rise of commerce, had contributed to the levelling and atomization of French society. Without the restoration of an aristocracy, it would remain impossible to found a stable, liberal regime. Social reforms were therefore necessary to stabilize the constitutional monarchy introduced by the Charter.

The debate about the electoral system provides us with a first example of this line of argument. Liberals and royalists bickered about the electoral system (Who should be qualified to vote? Was the Chamber of Deputies

⁶¹ Rubichon's book was reviewed by Abbé Genoude in *Le Défenseur* 1 (1820), 603–614.

⁶² Louis de Bonald, 'Sur un passage de *l'Esprit des lois*', originally published in *Le Défenseur*, reprinted in *Oeuvres complètes*, II, pp. 875–888.

⁶³ Carl von Haller, 'Qu'est-ce que la noblesse?', *Le Défenseur* 3 (1820), 30–35, 49–60.

to be renewed partially or *in toto*?) for most of the Restoration period.⁶⁴ Throughout these debates, royalists repeatedly invoked Montesquieuan arguments to plead for a limitation of the franchise to the propertied part of the population. In 1816, for instance, royalists staged a fierce opposition to the liberal Electoral Bill, which imposed a uniform franchise of 300 francs, because they believed that this would give a predominant power to the middle classes. The Bill would leave the landowning nobility without representation, as the royalist orator François de La Bourdonnaye pointed out, so that their position in French society would be further undermined. This was dangerous in a monarchy, 'where everything has to consolidate the hierarchy of power, and the stabilization of property, in order to give more support to the throne and more guarantee to the people'.⁶⁵

But the most interesting contribution to the debate about the electoral system was made by Charles Cottu at the end of the Restoration. After 1827, the electoral debate became particularly acrimonious as the liberals became ever more successful at the polls, threatening to put the royalists in a permanent minority. In response to this problem, many royalist publicists propagated a substantial reform of the electoral system, which would give an even more predominant position to the wealthiest citizens and in particular to the provincial nobility. Charles Cottu's proposals were probably the most radical.⁶⁶ Between 1828 and 1830, he published a series of brochures in which he defended a complex electoral system. To end the liberal electoral success, Cottu proposed to have the majority of deputies elected by a fixed number of hereditary electors, who would be selected on the basis of their wealth. In order to turn this electoral corps into a truly aristocratic body, prospective voters would have to create a *majorat* for the heirs to their function. Cottu even wanted to give titles to those hereditary electors: they should be chevaliers or barons, peers, dukes, marquises or counts.⁶⁷

⁶⁴ These debates are discussed at length in Waresquiel and Yvert, *Histoire de la Restauration, 1814–1830*; Duvergier de Hauranne, *Histoire du gouvernement parlementaire en France, 1814–1848*; more specifically on the royalist contribution to these debates, see Oechslin, *Le mouvement ultra-royaliste*, pp. 115–127.

⁶⁵ François de La Bourdonnaye in *Archives parlementaires*, vol. XVII, 27 December 1816, p. 738: 'où tout doit tendre à consolider la hiérarchie du pouvoir, à vieillir la propriété pour donner au trône plus d'appui et au peuple plus de garantie'.

⁶⁶ On this debate and on Charles Cottu's contribution to it, see Duvergier de Hauranne, *Histoire du gouvernement parlementaire en France, 1814–1848*, X, pp. 310–417.

⁶⁷ Charles Cottu, *Des moyens de mettre la Charte en harmonie avec la royauté*, par M. Cottu, conseiller à la cour royale de Paris (Paris, 1828); *Du seul moyen de sortir de la crise actuelle*. Par M. Cottu, conseiller à la cour royale de Paris (Paris, 1829); *Des devoirs du roi envers la royauté*; par M. Cottu, conseiller à la cour royale de Paris (Paris, 1830); *De la nécessité d'une dictature* (Paris, 1830).

In Cottu's view, the changes he proposed to the electoral system were necessary both to protect the monarchy and to preserve liberty in France. He believed that the political instability in France could be explained by the fact that the Chamber of Deputies, the most powerful institution, was in the hands of small property-holders, the proven enemies of the monarchy. To allow for the continued existence of the monarchy, the government was obliged to revert to electoral corruption and to seek the support of the 'clerical' party – a solution that could count on little sympathy from the gallican Cottu. Eventually, this situation would provoke a war between the bourgeoisie and the throne, and so liberty would be lost, all through the fault of the electoral law. The electoral law was therefore 'anti-social', and the cause of 'anarchy'.⁶⁸

To escape from this predicament, the monarchy needed to create a new electorate, which would be composed of a hereditary body of proprietors devoted to the constitutional monarchy. The existence of such a 'national aristocracy', Cottu claimed, was in the interest of the people as well as of the crown. It would reassure the monarch, who was concerned about the spirit of revolt manifested by the middle classes, and thus reaffirm the public liberties threatened by the king's desperation.⁶⁹ Freedom did not imply that the citizens were liberated from all 'political superiorities'. On the contrary, 'a levelled people is an enslaved people'.⁷⁰ A nation could only resist 'despotism' when it could unite itself around 'an important body, or illustrious individuals who give it the support of long respected influence'.⁷¹

While the electoral debates provided royalist publicists with an opportunity to express their concern about the levelled condition of French society, very similar remarks were made during the debate about the reform of the local administration at the end of the Restoration. In 1828, the centre-left government led by Jean-Baptiste Martignac introduced a Municipal Bill, which led to a vigorous debate both in and outside the Chamber of Deputies.⁷² Vincent de Vaublanc, a committed royalist publicist and politician who had briefly served as Minister of the Interior at the beginning of the Restoration period, explained the royalist point of view in his brochure *Des administrations provinciales et municipales* (1828). Vaublanc pleaded for a form of decentralization which would hand over power to the local elites.

⁶⁸ Cottu, *Moyens*, p. 69. ⁶⁹ *Ibid.*, p. 87.

⁷⁰ *Ibid.*, pp. 82–83: 'un peuple nivelé est un peuple asservi'.

⁷¹ *Ibid.*: 'quelque grand corps, ou . . . quelque grande illustration qui lui prête l'appui d'une influence depuis long-temps respectée'.

⁷² This debate is discussed in detail by Duvergier de Hauranne, *Histoire du gouvernement parlementaire en France, 1814–1848*, X, pp. 105–174. See also Rudolf von Thadden, *La centralisation contestée*, trans. Hélène Cusa and Patrick Charbonneau (Paris: Actes Sud, 1989), pp. 239–317.

While, in the existing system, members of local councils were appointed by the king, Vaublanc proposed to give local dignitaries, like the bishop, the mayor and military commanders, a seat in these councils by right. Moreover, the councils would be presided over by functionaries appointed for life, who would receive a special title (Vaublanc suggested calling them 'great seneschal of the province').⁷³

Like Cottu, Vaublanc argued that these reforms were necessary in the interests of both liberty and stability. In his view, 'considerable men' and 'eminent bodies' were necessary as a 'support' for the monarchy. Vaublanc placed this claim in a historical perspective: he explained that the downfall of the monarchy in 1789 had been caused by the absence of 'powerful men or bodies'. But this claim was not just valid in a monarchy. Even a republic could not survive without the patronage of powerful men. If in a republic the people were not restrained by powerful men, it would inevitably degenerate into anarchy, which in turn would bring tyranny. 'So, in every state powerful men are necessary to maintain liberty', Vaublanc concluded.⁷⁴ Or, as he repeated elsewhere: 'The absolute equality of things and men is the death of the monarchy and of public liberties.'⁷⁵

The most sustained criticism of the levelled condition of French society, however, was formulated by royalist publicists during a campaign to change the existing succession laws. In 1804, the Napoleonic Code had introduced the system of partible inheritance in France. Under this system, the *paterfamilias* could not do with his inheritance as he liked, but had to divide it equally between his children (with the exception of the disposable portion).⁷⁶ Royalists were convinced that partible inheritance was mainly responsible for the increasing division of property in France. This was bad for agriculture, they argued. But, more importantly, it also had a detrimental effect on the social composition of French society. The revolutionary succession laws prevented the restoration of a territorial aristocracy in France. In the royalist view, primogeniture should replace partible inheritance in France. By giving the bulk of (immobile) property to the eldest son, this system would favour the concentration of landed property in the hands of

⁷³ Vincent Marie Viennot de Vaublanc, *Des administrations provinciales et municipales* (Paris, 1828), pp. 42–44.

⁷⁴ *Ibid.*, p. 25: 'Donc, dans quelque état que ce soit, il faut des hommes puissans pour maintenir la liberté.'

⁷⁵ *Ibid.*, p. 45: 'L'égalité absolue des choses et des personnes est la mort de la monarchie et des libertés publiques.'

⁷⁶ Philippe Sagnac sketches the evolution of the revolutionary legislation on the succession laws in his *La législation civile de la Révolution française (1789–1804). Essai d'histoire sociale* (Paris: Hachette, 1898), pp. 57–154, 330–354.

a small number, which would in turn allow the recreation of an aristocracy in France, and benefit the liberty and stability of the post-revolutionary system.⁷⁷

In numerous pamphlets and articles, royalist journalists argued that the division of property encouraged by the revolutionary succession laws posed an important – perhaps the most important – threat to the liberty and stability of the post-revolutionary political system. A gloomy assessment of the French predicament was made in a long article in the royalist journal *Le Conservateur* by A. de Frénilly. Frénilly, a nobleman-turned-journalist, made clear that he was greatly worried about the condition of French society. In the absence of a territorial aristocracy, the French political system had remained unstable, even after the return of the Bourbon kings. French society, ‘that inert mass, the earth, the people, without a link that connects them, without force that protects them’, contrasted unfavourably with a society in which powerful landlords sustained central authority and protected the people. To remedy this situation, the landowning nobility needed to be restored. Only then, Frénilly concluded, would France become ‘liberal’ again ‘in the true sense of the word’.⁷⁸

In his *De la religion considérée dans ses rapports avec l’ordre politique et civil* (1826), the royalist publicist and Catholic thinker Félicité de La Mennais made a similar complaint about the condition of French society. The first part of his book, in which La Mennais sketched the condition of post-revolutionary society, was permeated by his concern about the ‘democratic’ nature of that society. Under the influence of Reformation and Revolution, French society had become ‘a vast democracy’, ‘an assembly of thirty million individuals’.⁷⁹ Moreover, in La Mennais’ view, the existing legal system in France – an obvious reference to the revolutionary succession laws – prevented the creation of a new aristocracy. This situation was far from favourable to liberty, La Mennais emphasized. In France, government and administration had to be ‘despotic’, otherwise anarchy threatened.⁸⁰

The most penetrating critique of the impact of the revolutionary succession laws was written by Louis Simond, a French merchant who had made a large fortune in the United States and had settled in Geneva where he

⁷⁷ The royalist campaign for primogeniture is discussed (albeit rather succinctly) by Oechselin, *Le mouvement ultra-royaliste*, pp. 171–180.

⁷⁸ A. de Frénilly, ‘De quelle manière un état peut périr’, *Le Conservateur* 2 (1819), 345–385; ‘De quelle manière un état peut guérir’, *Le Conservateur* 3 (1819), 25–40: ‘cette masse inerte, la terre, les hommes, sans lien qui les rassemble, sans force qui les protège.’

⁷⁹ Félicité de La Mennais, *De la religion considérée dans ses rapports avec l’ordre politique et civil* (Paris, 1826), p. 25: ‘un assemblage de trente millions d’individus’.

⁸⁰ *Ibid.*, pp. 15–47.

became naturalized in 1822. Simond was the author of several travel books, and made numerous contributions to the well-known British journal the *Edinburgh Review*. Although he was not actively engaged in French politics, his article on 'France', published in the *Review* in 1820, was clearly influenced by the arguments developed by royalist theorists such as Bergasse and Cottu.⁸¹

According to Simond, the division of landed property was the most important result of the French Revolution. One half of the population in post-revolutionary France, he wrote, illustrating this with various statistics, was composed of owners of small properties. This made the French people into 'an anomaly among nations'. It had an important psychological effect: no political passions were left in France except equality. In the minds of the French, the restoration of ranks and hierarchy was connected to the restoration of tithes and seigniorial privileges: 'They could do extremely well without civil liberty, but equality they must have.'⁸² But the division of property endangered liberty more directly as well. The political machine in France had become very simple, consisting of two opposing powers: people and king/army. There was in that country no 'intermediary body', Simond wrote, able to rally around the constitution when invaded by either of the opposed powers, and to resist the inroads either of despotism or of anarchy. It was to be regretted that Napoleon had not remained in power longer, as he had understood the necessity 'of filling the immense and widening gulph between him and the promiscuous multitude, by some intermediate class which the nation could respect and confide in'.⁸³

In Simond's view, the French should urgently proceed with the restoration of such intermediary powers. For did not recent history illustrate the dangers of a political system without intermediary powers? 'The Constituent Assembly wanted to give France a monarchy without intermediary powers – a Royal democracy – the very name implying a false conception of the thing', as Simond reminded his readers. 'A republic followed of course; and what republic, everybody knows!'⁸⁴ Decentralization was one possible solution to the French predicament: 'A judicious organization of municipal and departmental administration, would tend to establish, in the great mass of the people of France, hitherto so loose and unconnected, that mutual correspondence of parts, and aggregation of interests, which alone can give

⁸¹ Louis Simond, 'France', *Edinburgh Review* 67 (1820), 1–39. Biancamaria Fontana identifies Simond as the author of this anonymous article in *Rethinking the politics of commercial society: the Edinburgh Review, 1802–1832* (Cambridge: Cambridge University Press, 1985), pp. 38–39.

⁸² Simond, 'France', II. ⁸³ *Ibid.*, p. 12. ⁸⁴ *Ibid.*, p. 34.

solidity and duration to liberal institutions.⁸⁵ But Simond likewise advised his former countrymen to change their succession laws so as to make property more permanent. He emphasized that such laws were not designed to serve the interests of a specific class, but were for the benefit of society as a whole. The restoration of primogeniture, Simond recognized, was far from popular with the French people at large. However, these 'sacrifices' were necessary to maintain their liberty.

In 1817, the royalist demand for primogeniture was partly met by the centrist government of the Duke de Richelieu. A royal decree was issued which obliged members of the Chamber of Peers to entail part of their property in favour of the heir to their title. But this decree, rarely put into practice, seemed insufficient to most royalists. When a purely royalist government came into power in 1820, the issue of primogeniture was again put on the political agenda. From 1824, government members started to prepare a Bill on this issue, and, in 1826, Joseph de Villèle's government introduced the Succession Laws Bill in parliament. This Bill proposed to establish primogeniture again in France, albeit on a limited scale. It was valid only for the richer part of the population, and for deaths *ab intestat*. When landowners paying 300 francs in annual taxes died without leaving a will, the Bill stipulated that the disposable part of their property would go to the eldest son.⁸⁶ Charles Ignace de Peyronnet, the royalist Minister of the Interior, introduced this Bill on 10 February 1826 in the Chamber of Peers, where it gave rise to heated debates between liberals and royalists.

Some royalists, such as Prime Minister Joseph de Villèle, defended the Succession Laws Bill primarily as an economic measure. The division of landed property, Villèle argued, was detrimental to the agricultural prosperity of France. By increasing the size of arable holdings, primogeniture would encourage innovation and mechanization in agriculture.⁸⁷ But the political goal of the Bill was emphasized more often by royalist orators. The Marquis de Maleville made clear that the Peers' parliamentary commission deemed the Bill necessary first and foremost to preserve the liberty and stability of the French state. Doctrine and experience taught, Maleville argued, that primogeniture was indispensable in tempered monarchies, 'where intermediary powers should unite the throne and the nation'. The survival of such moderate governments depended on the existence of an

⁸⁵ *Ibid.*, p. 36.

⁸⁶ On the Bill and the parliamentary debate, see Waresquiel and Yvert, *Histoire de la Restauration, 1814-1830*, pp. 381-382; an older but more extensive account can be found in Alfred Nettement, *Histoire de la Restauration* (Paris: Jacques Lecoivre, 1869), pp. 284-308.

⁸⁷ Joseph Villèle in *Archives parlementaires*, XLVI, 28 March 1826, pp. 444-451.

influential elite, which was based in turn on territorial wealth. For this reason, Maleville reminded his audience, Montesquieu advised primogeniture in monarchy.⁸⁸ In his brochure *Du partage égal et du droit d'aînesse* (1826), J.-J. Brehier likewise argued that the goal of primogeniture – to create ‘something similar to a local aristocracy, numerous, spread over the whole surface of France’ – was ‘the only guarantee of order, the only hope for liberty’.⁸⁹

Marc-René de Montalembert, a diplomat and a royalist member of the Chamber of Peers, emphasized the political importance of the Bill even more clearly. ‘A noble Peer has told you, at the beginning of this discussion’, he declared:

that the Revolution was made to win equality. I reply to this: the Restoration has come to give us our liberties, and as I am among those who prefer liberty to equality, I defend everything that can consolidate our institutions and protect them against the invasions of democracy. For this reason, I did not hesitate one moment to list myself among the defenders of the measure which is now proposed to you.⁹⁰

He then went on to sketch a sinister image of the effects of the revolutionary inheritance laws. The law of equal division, he reminded his readers, had been introduced in France out of zeal for the republic and out of hatred for the monarchy. It undermined the monarchy in different ways, but in particular because it prevented the existence of a ‘political class’, which had enough wealth and leisure to occupy itself solely with public affairs.⁹¹ Under the influence of the revolutionary succession laws, France would soon become a nation of poor peasant proprietors, ‘a vast warren, if I can use that expression, where each individual, each unhappy peasant will have his hole which he will leave only to obtain, by the sweat of his brow, a miserable and fleeting existence’.⁹²

⁸⁸ Marquis de Maleville in *Archives parlementaires*, XLVI, 11 March 1826, p. 254: ‘où des pouvoirs intermédiaires doivent unir le trône et la nation’.

⁸⁹ J. J. Brehier, *Du partage égal et du droit d'aînesse, dans leurs rapports avec nos institutions et l'état de la société en France* (Paris, 1826) p. 95: ‘un semblant d'aristocratie locale, nombreuse, répandue sur toute la surface de la France . . . la seule garantie de l'ordre; c'est le seul espoir de la liberté’.

⁹⁰ Marc-René de Montalembert in *Archives parlementaires*, XLVI, 30 March 1826, p. 519: ‘Un noble pair vous a dit, en commençant cette discussion, la Révolution a été faite pour conquérir l'égalité. Je réponds: la Restauration est venue pour nous donner des libertés: et comme je suis du nombre de ceux qui préfèrent les libertés à l'égalité, je m'attache à tout ce qui peut consolider nos institutions et les protéger contre les envahissements de la démocratie: aussi n'ai-je pas hésité un seul instant à me ranger parmi les défenseurs de la mesure qui vous est proposée.’

⁹¹ *Ibid.*, p. 520.

⁹² *Ibid.*: ‘une vaste garenne, si je puis me servir de cette expression, où chaque individu, chaque malheureux paysan aura son réduit dont il ne sortira que pour se procurer, à la sueur de son front, une misérable et chétive existence’.

In such a levelled society, the expansion of government power was unavoidable. A law that established 'an immense quantity of small proprietors, poor, exclusively occupied with their domestic needs', prevented the existence of limits to ministerial power. A people, 'curbed by the exigencies of the unlimited division of property', remained under the thumb of salaried functionaries. In a country where there were nothing but 'individuals without political consistency; temporary, accidental fortunes; ephemeral beings without local influence', neither centralization nor bureaucracy could be avoided.⁹³ In order to highlight this point, Montalembert invoked the English example. In England, there was no danger of centralization, and why?: 'because there are great territorial fortunes which will not disappear from one day to another; because there are people with great local influence; because the political class of the nation is numerous, rich, and powerful, and because it perpetuates itself from family to family'.⁹⁴

But centralization was not the only result of the absence of a political class. Even worse, 'servitude' would become inevitable in such a levelled society. The subdivision of landed property destroyed 'all great territorial fortunes', 'all local influences', 'all independent existences'; it created a nation in which, apart from an emasculated court nobility, no political class existed between the throne and the people; it dissolved French society into 'a great and inert agglomeration of individuals, without influence, without mutual trust, without national spirit, without means to unite or agree, and in consequence without interest in public affairs'. In such a society, sovereign power lacked all barriers, and the prince could rule according to his own caprice. 'Thus', Montalembert concluded, 'our succession laws have the deplorable advantage that they can be combined as easily with a republican as with an absolute government. They are but incompatible with the constitutional monarchy, that is, with the form of government which makes our strength and our prosperity'.⁹⁵

In short, royalist advocates of primogeniture were deeply concerned about the levelled condition of French society. The absence of a landed nobility in post-revolutionary society implied, in their view, that the French nation had been left without protection against the twin dangers of anarchy and despotism. Their campaign for the restoration of primogeniture in

⁹³ *Ibid.*, p. 521.

⁹⁴ *Ibid.*: 'Parce qu'il y a de grandes fortunes territoriales qui ne disparaissent pas du jour au lendemain; parce qu'il y a de grandes influences locales; parce que la classe politique de la nation est nombreuse, riche, puissante, et qu'elle se perpétue de famille en famille.'

⁹⁵ *Ibid.*: 'Ainsi donc, nos lois sur les successions ont le déplorable avantage de se combiner également avec le régime républicain et le régime absolu. Elles ne sont incompatibles qu'avec la monarchie constitutionnelle, c'est-à-dire avec la forme de gouvernement qui fait notre force et notre prospérité.'

France was therefore a 'liberal' campaign, albeit in a very specific sense of the word. It showed that Montesquieu's aristocratic liberalism was still very much alive in post-revolutionary France. Or, as a contemporary put it, the royalist campaign for primogeniture had been inspired by 'monarchical-constitutional theories formulated by Montesquieu's school'.⁹⁶

Despite the royalist enthusiasm for primogeniture, however, the Succession Laws Bill was defeated by the liberal majority in the Chamber of Deputies on 7 April 1826. The failure of the Bill, one of the most crushing defeats of Villèle's royalist government, was followed by a severe electoral loss in 1827, causing the fall of Villèle's government in 1828.⁹⁷ In 1830, the July Revolution put an even more definite stop to royalist attempts to restore a territorial aristocracy in France. Nevertheless, a number of publicists continued to plead for the reintroduction of primogeniture after 1830. In the conclusion to his *Vingt mois*, Salvandy defended a limited form of primogeniture – the creation of *majorats* – as a way to combat the problems engendered by the democratization of the political system brought about by the July Revolution. A territorial aristocracy was 'the necessary foundation of the throne', he wrote, but it was also the support, 'even more necessary, of free institutions'.⁹⁸ As we shall see, this idea continued to exercise a certain influence on later generations of French political thinkers.

CONCLUSION

The royalists are usually described as traditionalist or even reactionary thinkers. They did not defend liberty as a general political ideal, so the argument runs, but pleaded for the restoration of ancient rights and liberties. As such, their discourse is usually dismissed as irrelevant for the development of modern liberalism. Royalists were, as one scholar has put it, 'liberals of the Old Regime', propagating 'a regressive utopia'.⁹⁹ However, this view of the royalist discourse is hardly a plausible one. Far from being

⁹⁶ Carné, *Vues sur l'histoire*, II, p. 64.

⁹⁷ Waresquiel and Yvert, *Histoire de la Restauration, 1814–1830*, pp. 381–402.

⁹⁸ Salvandy, *Vingt mois*, p. 609: 'le point d'appui nécessaire des trônes . . . plus nécessaire encore, des institutions libres'.

⁹⁹ Jean-Christian Petitfils, 'Postérité de la Contre-révolution' in *La Contre-révolution*, ed. Jean Tulard and Benoît Yvert (Paris: Perrin, 1990), p. 388. For accounts of royalism as a 'traditionalist' ideology, see René Rémond, *La droite en France de 1815 à nos jours. Continuité et diversité d'une tradition politique* (Paris: Aubier, 1954); Jean El Gammal, '1815–1900. L'apprentissage de la pluralité' in *Histoire des droites en France*, vol. I: *Politique*, ed. Jean-François Sirinelli (Paris: Gallimard, 1992), pp. 491–518; Jacques Prévotat, 'La culture politique traditionaliste' in *Les cultures politiques en France*, ed. Serge Berstein (Paris: Seuil, 1999), pp. 33–67.

mindless reactionaries, it has become clear, royalists defended a very specific, Montesquieuan conception of how liberty was to be preserved in the post-revolutionary world.

In the royalist view, liberty and equality were incompatible ideals, because levelled social conditions left a society without barriers against despotism. The French Revolution, in their view, did nothing but confirm this analysis. Furthermore, royalists argued that a liberal regime presupposed a society dominated by a stable, landowning nobility, and they invoked the English example to illustrate this point. Starting from this theory, royalists showed themselves highly critical of the condition of French society. They believed that a measure of social reform was necessary to restore an aristocracy in France, so as to make the French state safe from the twin dangers of anarchy and despotism.

By making these arguments, royalists posed a serious intellectual challenge to their liberal opponents. As will become clear in the following chapters, the royalist doctrine provoked an elaborate response from liberal writers and theorists of the Restoration period. Many important texts of post-revolutionary liberalism should be understood as part of the heated debate between liberals and royalists that went on between 1814 and 1830. Moreover, it will become clear that the royalist doctrine continued to have an important influence on nineteenth-century French liberalism long after the demise of the Restoration monarchy in 1830.

CHAPTER 3

A society of equals: the liberal response

Unlike their royalist contemporaries, many liberal publicists of the Restoration period have escaped obscurity and are still read and commented upon today.¹ Indeed, it is now generally recognized that the early nineteenth century was, as Laurence Jacobs expresses it, 'a vital and creative period for French liberal thought'.² The vitality and creativity of Restoration liberalism is generally attributed to this generation's need to develop a new outlook on liberty that distinguished itself from the Jacobins' republicanism, which had caused the Revolution to fail so dramatically. However, Restoration liberalism was also shaped in direct response to the royalists' aristocratic liberalism. In formulating their political doctrines, post-revolutionary liberals reacted as much against royalism as against Jacobinism, although they started out from a position that was quite close to that of the royalists.

THE ANACHRONISM OF ARISTOCRATIC LIBERALISM

In the immediate aftermath of the Revolution, many liberals turned – as Jacques Necker had done – to the English political model, which had shown itself capable of guaranteeing liberty as well as preserving a high degree of political stability during difficult times. Their admiration for the English example led several important liberal thinkers to adopt a position remarkably close to the royalists' aristocratic liberalism.³ If the English had been so much more successful at preserving liberty and stability than the

¹ A comprehensive overview of liberal thinkers is to be found in André Jardin, *Histoire du libéralisme politique. De la crise de l'absolutisme à la constitution de 1875* (Paris: Hachette, 1985).

² Laurence Jacobs, "Le moment libéral": the distinctive character of Restoration liberalism', *The Historical Journal* 33 (1988), 490.

³ George Armstrong Kelly draws attention to the pro-aristocratic attitude of certain liberals in his article 'Liberalism and aristocracy in the French Restoration', *Journal of the History of Ideas* 26 (1965), 509–530. On the liberals' admiration for the English aristocratic model, see J. R. Jennings, 'Conceptions of England and its constitution in nineteenth-century French political thought', *The Historical Journal* 29 (1986), 65–85.

French, they argued, this should be attributed first and foremost to their mixed constitution, in which an aristocratic House of Lords held the balance between a more democratic Commons and the king. At the beginning of the Restoration period, many liberals therefore argued that a hereditary chamber, modelled on the English House of Lords, needed to be incorporated into the post-revolutionary political system. Such an aristocratic institution, they argued, was indispensable as a barrier against both royal despotism and popular impetuosity.

The general consensus concerning the importance of such an aristocratic element in the political system was reflected in the constitution-making process of 1814–1815, to which liberal politicians and publicists made a crucial contribution. The hereditary Chamber of Peers introduced by the Charter of 1814 had been instituted at the request of the liberals rather than of the royalists.⁴ In his *Mémoires*, Jacques-Claude Beugnot, a liberal member of the constitutional committee, commented that the different articles concerning the Chamber of Peers were approved by general consensus.⁵ The importance attached to a hereditary institution was illustrated again when Napoleon returned to France after his escape from Elba in the Spring of 1815. The constitution which was framed during his short reign, the Additional Act to the Constitutions of the Empire, maintained Louis XVIII's Chamber of Peers, albeit with a different personnel.⁶

In order to legitimate the institution of such a hereditary chamber, a number of liberal publicists invoked Montesquieu's *Esprit des lois*, as is illustrated by Benjamin Constant's constitutional writings. During the last months of Napoleon's reign, Constant had made a name for himself with a brilliant polemic against the imperial regime, *De l'esprit de conquête et de l'usurpation* (1813–1814). After the return of the Bourbons, he continued on this track with the publication of a brochure outlining his constitutional views, the *Réflexions sur les constitutions* (1814), which was modified and reissued during the Hundred Days as *Principes de politique* (1815).⁷ In these latter brochures, Constant argued for the importance of a division

⁴ On the debates concerning the Chamber of Peers in Restoration France, see Annelien de Dijn, 'Balancing the constitution: bicameralism in post-revolutionary France, 1814–1831', *European Review of History* 12 (2005), 249–268.

⁵ *Mémoires du comte Beugnot, ancien ministre (1783–1815)*, ed. Albert Beugnot (Paris, 1866, 2 vols.), I, p. 512. Clausel de Coussergues likewise emphasized in his *Considérations sur l'origine, la rédaction, la promulgation et l'exécution de la Charte* (Paris, 1830) that a general consensus existed concerning the heredity of the peerage: p. 138.

⁶ Paul Bastid, *Les institutions politiques de la monarchie parlementaire française (1814–1848)* (Paris: Sirey, 1954), pp. 241–251.

⁷ On Constant's participation in the constitutional debates of 1814–1815, see Kurt Kloocke, *Benjamin Constant. Une biographie intellectuelle* (Geneva and Paris: Droz, 1984), pp. 181–214.

of powers, as a means to limit popular sovereignty. He envisaged this division, in part, as a functional division between the executive, legislative and judicial power, to which he added the innovative concept of a mediating, neutral power, exercised by the king. However, Constant also made clear that the balance he propagated was just as much a balance between socially distinct as between functionally differentiated bodies. More specifically, he explained at length that an aristocratic, hereditary chamber was an indispensable element in a constitutional monarchy.

In order to make this point, Constant developed an argument which seemed, not without reason, highly 'royalist' to the right-wing journal *Le Défenseur*.⁸ Without an aristocratic chamber, he explained in chapter 4 of *Principes de politique*, despotism and instability threatened. Intermediary bodies such as the nobility were necessary in the interests of both liberty and stability. 'For the government of one man to subsist without a hereditary class', he wrote, 'it must indeed be pure despotism'.

Anything can last for a more or less lengthy period of time under a despotism which is pure force. But any system which is maintained through despotism takes its chances, or, in other words, is threatened by the risk of being overthrown. The elements of the government of one man, without a hereditary class are: a single man who rules, soldiers who execute and a people that obeys. In order to give further support to the monarchy, you need an intermediary body. Montesquieu insists on this, even in an elective monarchy.⁹

Constant's enthusiasm for the bicameral system was shared by many other liberals, such as J. C. L. Sismondi, who was a close friend of Constant's. In his *Examen de la Constitution française* (1815), first published in *Le Moniteur*, Sismondi provided a spirited defence of the Additional Act. He agreed with Constant that bicameralism was a necessary feature of the post-revolutionary political system. A third, aristocratic 'intermediate' power, he argued, was necessary, next to the 'governmental' and the 'national' or democratic powers. It should represent the conservative forces in society, and prevent the majority from imposing its will on the minority. The wealth and personal renown of a hereditary peerage would also turn it into a barrier against royal power. By instituting a Chamber of Peers, Napoleon had, in other words, given proof of his liberal intentions.¹⁰

Another famous collaborator of Constant's, Germaine de Staël, was likewise convinced that a hereditary nobility had an important political role to

⁸ T. B., 'M. B. Constant, et son dernier ouvrage intitulé: des motifs qui ont dicté le projet de loi sur les élections', *Le Défenseur* 1 (1820), 488–497.

⁹ Constant, *Political Writings*, p. 198.

¹⁰ J. C. L. Sismondi, *Examen de la constitution française* (Paris, 1815), p. 56.

play in the creation of a stable, liberal regime in post-revolutionary France. Although Staël had been a committed defender of the republic during the Revolution, she moved increasingly to the right at the end of her life, and this shift was apparent in her posthumous *Considérations sur la Révolution française* (1818), one of the most hotly debated books of the Restoration period.¹¹ Staël attributed the failing of the Revolution to the fact that all attempts to introduce a political system modelled on the English example in France had backfired.¹² In her view, an aristocratic Chamber of Peers was an indispensable feature of the limited monarchy, which she considered in turn to be the only suitable political system for modern nations. ‘The democrats will say that we need a king without patricians, or that neither the one nor the other is necessary’, she wrote, ‘but experience has shown the impossibility of that system’.¹³

In other words, an investigation of the pamphlet-literature produced during the constitutional debates of 1814–1815 suggests that many liberals shared the royalists’ aristocratic liberalism. However, in the course of the Restoration period, a shift occurred in the liberal discourse. Despite their initial enthusiasm for the English model, liberals became more critical of aristocratic liberalism as this doctrine became increasingly identified with the royalist party. In response, some liberal publicists reverted to an anti-noble discourse that was reminiscent of the revolutionary invective against the aristocracy’s ‘sinister interest’.¹⁴ In a critical review of Staël’s *Considérations*, for instance, Charles Bailleul explained at great length that the nobility had hardly contributed to liberty or stability in the past. Nobles had always aimed to protect their own privileges rather than to preserve the liberty of the people. Neither was the nobility a support for the throne. In the Old Regime, the aristocracy had always plotted against royal authority, and during the Revolution it had been unable to protect the king.¹⁵

Joseph Rey’s *Des bases d’une constitution ou de la balance des pouvoirs dans un état* (1815), a contribution to the constitutional debate of 1814–1815,

¹¹ Germaine de Staël, *Considérations sur la Révolution française*, ed. Jacques Godechot (Paris: Tallandier, 1983). On the debates raised by Staël’s book, see Ezio Cappadocia, ‘The liberals and Mme de Staël in 1818’ in *Ideas in history. Essays presented to Louis Gottschalk by his former students*, ed. Richard Herr and Harold T. Parker (Durham: Duke University Press, 1965), pp. 182–197.

¹² Staël, *Considérations*, pp. 203–206.

¹³ *Ibid.*, p. 582: ‘Les démocrates diront qu’il faut un roi sans patriciat, ou qu’il ne faut ni l’un ni l’autre, mais l’expérience a démontré l’impossibilité de ce système.’

¹⁴ On revolutionary anti-noble ideology, see Patrice Higonnet, *Class, ideology and the rights of nobles during the French Revolution* (Oxford: Clarendon Press, 1981), pp. 170–218.

¹⁵ Charles Bailleul, *Examen critique des considérations de Mme la baronne de Staël sur les principaux événements de la Révolution française, avec des observations sur les dix ans d’exil, du même auteur et sur Napoléon Bonaparte* (Paris, 1822, 2 vols.).

was likewise highly critical of aristocratic-liberal arguments.¹⁶ Examining different 'constitutional guarantees' such as the liberty of the press, which were necessary, in his view, to safeguard liberty, Rey also posed the question of whether the nobility could be such a guarantee. Some publicists, he wrote, 'following Montesquieu's lead', had maintained that the nobility was crucial as a support for the throne and as a barrier against despotism. Experience and reason, however, taught that both suppositions were mistaken. As a privileged body, nobles served only their own interest rather than that of the population. 'Everything therefore leads us to conclude', Rey wrote, 'not just that the nobility was never the support of the throne, or the pillar of liberty, but that it is by its essence the enemy of the one and of the other'.¹⁷

Most liberals of the Restoration period, however, avoided such virulently anti-noble sentiments. Instead, they opted for a more pragmatic response to the royalist discourse. Liberal publicists and orators pointed out that an aristocratic restoration, even if it had been desirable, had quite simply become impossible. Drawing on theories of social change that had been developed during the eighteenth century and during the Revolution, they argued that France had become an 'equalized' or 'democratic' society, which was very different from the social ideal defended by royalists. Even if one agreed that the nobility might have played a useful political role in the past, they argued, it had nevertheless become an obsolete social element that could not be restored in post-revolutionary France.

This shift is illustrated most clearly by Constant's writings. As he developed into one of the liberals' leading spokesmen in the early years of the Restoration period, Constant became engaged in an ideological battle with the royalists, which forced him to develop a response to their aristocratic liberalism. In his brochure *De la doctrine politique qui peut réunir les partis en France* (1816), for instance, Constant criticized the attempts of the royalist party (which he described as the party of the 'nobility') to gain control over the government by an aggressive campaign for electoral reform. Although the nobility had a role to fulfil in post-revolutionary society, he wrote, it should not expect to rule the country as it had in the Old Regime. Such attempts were hardly likely to benefit the liberty of France; they would only

¹⁶ Joseph Rey, *Des bases d'une constitution ou de la balance des pouvoirs dans un état* (Grenoble, 1815), pp. 93–99.

¹⁷ *Ibid.*, p. 98. Rey's emphasis. 'Tout s'accorde donc à prouver, non-seulement que la Noblesse ne fût jamais ni le soutien du trône, ni l'appui de la liberté, mais qu'elle doit être essentiellement l'ennemie de l'un et de l'autre.'

provoke the population. 'The spirit of the century', Constant emphasized, 'and even more so that of France, is all for equality'.¹⁸

Eventually, this led Constant to renounce his support for the hereditary peerage. Looking back on the constitutional debates of 1814–1815 in his *Mémoires sur les Cent-Jours* (1819–1820), Constant admitted that his enthusiasm for the Chamber of Peers had been a mistake. The example of the British constitution, as well as Montesquieu's authority, he wrote, had convinced him at the time that a monarchy was impossible without a peerage. But he was less sure now of that opinion. In particular, Constant had become convinced that the social condition of post-revolutionary France prevented the viability of such an aristocratic body. The 'national disposition' was in favour of 'an almost absolute equality', he wrote. The social structure, characterized by the division of properties, and by the ever increasing influence of commerce, industry and capital, had made the landed nobility a redundant social element. In these circumstances, a hereditary peerage representing nothing but the great landowners was something contrary to nature.¹⁹

Renouncing their initial enthusiasm for an English-type, mixed constitution, Restoration liberals came to argue that the royalists' aristocratic liberalism was no less anachronistic than the Jacobins' republicanism. This conclusion was spelled out quite explicitly by a number of Restoration liberals. At repeated instances, they made clear that Montesquieu's authority, so frequently invoked by the royalists, was no more valid than Rousseau's in modern, post-revolutionary society. Montesquieu's doctrines, they argued, might have been useful under absolute monarchy, when the nobility was still a powerful force in society, but they were no longer so in nineteenth-century France.

This theory was developed at length in the influential liberal journal *Le Censeur européen*. In 1815, the editors of *Le Censeur*, Charles Comte and Charles Dunoyer, published a critical review of Escherny's writings, in which they condemned his invocation of Montesquieu's political precepts as anachronistic. The aristocracy might have been a barrier against despotism in the past, they argued, but it was no longer supported by public opinion, and it had therefore lost its useful function in the state.²⁰ In a later article,

¹⁸ This brochure was reprinted in Constant's *Collection complète des ouvrages, publiés sur le gouvernement représentatif et la Constitution actuelle de la France, formant une espèce de Cours de politique constitutionnelle* (Paris, 1818–1820, 8 vols.), III, quote p. 153: 'L'esprit du siècle, et plus encore celui de la France, est tout entière à l'égalité.'

¹⁹ Benjamin Constant, *Mémoires sur les Cent-Jours*, ed. O. Pozzo di Borgo (Paris: Pauvert, 1961), p. 156.

²⁰ X., review of F. L. d'Escherny's *Essai sur la noblesse*, *Le Censeur* 2 (1815), 145–155.

Comte warned against Montesquieu's influence on post-revolutionary politics. The downfall of the Republic, he wrote, had made clear that the model of the ancient republics, propagated by Rousseau, was suitable only for a people in its infancy. With the restoration of the monarchy in France, brought about by Napoleon, another model had been adopted, the feudal system, which was advocated by Montesquieu: 'Rousseau has from that moment on ceased to be the guide of the French legislators, and it is Montesquieu who has replaced him.' However, this model was only slightly less outdated: 'Instead of regressing two or three thousand years, we now only tried to go back two or three centuries.'²¹

Liberals repeated these ideas on many occasions during the debates of the Restoration period. During the debate about the Succession Laws Bill in 1826, for instance, the doctrinaire thinker and historian Prosper de Barante complained about the use of Montesquieu's authority by the royalists. In the *Esprit des lois*, Montesquieu had defended 'a social constitution composed of the debris of feudalism', which was no longer suitable for nineteenth-century France. The post-revolutionary monarchy, in which the nobility was not an independent force, was very different from the monarchy of the Old Regime, and therefore in no need of the aristocracy as a counterweight.²² Moreover, Barante was convinced that Montesquieu himself would have realized that the re-imposition of primogeniture was not an option in post-revolutionary France. Montesquieu had been committed to the principle that the laws had to be in harmony, never in contradiction, with 'the state of society'. Therefore, he would have understood that the laws of primogeniture were unsuitable for the post-revolutionary society.²³

A SOCIETY OF EQUALS

In short, Restoration liberals believed that the royalists' aristocratic liberalism was as obsolete as the Jacobins' republicanism. However, this judgment was based on a very different evaluation of the characteristics of modern society. In their rejection of the Jacobin discourse, liberal thinkers – as

²¹ Charles Comte, 'Considérations sur l'état moral de la nation française, et sur les causes de l'instabilité de ses institutions', *Le Censeur européen* 1 (1817), 1–92, quote p. 68: 'Rousseau a cessé dès ce moment d'être le guide des législateurs de la France, et c'est Montesquieu qui l'a remplacé. Au lieu de rétrograder de deux ou trois mille ans, on n'a plus voulu reculer que de deux ou trois siècles.'

²² Prosper de Barante in *Archives parlementaires*, XLVI, 30 March 1826, p. 517.

²³ *Ibid.*, quotes pp. 517, 514. Similar arguments about the use of Montesquieu's authority were made by many other liberal publicists during the debate about the Succession Laws Bill, as it was pointed out by J.-D. Lanjuinais in his brochure *Discours contre le projet de rétablir et d'aggraver les privilèges d'aînesse, de masculinité, de substitutions; et discours spécial contre les substitutions* (Paris, 1826).

had their eighteenth-century predecessors – contrasted modernity with the world of antiquity. From this perspective, the most striking feature of modern societies was their lack of public virtue, which was caused by the rise of commerce and luxury. In response to the royalists' aristocratic liberalism, however, liberal publicists of the Restoration period developed a very different definition of modernity as distinct from the feudal period. The most important characteristic of modern societies, when compared to the aristocratic societies of the Middle Ages, was that they were – irreversibly – 'equal' or 'democratic', rather than that they were characterized by a lack of public virtue.²⁴

When arguing that France had become a society of equals, Restoration liberals were of course aware of the fact that considerable socio-economic differences between French citizens continued to exist in the post-revolutionary period. In their view, France had become equalized in the sense that it had become a society in which the law guaranteed civil equality, in which the privileges of the Old Regime had been abolished. Moreover, the differences that continued to exist between citizens were not of the same fundamental nature as the distinctions between the estates of the Old Regime. French society, and modern societies in general, were no longer characterized by the existence of a fixed social elite that was separated from the rest of the population by impenetrable barriers.

Again, Constant's writings allow us to understand which theoretical presuppositions were at the basis of this argument. The problem of the nature of social change and its internal logic held an important place in his writings, in particular in his short treatise *De la perfectibilité de l'esprit humaine*, which was included in his *Mélanges de littérature et de politique* (1829). Likewise, Constant's interest in this theme is shown by an unpublished, unfinished essay entitled *Du moment actuel et de la destinée de l'espèce humaine, ou histoire abrégée de l'égalité*.²⁵ From these writings, it is clear that the liberal argument against the royalist discourse was based on premises that were partly informed by, but also differed from, those of eighteenth-century *philosophes* such as Jean-Jacques Rousseau.

Similar to Rousseau, Constant believed that equality was the natural condition of mankind. In his *De la perfectibilité*, he argued that 'equality

²⁴ The terms 'equal' and 'democratic' were often used without distinction to describe the social condition of post-revolutionary France; see A. Tudesq in his *La démocratie en France depuis 1815* (Paris: Presses Universitaires de France, 1971), pp. 1–26; Horst Dippel, 'Démocratie, démocrates' in *Handbuch politisch-sozialer Grundbegriffe in Frankreich 1680–1820*, ed. Rolf Reichardt and Eberhard Schmitt (Munich: Oldenbourg, 1986), VI, pp. 57–97.

²⁵ These treatises are discussed in Beatrice Fink, 'Benjamin Constant on equality', *Journal of the History of Ideas* 33 (1972), 307–314.

alone is consistent with truth'.²⁶ Inequality had come into being upon the establishment of human society, which had led to the institutionalization of unnatural inequalities. However, Constant was convinced that this process had been stopped after its initial gestation. In marked distinction from Rousseau, who believed that history was characterized by ever-increasing inequality and corruption, Constant argued that the history of mankind showed a progressive development towards equality. From one historical stage to the next, a series of social upheavals, despite occasional setbacks, had led to the levelling of society. Four 'revolutions' had succeeded each other in history: the destruction of theocracy had been followed by the abolition of slavery, and by the demise of feudalism, a process which had been completed by the disappearance of the nobility as a separate class in 1789.

Constant explained this development by pointing out, in imitation of Condorcet, that man was a 'perfectible' being. Man was ruled by reason rather than by his sensations, which allowed for continual progress as reason became ever more perfected. And since equality was the most fundamental and omnipresent of all of man's ideas, feelings and desires, it followed that this innate perfectibility took on the character of a tendency towards equality. To Constant, this was both an ethical imperative and an empirically valid conclusion. If for some reason the natural march towards equality was hampered by temporarily powerful factions, corruption and vice took on epidemic proportions. This provoked in turn a social cataclysm which set the course of human development again on the road towards equality. Constant also emphasized that this social development had an important impact on a country's political structures. Institutions that had one day been useful, such as the nobility, became 'abuses' as time progressed, and were then abolished or overthrown.²⁷

Another, and perhaps more famous, expression of this egalitarian doctrine can be found in a speech by the doctrinaire orator Pierre-Paul Royer-Collard. Although Royer-Collard had been close to the royalists during the Revolution, and had even been a member of a secret royalist committee, he dissociated himself from the right after 1814. As a deputy and counsellor of state, Royer-Collard became the leader of the so-called 'doctrinaires', a faction that attempted to hold the middle between radical liberals and royalists. However, the doctrinaires moved steadfastly to the left, especially after the royalists gained power in 1820, and Royer-Collard became

²⁶ Benjamin Constant, *Mélanges de littérature et de politique* (Louvain, 1830, 2 vols.), II, pp. 102–122.

²⁷ *Ibid.*

one of the leaders of the liberal opposition to the royalist government. In his speech before the Chamber of Deputies on 15 May 1820, which was extensively quoted in the liberal press, Royer-Collard formulated one of the most coherent and influential statements of the liberal egalitarian doctrine.²⁸

This speech has drawn much attention from historians because of its clear formulation of a specific, 'sociological' approach to politics. Royer-Collard started out by arguing that a political system could not be based on an abstraction that had been devised by a scholar in his study. It should truthfully express the interests and *moeurs* of the society it was supposed to rule. Like the physical world, the world of politics was ruled, as Royer-Collard put it, by certain laws, which implied that only one type of government was suitable for one type of society.²⁹ This empiricist approach to politics can be seen, as many historians have pointed out, as a reaction against the Jacobins' utopianism.³⁰ But when we go on to analyse Royer-Collard's specific application of this methodological principle, it will become clear that he was criticizing the royalists' aristocratic liberalism rather than the Jacobin legacy. For in his view, the main characteristic of French society, to which its political system should be adapted, was its levelled, equalized nature.

In his speech, Royer-Collard protested against royalist attempts to give the wealthiest landowners more electoral weight – attempts which royalist orators legitimated, as we saw, as being necessary for the survival of the constitutional monarchy in France. In response, Royer-Collard argued that the royalists' Electoral Bill was incompatible with the new society that had come into being in France – a society that was characterized, first and foremost, by equality. 'A new society has been founded on the basis of equality', Royer-Collard declared.³¹ Any attempts to turn the Chamber of Deputies into an aristocratic body would be futile. The royalist Electoral Bill was not just a violation of the Charter, or of the representative system; no, it was a *coup d'état* against society, against equality.³² 'Everyone should recognize', he concluded, 'that our political soil, for so long the domain of

²⁸ A complete collection of Royer-Collard's speeches is provided in Prosper de Barante's *La vie politique de M. Royer-Collard* (Paris, 1861, 2 vols).

²⁹ *Ibid.*, II, p. 16.

³⁰ An important body of literature is devoted to the Restoration liberals' 'sociological' approach to politics, as expressed, amongst others, by Royer-Collard. See in particular Siedentop, 'Two liberal traditions'; and Aurelian Craiutu, 'Between Scylla and Charybdis: the "strange" liberalism of the French doctrinaires', *History of European Ideas* 24 (1998), 243–265.

³¹ Barante, *Royer-Collard*, II, pp. 16–17: 'Une société nouvelle est instituée sur la base de l'égalité.'

³² *Ibid.*, p. 23.

privilege, has been conquered by equality, no less irrevocably so than the soil of the Gauls was in the past conquered by the Franks'.³³

Many liberal thinkers and publicists pointed to the events of 1789 as the ultimate proof of these assertions. In their view, the very fact that the Old Regime had succumbed was both one of the main signals and one of the main causes of the increasing progress of French society towards equality. The Revolution, they argued – thus developing an interpretation of the events of 1789 that differed markedly from the royalists' – had been a social revolution rather than a political one. By destroying the remnants of feudal institutions, it had completed a process of social transformation which had begun with the rise of the Third Estate in the twelfth century, and which had been further encouraged by the levelling policies of the absolute monarchs. The Revolution had changed French society from a feudal state, with fixed hierarchies based on legal privileges, into a modern nation, characterized by civil equality. Any attempts to turn back the clock, and to re-establish aristocratic dominance in post-revolutionary France, they warned, would inevitably lead to a new and perhaps even more bloody revolution.

The most coherent expression of this view was formulated by François Guizot in the course of his various skirmishes with the royalists. Guizot had entered into political life at the beginning of the Restoration period as a *protégé* of Royer-Collard. He was soon appointed to an important function in the administration, and he played a crucial role in the framing of the Electoral Bill of 1817. For this reason, he became involved in conflict with the royalists, who objected to the Bill's anti-aristocratic bias. When a royalist government came to power in 1820, he was dismissed from office and he became an active member of the liberal opposition.³⁴ Guizot was also a successful journalist, who supported the liberal cause in his journal *Archives philosophiques, littéraires et politiques* and in various brochures and pamphlets. During the Restoration period, he gained renown especially for his doctrine that the French Revolution was first and foremost a social revolution, a victory of the Third Estate over the aristocracy.

Guizot first developed this doctrine in an article published in 1818 in his journal *Archives philosophiques*. The royalists, he wrote, wanted to restore 'the Old France'. But this was not an example that could be imitated in post-revolutionary times, because the feudal, aristocratic society had been

³³ *Ibid.*, p. 25. 'Que chacun le reconnaisse, Messieurs, notre sol politique, si longtemps le domaine du privilège, a été conquis par l'égalité, non moins irrévocablement que le sol gaulois fut autrefois par le peuple franc.'

³⁴ Gabriel de Broglie, *Guizot* (Paris: Perrin, 1990), chapter 3.

destroyed in the course of time. It had been fatally undermined long before the Revolution by the absolute kings, and the political upheaval of 1789 had been necessary to adapt the French political system to the new social realities. To restore the feudal monarchy in its original form was therefore a chimerical project. Even the royalists' hope that the old aristocratic system could be restored in a new form was, in Guizot's view, utopian. The Revolution had not simply changed one aristocracy for another, new type of aristocracy, it had created a new world on the basis of the principle of equality before the law. In this sense it was comparable to the 'Christian revolution', which had proclaimed the equality of men before God.³⁵

A similar view was expressed in Guizot's famous brochure *Du gouvernement de la France depuis la Restauration* (1820), written in response to his dismissal from office after the royalists came to power. In this brochure, Guizot depicted French history as a continuing battle between 'Franks' and 'Gauls', between nobles and bourgeois. As a result of the conquest of Gaul by the Frankish warriors, who had established themselves as the ruling class during feudalism, France had always been characterized by 'two social situations profoundly diverse and unequal'.³⁶ With the French Revolution, this struggle had known its last, decisive battle. The events of 1789 had spelled the victory of the conquered race over its former conquerors, 'of equality over privilege, of the Third Estate over the nobility and the clergy'. This victory could not be undone, the clock could not be turned back. Any attempt at counter-revolution was in fact an invitation to start the revolution anew. The advent to power of a royalist government in 1820, in Guizot's view a clear sign of such a counter-revolution, was therefore doomed to fail.³⁷

The impact of such anti-royalist brochures by Guizot and other publicists on liberal historiography was considerable. A conception of the Revolution as the ultimate consummation of a long process of social change became widely adopted by liberal historians. In the introduction to his *Histoire de la révolution française* (1824), the most popular account of the Revolution published during the Restoration period, François Mignet described the

³⁵ François Guizot, 'Politique spéciale', *Archives philosophiques, politiques et littéraires* 3 (1818), 385–409, quote p. 405.

³⁶ François Guizot, *Du gouvernement de la France depuis la Restauration, et du ministère actuel* (Paris, 1820), pp. iii–iv: 'deux situations sociales profondément diverses et inégales'. On Guizot's views on the French Revolution, see Rosanvallon, *Le moment Guizot*, pp. 204–212; and Rosanvallon, 'Guizot et la Révolution française' in *François Guizot et la culture politique de son temps*, ed. Marina Valensise (Paris: Seuil, 1991), pp. 59–68. Note that Guizot's historical writings of the Restoration period gave a more nuanced view of the French Revolution; he described it not just as a social revolution, but as a response to absolutism as well, as part of a broader European movement.

³⁷ Guizot, *Du gouvernement*, quote p. 138: 'l'égalité sur le privilège, du tiers état sur la noblesse et le clergé'.

events of 1789 unambiguously as a social transformation. The Revolution had begun 'the era of new societies', like the English Revolution had started 'the era of new governments'. The Revolution had not just modified the government, it had changed the interior existence of the nation. Before the Revolution, the forms of medieval society still existed. Hostility between different provinces and between different classes had characterized French society. The nobility still had its distinctions, although it had lost most of its power. The Revolution, however, had put an end to that state of affairs, by creating an order 'more consistent with justice and more appropriate to our times', by replacing privilege by equality.³⁸

A COMMERCIAL SOCIETY: THE LIBERAL CRITICISM OF THE ROYALISTS' SOCIAL IDEAL

While Restoration liberals described modern society first and foremost as democratic or equalized, they put much emphasis as well on the fact that it was a commercial society. This view was developed as a critique of the royalists' claim that a social order dominated by a small group of opulent landowners, such as in England, was the most suitable for sustaining a liberal regime. The idea that liberty depended on a landowning nobility, liberals argued, was in itself highly questionable. But, more importantly, it was an ideal wholly incompatible with the post-revolutionary world. The English socio-political system, propagated so enthusiastically by the royalists, was not a model to be imitated, but an obsolete type of society that would probably decay in the near future; in any case, it did not offer an example for the French.

The theory of social change on which these arguments were based had a long intellectual pedigree. In the eighteenth century, French and Scottish writers had become convinced that history was characterized by the slow development from one social stage to another. A series of socio-economic revolutions had transformed human societies from a society of hunter/gatherers over a pastoral society to an agricultural society. The last stage in the development of humankind had resulted in the advent of a modern, commercial social order. Although, in such communities, the mode of production was not really different from that of an agricultural society, property was distributed by different means, and wealth generated in different ways. Liberated from the limitations of feudal law, property

³⁸ François Mignet, *Histoire de la Révolution française depuis 1789 jusqu'en 1814* (Paris, 1886, 2 vols.), I, pp. 1-38, quotes pp. 2, 8: 'plus conforme à la justice et plus approprié à nos temps'.

had become essentially mobile, and commerce, not land, had become the most important source of wealth.³⁹

At the end of the eighteenth century, political economists devised a new version of this theory, claiming that the last stage in the development of mankind was the stage of industry rather than commerce. This argument was first put forward in the writings of the French economist Jean Baptiste Say, who introduced Adam Smith's work to France and was the country's foremost defender of *laissez-faire* policies. In his influential *Traité d'économie politique* (1803), Say also briefly outlined a theory of social change. In his view, pre-modern societies had been characterized by an economic system based on war and rapacity, in which wealth was generated by the conquest of another's produce. But as commerce had been extended, war had ceased to be profitable, and the influence of the productive classes increased. Wealth based on conquest had been replaced by wealth based on one's own industry; an industrial system had replaced the military system.⁴⁰

The impact of the rise of commerce and industry on social conditions could be interpreted in different ways. On the one hand – and this view was shared by most eighteenth-century thinkers – commerce had increased both wealth and luxury, and in this sense it had increased inequality. But on the other hand, the rise of commerce was often linked to the destruction of the feudal nobility; thus, it could be seen as an equalizing force. As feudal lords started spending their money on luxury goods, instead of on their own private armies, their power had crumbled. At the same time, commercial society had led to the demise of the nobility by encouraging the division of landed property, the basis of feudal wealth. Commerce had also given the state an independent source of income, which had made it possible to hire salaried functionaries and a standing army. All these factors had diminished the political importance of the feudal lords as well as their social standing, and thus contributed to the levelling of society.⁴¹

Starting from this theory, liberal publicists criticized the royalists' idealization of a society dominated by great landlords as a utopian attempt to return to the agricultural or feudal period. This idea was expressed by

³⁹ Ronald Meek discusses the Scottish and French origins of the four-stages theory in his *Social science and the ignoble savage* (Cambridge and London: Cambridge University Press, 1976). See, more specifically on France, Johan Heilbron, 'French moralists and the anthropology of the modern era: on the genesis of the notions of "interest" and "commercial society"' in *The rise of the social sciences and the formation of modernity. Conceptual change in context, 1750–1850*, ed. Johan Heilbron, Lars Magnusson and Björn Wittrock (Dordrecht, Boston and London: Kluwer, 1998), pp. 77–106.

⁴⁰ Michael James, 'Pierre-Louis Roederer, Jean-Baptiste Say, and the concept of *industrie*', *History of Political Economy* 9 (1977), 455–475.

⁴¹ Fontana, *Benjamin Constant*, pp. 68–80.

the so-called 'industrialists', a small group of liberal publicists connected to the journal *Le Censeur européen*, who, as we have already seen, condemned Montesquieu's doctrine as anachronistic.⁴² In a number of articles, the editors of this journal argued, like Say, that French history had been characterized by an important economic transformation. The feudal system, established upon the conquest of Gaul by the Frankish warriors, had been based on theft. Feudal lords did not produce their own goods, but stole from merchants and devastated the countryside as highway-men. But in the course of time, an industrial class had come into being, which produced its own wealth and was independent from the feudal lords. As this class became increasingly powerful, dissatisfaction with the existing state of things had increased, which had eventually resulted in the outbreak of the Revolution.⁴³

According to the editors of *Le Censeur européen*, this social transformation had important political implications. In 'De l'organisation sociale considérée dans ses rapports avec les moyens de subsistance des peuples', a long article published in *Le Censeur européen* of 1817, Charles Comte made clear that the political system should be adapted to the new social condition. It was time to put an end to the influence of the non-productive classes, such as the nobility, in the political system. Public functions needed to be exercised by those who contributed most to national prosperity. 'Feudal hierarchy cannot be re-established or sustained', Comte wrote; 'The idle and rapacious class is neither sufficiently enlightened nor strong enough to enslave the industrious class.'⁴⁴

Similar opinions were expressed by Charles Ganilh, a liberal politician and pamphleteer, who in 1823 published a voluminous anti-royalist brochure, entitled *De la contre-révolution en France ou de la restauration de l'ancienne noblesse et des anciennes supériorités sociales dans la France nouvelle*. A former revolutionary-turned-liberal deputy (he was elected to the Chamber of Deputies from 1815 to 1822), Ganilh had written this brochure, as he explained in the preface, in order to protect the Charter from the attacks of the royalist party. Since the royalists had come to power in 1820–1821, he wrote, the Revolution's gains, which were guaranteed by the Charter, had increasingly come under threat. With his brochure, Ganilh

⁴² Ephraïm Harpaz, "Le Censeur européen". Histoire d'un journal industrialiste', *Revue d'histoire économique et sociale* 134 (1959), 185–217.

⁴³ In particular, see Comte, 'Considérations'.

⁴⁴ Charles Comte, 'De l'organisation sociale considérée dans ses rapports avec les moyens de subsistance des peuples', *Le Censeur européen* 2 (1817), 1–66; quote p. 28: 'La classe oisive et dévorante n'est ni assez éclairée, ni assez forte pour asservir la classe industrielle.'

hoped to sustain the revolutionary cause by warning the French people of the dangers ahead.⁴⁵

Ganilh's argument was built on a specific view on social change that was very similar to the industrialists'. In the introduction to his brochure, he provided his readers with a broad historical perspective, focusing on the socio-economic changes which had taken place in Western societies. Different stages of society had succeeded one another in the course of time. The societies of antiquity had been characterized by slavery and the existence of closed castes. They had been succeeded by feudalism, which was a progress from slavery, but nevertheless oppressive as well. But, at a certain point, the commercialization of society had broken the chains of feudalism on the European continent. The barriers dividing the different classes of society had disappeared. An economic, intellectual and moral revolution had taken place. Commerce had made immense progress, wealth had grown, the population had advanced at a rapid pace, enlightenment had increased. In France, where the Revolution had accelerated the division of property, this process had been most pronounced. Equality had been achieved and 'democracy' was the predominant condition.⁴⁶

From this perspective, the goal of the royalists ('the party that calls itself royalist but is above all aristocratic'),⁴⁷ the re-establishment of social inequality, was completely utopian. Even when one conceded that a restoration of the feudal nobility might be useful to stabilize the post-revolutionary political order, such an enterprise was beyond the power of the legislator. In post-revolutionary France, wealth was based on the labour of the entire population, and property circulated freely in all classes. In other words, the economic order, which Ganilh described in almost Marxist terms as 'the regulator of the political, civil, and moral order', made the re-establishment of a hereditary aristocracy impossible.⁴⁸ 'Thus, the object of the counter-revolution', Ganilh concluded, 'is to submit the democracy to an aristocracy which does not exist, which cannot exist'.⁴⁹

Indeed, the only way to restore 'a monarchy of nobles and privilege', was to 'dry up the source of wealth'.⁵⁰ Ganilh sketched a bleak picture of the economic changes which a restoration of the feudal system would require. A renunciation of the wealth produced by commercial society, and a return

⁴⁵ Charles Ganilh, *De la contre-révolution en France ou de la restauration de l'ancienne noblesse et des anciennes supériorités sociales dans la France nouvelle* (Paris, 1823), p. xv.

⁴⁶ *Ibid.*, pp. i–xliv. ⁴⁷ *Ibid.*, p. 57.

⁴⁸ *Ibid.*, p. 173: 'le régulateur de l'ordre politique, civile et moral'.

⁴⁹ *Ibid.*, p. 185: 'Ainsi l'objet de la contre-révolution, est de soumettre la démocratie à une aristocratie qui n'existe pas, qui ne peut pas exister.'

⁵⁰ *Ibid.*, pp. 230, 235: 'une monarchie de noblesse et de privilège . . . tarir la source des richesses'.

to misery and poverty: that was the only way 'to resuscitate the system of noble monarchies, of privileges, and of the inequality of conditions'.⁵¹ It would be necessary to isolate France from the outside world, to destroy all means of circulation and communication within the country. In short:

To ally the system of wealth produced by work, capital and credit with the system of monarchies characterized by privilege and corporations, is to attempt to ally polar opposites, and to destroy with one hand what one elevates with the other; it is to insult the reason of peoples; to irritate them instead of pacifying them; it is to prolong the scandal and calamity of revolutions.⁵²

Again, the French Revolution was invoked to underscore the irreversible nature of the socio-economic changes that had taken place in France. In his *L'esprit de la Révolution de 1789* (1831), J. L. Roederer, a one-time collaborator of Say's, argued that the demise of feudalism had been finalized by the Revolution. French history, he wrote, was characterized by the rise of industry, which had increased the value of mobile property *vis-à-vis* landed property, as capital became the most important economic factor. The bourgeoisie, the possessors of capital, became the most wealthy section of the nation. Meanwhile, the prosperity of the feudal lords declined, because a warrior class became increasingly redundant in commercial society. Several feudal lords became vassals of enriched bourgeois. The discovery of America had encouraged this development by opening up new markets, which had in turn increased the wealth of the bourgeoisie. Increasing wealth gave this class the leisure to devote their time to the development of the mind, so that their advantage had also increased on the intellectual level. All of this had encouraged the equalization of French society, and the eventual outbreak of the Revolution.⁵³

In short, liberal publicists believed that the rise of commerce and industry had made the royalists' social ideal into an anachronism. It is therefore hardly surprising that they condemned the royalist campaign for primogeniture as a rear-guard battle against irreversible social changes. The division of landed property in France was not a problem that could or should be dealt with by legal means, they believed. On the contrary, it was a perfectly natural consequence of the progress of French society from the stage of agriculture

⁵¹ *Ibid.*, quotes pp. 234–235: 'pour fair revivre le système des monarchies nobiliaires, des privilèges et de l'inégalité des conditions'.

⁵² *Ibid.*, p. 238: 'Allier le système des richesses produites par le travail, les capitaux et le crédit avec le système des monarchies de privilège et de corporations, c'est vouloir allier les contraires, et détruire d'une main ce qu'on élève de l'autre; c'est insulter à la raison des peuples; c'est les irriter au lieu de les soumettre; c'est prolonger le scandale et les calamités des révolutions.'

⁵³ P. L. Roederer, *L'esprit de la révolution de 1789* (Paris, 1831), pp. 15–31.

to that of commerce and industry. Attempts to turn back the clock and reintroduce a landed nobility in France were utopian projects. However, as they might endanger the economic progress of post-revolutionary society in the short term, royalist proposals to re-impose primogeniture needed to be nipped in the bud.

Benjamin Constant criticized the royalist campaign for primogeniture from this perspective in an article entitled 'De la division des propriétés foncières', first published in 1824.⁵⁴ Constant qualified the royalists' attempts to recreate a territorial aristocracy in France as an attack on the new institutions that had been introduced by the Revolution. Royalists wanted to restore the wealth of the landowning nobility because this would allow them to recover the political power they had lost with the Revolution. In this sense, the introduction of primogeniture would be an illiberal measure. But apart from being illiberal, all attempts to counteract the division of property were impracticable as well, because they were contrary to the progress of civilization. Landed property had become mobile, all efforts to change that were futile. Constant emphasized that this evolution was not to be regretted: it was good for the stability of the state, and good for agriculture. In Prussia the division of the land, actively encouraged, had been for the benefit of the nobility.⁵⁵

These arguments were also repeated in parliament during the debate about the Succession Laws Bill in 1826. As we have seen, the Bill was a moderate proposal, which would reintroduce primogeniture on a limited scale. Yet the opponents of the royalist government staged a fierce opposition to the Bill both in parliament and in the press. Liberal members of the Chamber of Peers condemned the Bill from different perspectives. They argued, for instance, that primogeniture was contrary to natural law. Joseph Siméon, for example, claimed that the Succession Laws Bill was an attack on the right of property, a right that was 'anterior to all legislation'. The succession laws should be determined by natural law, not by positive law, because they were based on the natural right to property. And was it not natural that a father should provide for all his children equally?⁵⁶ Similarly, it was argued that the Bill would cause discord in the homes of the French, and lead to conflict among siblings.⁵⁷

However, the proposed reforms of the succession laws were more often condemned as an attack on modern society. During the debate on the Bill in

⁵⁴ I am here using the re-edition of this article in Constant's *Mélanges*, III, pp. 122–131.

⁵⁵ *Ibid.*, II, quote p. 126.

⁵⁶ Joseph Jérôme Siméon in *Archives parlementaires*, XLVI, 31 March 1826, pp. 527–536.

⁵⁷ E.g. Louis-Mathieu de Molé's speech in *ibid.*, 28 March 1826, pp. 441–444.

the Chamber of Peers, Matthieu de Molé pointed out that the equal division of property was made necessary by the 'present state of civilization'.⁵⁸ A similar sentiment was expressed by Victor de Broglie, one of the wealthiest aristocrats in the country and an important liberal leader. The goal of the Bill, Broglie argued, was to re-introduce primogeniture, the source of all inequality. It was an attempt to create a special class, to introduce inequality everywhere, and in everything. It was an attempt to destroy the free market. But, above all, it was an attempt to recreate a class that had been destroyed by the Revolution. 'What is being prepared here', Broglie warned, 'is a social and political revolution, a revolution against the revolution which took place in France almost forty years ago'.⁵⁹

According to the liberal view, the Bill was also an expression of a dangerous voluntarism on the part of the royalist government. Etienne Pasquier, for instance, emphasized that a society's laws and institutions depended on its social condition. The legislation concerning fiefs or substitutions had always been based on the existing state of society, aiming to render that condition, as it were, immutable. Throughout the ages, lawmakers had tried to adapt the legal framework to the existing conditions and customs. Of course, they had sought to influence customs to a certain extent by the laws, but *moeurs* had generally preceded laws. However, the royalist government proposed to do exactly the opposite with the introduction of the Succession Laws Bill, which was contrary to the society which had been brought into being by the French Revolution.⁶⁰

In short, liberals became convinced in the course of the Restoration period that the restoration of an aristocracy was an absurd and utopian enterprise in the equalized, commercial society of post-revolutionary France. This view also encouraged them to revise their opinion of the English example, which had played such a prominent role in the constitution-making process of 1814–1815. Admiration for the English political model did not altogether disappear from the liberal mindset during the Restoration period. Specific elements of the English political system, such as the freedom of the press that it guaranteed, and the fact that the government was responsible to parliament, were frequently referred to by liberal publicists and politicians as worthy of imitation in France. Yet, at the same time, criticism of the English socio-political model, as a society governed

⁵⁸ *Ibid.*, p. 443: 'l'état présent de la civilisation'.

⁵⁹ Victor de Broglie in *ibid.*, 4 April 1826, p. 621: 'Ce qui se prépare ici, c'est une révolution sociale et politique, une révolution contre la révolution qui s'est faite en France il y a bientôt quarante ans.'

⁶⁰ Etienne-Denis Pasquier in *ibid.*, 29 March 1826, pp. 474–491.

by a territorial aristocracy, became a set element in the liberal discourse during the Restoration period.⁶¹

Some liberals were downright hostile to the English political system, which they came to see as the embodiment of the aristocratic evils which the French Revolution had attempted to combat. Augustin Thierry, for instance, who had started out on his career as a journalist for the industrialist journal *Le Censeur européen*, and who was to make his name as a liberal historian, did much to discredit the English example in his historical writings. A series of articles discussing English history, most of them published in *Le Censeur* between 1817 and 1824, had been inspired, as Thierry explained in 1834, by 'a certain disgust for the English institutions, which seemed to me to contain more aristocracy than liberty'.⁶²

Benjamin Constant also showed himself critical of the aristocratic dominance in the English political system, despite his obvious admiration for many of its features. In an article in *La Minerve française*, 'De la puissance de l'Angleterre durant la guerre, et de sa détresse à la paix, jusqu'en 1818', Constant described England as 'a vast, opulent and vigorous aristocracy'. Immense possessions were united in the same hands, colossal wealth accumulated on the same heads. Great landowners could dispose of a numerous and faithful clientele. As a result, the national representation was composed partly of salaried officials, and partly of the aristocracy's appointees. This system, far from being the secret of England's liberty, Constant emphasized, was 'oppressive in theory'. Only the particular historical inheritance of the English prevented it from degenerating into an oligarchy.⁶³ For this reason, Constant also disapproved of the admiration Staël had expressed for the English political model, as he made clear in a review of her *Considérations* published in the same edition of *La Minerve* as his article on England.⁶⁴

Other liberals argued that the English model, although it might be admirable in itself, had no relevance for the French because the differences between the two countries had become too considerable for a comparison. The anonymous brochure *Des principes de la monarchie constitutionnelle et de leur application en France et en Angleterre*, published in 1820, clearly illustrates how important it was to liberals to make this point. The author

⁶¹ But compare Theodore Zeldin, 'English ideals in French politics during the nineteenth century', *The Historical Journal* 1-2 (1959), 40-58, who argues that the liberals had a wholly positive view on the English model.

⁶² Augustin Thierry, *Dix ans d'études historiques* (Paris, n.d.), p. 2: 'un certain dégoût pour les institutions anglaises, qui me semblaient alors contenir plus d'aristocratie que de liberté'.

⁶³ This article was reprinted in Constant's *Mélanges*, I, pp. 19-31.

⁶⁴ Likewise reprinted in *ibid.*, pp. 111-144.

of this brochure emphasized that English history was characterized by a special development, which had made it a society very different from continental ones. The powerful English aristocracy dominated both in the Commons and in the Lords. In France, the situation was very different, because there were no social pre-eminences left. Therefore, the French government could not imitate the guarantees provided by the English constitution. The 'counter-weights' ('contre-poids') of the French constitutional monarchy were bound to differ from the English system, because all attempts to transport the English institutions into France were doomed to fail.⁶⁵

CONCLUSION

As the debate about the English model illustrates again, liberal publicists brought a considerable ideological arsenal in play against royalist claims that an aristocracy was necessary for the maintenance of liberty and stability in France. Liberals contested that an aristocratic body, necessarily devoted to defending interests different from the interests of the rest of the population, could be an instrument of liberty. But another, and more important, argument was used as well to criticize the royalist discourse. Opponents of the aristocracy pointed out that it had simply become impossible to restore a hereditary privileged class, or a territorial aristocracy in France. Even if such a class might once have been useful as a protection for liberty, it could no longer fulfil that role in post-revolutionary France. This argument was based on a deterministic view of the development of history as a development towards equality – a development that was described as progressive, towards an ever more ideal social condition.

This criticism of the royalist discourse would continue to have an important impact on liberal discourse for the remainder of the nineteenth century. In formulating their political doctrines, liberals started at all times from the assumption that theirs was an equalized, levelled society, and that this condition should be taken into account in the creation of a viable political system. They all agreed, in other words, that it was necessary to formulate an alternative to the royalists' aristocratic liberalism that would be more suitable for the changed social conditions. But what would the alternative be? On this question, as will become clear, less consensus existed within the liberal movement.

⁶⁵ Anon., *Des principes de la monarchie constitutionnelle et de leur application en France et en Angleterre* (Paris, 1820), quote p. 40.

CHAPTER 4

Liberty in a levelled society: Charles Dunoyer, Benjamin Constant, and Prosper de Barante

Restoration liberals did not just criticize the royalists' aristocratic liberalism. They also made a more positive contribution to the post-revolutionary debate. If both Jacobinism and the royalists' aristocratic liberalism were anachronistic ways to preserve liberty in the levelled society of post-revolutionary France, alternative political models needed to be sought. In the response to that challenge, the internal division of Restoration liberalism became clear. For liberals did not formulate one but several alternatives to the political doctrines of their opponents, which were not necessarily compatible.

LAISSEZ-FAIRE LIBERALISM: CHARLES DUNOYER

An important contribution to the development of a liberal alternative to the royalists' aristocratic liberalism was made by a group of publicists and political thinkers known as the 'industrialists'. They propagated a theory of social change, which, as we have seen, conceived of the history of France as a transformation from a military, war-based economy, in which a dominant class lived off the produce of the majority of the citizens, to an industrial society, in which all citizens were engaged in productive labour. This social transformation, industrialists preached, should be followed by a political transformation that would create a state more in accordance with the needs of the new industrial society. As a group, however, the industrialists were far from agreeing on the political implications of these presuppositions. Starting from the same theory of social change, they developed two widely divergent political doctrines: an authoritarian doctrine, which was mainly inspired by Henri de Saint-Simon, and a libertarian doctrine, which was expounded most consistently by Charles Dunoyer. While we are primarily concerned with the latter doctrine here, to avoid confusion a few words need to be said about the Saint-Simonian version of industrialism.¹

¹ The following account is based on G. G. Iggers, *The cult of authority. The political philosophy of the Saint-Simonians* (The Hague: Nijhoff, 1958), pp. 1-37.

Although Saint-Simon is now usually depicted as one of the precursors of mid-nineteenth-century socialism, there is no doubt that he and his followers were generally regarded, in the early Restoration period, as members of the liberal movement. Saint-Simon's interest in industrialism was a late development in his political thought. From 1803, when, at the age of forty-three, he published his first work, until 1813, he was concerned primarily, like the *idéologues*, with an attempt to found an empirical science of man, upon which the reorganization of society could be based.² With the advent of the Restoration, however, he lost his interest in physiology as the key to the study of society, and he became concerned about the problem of how to create a stable liberal regime in post-revolutionary France. At first he was still much preoccupied with questions of political organization, promoting the example of the British constitution. But gradually Saint-Simon moved to an industrialist position, as he became convinced that a coherent political doctrine should take into account the important social changes which French society had undergone. This led to a close collaboration with the editors of the industrialist journal *Le Censeur européen*, Charles Comte and Charles Dunoyer.

In *Le Censeur*, as in his own journals *L'Industrie* (1816–1817), *Le Politique* (1818–1819) and *L'Organisateur* (1819–1820), Saint-Simon preached a doctrine in which the need for a new social hierarchy held a central place. He pleaded for giving control over the government to those men most capable of meeting its physical and moral needs, namely scholars, artists and artisans. Social leadership, he believed, should be exercised by experts rather than by the people at large. However, Saint-Simon was convinced that such an organization could be brought about almost automatically, through the natural and virtually spontaneous development of economic forces and of intellect, with a minimum of government regulations. Leadership would rest on moral persuasion; the people would trust in their leaders but have the right of contradiction. State *dirigisme* was therefore unnecessary; on the contrary, Saint-Simon firmly believed in the virtues of small government. In his view, the best government ruled the least and the cheapest. It was his goal to replace government of men by administration of things. In other words, Saint-Simon's political philosophy was neither *étatiste* nor socialist, although it contained certain authoritarian implications.

However, his followers soon gravitated to a position that was closer to Bonald's absolutism than to liberalism. The first to take Saint-Simon's ideas

² On the *idéologues*, see Cheryl B. Welch, *Liberty and utility: the French idéologues and the transformation of liberalism* (New York: Columbia University Press, 1984).

in a truly authoritarian direction was Auguste Comte, especially from 1820 onwards. Comte assigned a central role to the government in his *Système de politique positive* (1824). He objected to the fact that the government was no longer conceived as the head of society in the contemporary world – its role in the ‘normal state’ of things, guiding ‘all individual actions towards a common goal’, but was reduced to ‘an absolutely negative role’.³ Comte became convinced that the solution for France’s problems lay in the intellectual realm. A new doctrine was needed in place of Christianity, so as to unify minds and re-establish order. A similar tendency was visible in *Le Producteur*, the Saint-Simonian journal founded after the death of the master by Barthélemy Enfantin and Saint-Amand Bazard, who wanted to organize society on the hierarchical model of the Catholic Church. In *Le Globe* of 1830, the Saint-Simonians even waged an outright attack on all liberal institutions: constitutions, parliaments and civil liberties, thus breaking definitively with the liberal movement.

These views differed widely, however, from those propagated by another important spokesman for industrialism, Charles Dunoyer, as he himself made explicit in an article entitled ‘Esquisse historique des doctrines auxquelles on a donné le nom d’Industrialisme’, which was published in 1827 in the *Revue encyclopédique*. In this article, Dunoyer sharply distinguished between the teachings of Saint-Simon’s ‘organic school’ and his own brand of industrialism.⁴ Dunoyer’s contribution to the political debate of the Restoration period has remained largely ignored in recent historiography.⁵ Yet his political model was important in many respects. Dunoyer’s writings offer an interesting example of the attempts of Restoration liberals to come to a consistent solution to the problem of how to safeguard liberty in post-revolutionary France. Moreover, Dunoyer had a considerable influence on mid-nineteenth-century liberals; his writings contributed to the development of a *laissez-faire* liberalism as preached by Frédéric Bastiat and Gustave de Molinari.⁶

³ Quoted by Iggers, *The cult of authority*, p. 23.

⁴ Charles Dunoyer, ‘Esquisse historique des doctrines auxquelles on a donné le nom d’Industrialisme, c’est-à-dire, des doctrines qui fondent la société sur l’Industrie’, *Revue encyclopédique* 33 (1827), 394.

⁵ Leonardo Liggio provides biographical information in ‘Charles Dunoyer and French classical liberalism’, *Journal of Libertarian Studies* 1 (1977), 153–178. Ephraïm Harpaz has investigated the history of *Le Censeur européen*: ‘“Le Censeur européen”. Histoire d’un journal industrialiste’, *Revue d’histoire économique et sociale* 134 (1959), 185–217, 328–357. David Hart has also written an unpublished dissertation on Comte and Dunoyer’s liberalism, ‘Class, slavery and the industrialist theory of history in French liberal thought, 1814–1830: the contribution of Charles Comte and Charles Dunoyer’, unpublished Ph.D. thesis, Cambridge University (1994). I have used the online version of this dissertation: <http://homepage.mac.com/dmhart/ComteDunoyer>.

⁶ As is shown by Albert Schatz in his seminal book *L’individualisme économique et social: ses origines, son évolution, ses formes contemporaines* (Paris, 1907).

Dunoyer sketched the first outlines of his political model in the pages of *Le Censeur européen* in close collaboration with his old college friend and fellow-editor, Charles Comte (not to be confused with his more famous contemporary Auguste Comte). From the pages of this journal, it is clear that Dunoyer's main theories – a defence of the minimal state and *laissez-faire* – were developed as an alternative to both the Jacobins' republicanism and the royalists' aristocratic liberalism. The editors of *Le Censeur* showed themselves highly critical of the admiration for the classical republics which had characterized eighteenth-century thought to such an important extent. The ideal propagated by political thinkers such as Rousseau, they argued, was simply unsuitable for modern nations. Like Constant, Comte and Dunoyer therefore believed that the failure of the Jacobins' experiment had been the predictable outcome of their anachronistic attitude towards politics. But at the same time, the editors of *Le Censeur* rejected, with at least equal ardour, the royalists' glorification of 'feudal' societies, dominated by a landowning class, such as in England. The increased influence of Montesquieu's precepts since the fall of the Republic was, in their view, as we have already seen, not much of an improvement on the reign of Rousseau.⁷

Then what alternative doctrine for these obsolete theories did the industrialists of *Le Censeur* formulate? An answer to that question can be found in the pages of *Le Censeur européen*, but Dunoyer further expanded and improved his theories in a series of political treatises, of which *De l'industrie et de la morale* (1825) was the most important.⁸ In these publications, Dunoyer argued that the debate about the limitation of the government's role was a far more important issue than the question of which specific type of government or political system to adopt. Questions of political organization in the strict sense of the word, were, in his view, abstract and uninteresting. Instead, a liberal thinker should attempt to convince his fellow-citizens that the role of the state should be as limited as possible.⁹

Dunoyer's *laissez-faire* liberalism started from a specific conception of liberty. For a people to be free, he argued, political or collective liberty did not suffice. All individual citizens should be free as well, meaning that they should be able to develop all their capacities to the full. Ignorance and

⁷ Comte, 'Considérations'.

⁸ Charles Dunoyer, *De l'industrie et de la morale* (Paris, 1825). His other books were: *Nouveau traité d'économie sociale, ou Simple exposition des causes sous l'influence desquelles les hommes parviennent à user de leurs forces avec le plus de liberté, c'est-à-dire avec le plus de facilité et de puissance* (Paris, 1830), and *De la liberté du travail, ou simple exposé des conditions dans lesquelles les forces humaines s'exercent avec le plus de puissance* (Paris, 1845, 3 vols.).

⁹ Dunoyer, 'Esquisse historique', 368–394.

inexperience produced the same effects on human beings as violence and vice. To develop all human capacities, the economic rather than the political system was of importance, for a complete development was possible only in an industrial society, where all citizens worked, where no class existed that lived in idleness on the labour of others. An industrial society allowed for the maximum of individual liberty and the unlimited development of all human faculties. It was the only type of society in which science and technology could be developed to their greatest extent, and which would allow the emergence of values such as peace, tolerance, hard work and respect for others. For this reason, the progress of civilization and the development of freedom went hand in hand, instead of being opposite ideals, as the revolutionaries had argued under the influence of Rousseau.¹⁰

In Dunoyer's view, such a full flowering of the human capacities in an industrial society became possible only when the government held back as much as possible from interference in the private sphere. The role of the government should be limited to the protection of the security of persons and property, because it was bound to fulfil any other functions badly. At the same time, its interference limited the productivity and the development of human capacities, so that it restricted liberty. Dunoyer developed this view for the first time in his articles in *Le Censeur européen*. 'We have said it twenty times already', he wrote in 1817:

and we will repeat it a thousand times more: the goal of man is not government, government should in his eyes be but a very secondary thing, we would almost say inferior; his goal is industry, it is work, it is the production of all things necessary to his happiness. In a well-ordered state, the government should be but an appendix of production, a committee put in charge and paid by the producers to guard the security of their persons and goods while they work.¹¹

While this principle was asserted repeatedly by Dunoyer and his collaborators at *Le Censeur*, they were less explicit as to how the government was to be kept in its proper sphere. Some of the articles in this journal show that the industrialists' anti-state liberalism did not necessarily imply a

¹⁰ Charles Dunoyer, *De la liberté du travail*, I, pp. 17ff.; Hart, *Radical liberalism*, chapter 4, pp. 41, 44.

¹¹ Charles Dunoyer, 'Considérations sur l'état présent de l'Europe, sur les dangers de cet état, et sur les moyens d'en sortir', *Le Censeur européen* 2 (1817), 102: 'Nous le répéterons mille fois encore: l'objet de l'homme n'est point le gouvernement, le gouvernement ne doit être à ses yeux qu'une chose très secondaire, nous dirons presque subalterne; son objet, c'est l'industrie, c'est le travail, c'est la production de toutes les choses nécessaires à son bonheur. Dans un état bien ordonné, le gouvernement ne doit être qu'une dépendance de la production, qu'une commission chargée par les producteurs, qui la paient pour cela, de veiller à la sûreté de leurs personnes et de leurs biens pendant qu'ils travaillent.' Dunoyer likewise emphasized in the 'Esquisse' that this had been the central message of *Le Censeur européen*: p. 376.

radically different view of the political system from that professed by their non-industrialist contemporaries. 'Des garanties individuelles dues à tous les membres de la société', an article written for *Le Censeur européen* by the former Girondist P. C. F. Dauneou, shows that industrialists were, at least in their initial phase, primarily committed to a defence of the representative system as the best guarantee for individual liberty. The security of persons and property, and the liberty of opinions, Dauneou explained, could be guaranteed only under governments with a jury system, with an independent judiciary and a representative body that was elected not to govern, but to prevent the government from becoming oppressive.¹²

Another idea dear to industrialist thinkers was that the number of public officials should be as limited as possible and that public service should not be a profitable career option. As was explained by Charles Comte in 'De l'organisation sociale considérée dans ses rapports avec les moyens de subsistance des peuples', industrialists objected to paid public functionaries because they produced nothing. Government needed to be exercised by those who contributed most to national prosperity, and therefore were most interested in it.¹³ According to Dunoyer, the American and Swiss systems, where public service was not paid, should function as an example to the French, where government administration had become a career in itself, a lucrative profession. This caused great danger to the state, because it handed over the government to a class with interests that were separate from the rest of the nation. At the same time, it encouraged the growth of government power, so that the danger of despotism increased.¹⁴

However, in Dunoyer's later writings, more radical conclusions were drawn from the industrialist premises as well. In his study of the industrialist political doctrine, David Hart argues that Dunoyer distinguished three possibilities concerning the role of the state in the future industrial society, all of which he advocated at various points in his writings. On some occasions he propagated a position that was similar to Dauneou's vision, arguing for a limitation of the state's functions to the protection of individual liberty and property by police and armed forces. But he also defended a liberal anarchist position, envisioning a future in which the state gradually withered away to the point where only voluntary private associations of free individuals existed. Third, Dunoyer occasionally developed a position part

¹² Z. [P. C. F. Dauneou], 'Des garanties individuelles dues à tous les membres de la société', *Le Censeur européen* 9 (1818), 1–107; and 10 (1818), 1–80.

¹³ Comte, 'De l'organisation sociale'.

¹⁴ Charles Dunoyer, 'De l'influence qu'exercent sur le gouvernement les salaires attachés à l'exercice des fonctions publiques', *Le Censeur européen* 11 (1819), 75–118.

way between free market anarchism and limited government; a vision in which nation states would be broken up and the world would be organized into small communities based upon economic and cultural ties.¹⁵

In short, Dunoyer's writings seem to vindicate fully the traditional view of nineteenth-century liberalism as an individualist doctrine, which created a radical antagonism between state and individual.¹⁶ In his view, state and individual were two forces inversely proportional to each other. True liberty, the development of human capacities, was something to which the government was unable to contribute in a positive sense. Its role needed to be as limited as possible, in order to allow the expansion of commercial society, and therefore of liberty, to the fullest degree. Dunoyer developed, in other words, a view on liberty that was in many respects the opposite of the classic-republican paradigm, which rejected commercial society because it undermined the citizens' public spiritedness. At the same time, Dunoyer's *laissez-faire* doctrine was essentially at odds with the aristocratic liberalism defended by the royalists, which saw the commercial and levelled society of post-revolutionary France as being in constant danger of degenerating into despotism.

THE NEO-REPUBLICAN SOLUTION: BENJAMIN CONSTANT

We now turn from Dunoyer and the industrialists to a writer of a very different stature: Benjamin Constant. While Dunoyer's writings today are known only to the specialist of Restoration liberalism, Constant's star has always shone brightly in the liberal firmament, and the interest in his writings has only increased in recent years. In particular, scholars have focused on Constant's thought as representative of the efforts of post-revolutionary liberals to formulate a political theory that took a clear position against the Jacobins' republicanism, which was discredited by the Terror and the subsequent demise of the Republic. For this reason, students of Constant's liberalism have been mainly interested in his writings of the Directory years and of the Empire, which were formulated with the experience of the Terror in mind. This interest has been encouraged by the recovery of Constant's manuscript *Principes de Politique* of 1806 by Etienne Hofmann in 1980.¹⁷ In the following, however, I will concentrate on the

¹⁵ See Hart, *Radical liberalism*, chapter 4, p. 47.

¹⁶ This is how Albert Schatz describes Dunoyer's liberalism in his *L'individualisme économique et social*, p. 197.

¹⁷ Benjamin Constant, *Principes de politique applicables à tous les gouvernements (version de 1806–1810)*, ed. Etienne Hofmann (Geneva: Droz, 1980).

writings Constant produced during the Restoration period, an oeuvre that was formulated in opposition to the royalists' aristocratic liberalism as much as to the Jacobin ideology.

As we have seen in the previous chapter, Constant started, like most liberals of the Restoration period, from the presupposition that social change prevented the restoration of an aristocracy in France. After the brief phase of 1814–1815, when he supported the introduction of an English-type upper chamber in France, Constant became convinced in the course of the Restoration period that the re-creation of an aristocratic class was not a suitable way to preserve liberty in modern-day France. At the same time, however, he also rejected the Jacobin attempt to introduce the ideal of ancient republicanism in modern French society as anachronistic. Then what alternative solution did Constant provide to the models he rejected? In answer to that question, quite different readings of Constant's political writings are possible.

In the first instance, it might seem that Constant propagated a liberalism that was very close to the *laissez-faire* liberalism of the industrialists described above. At several points in his writings, Constant's concern for individual liberty led him to plead for as great a restriction of political power as possible. In his constitutional treatises of 1814–1815, he famously argued that a popular government had no more right than an absolute monarch to an unlimited sovereignty over the nation. At all times, he argued, the sovereign power should be limited, whether that power was in the hands of an absolute king or of the population at large. The creation of a strict separation of powers, as had been attempted repeatedly during the Revolution, did not suffice, he emphasized, to achieve that goal: 'What is important to us, is not that our rights cannot be violated by such and such a power, without the assent of another power, but that such a violation would be prohibited to all powers.'¹⁸

Constant was even more explicit on this score in his 'Commentaire sur l'ouvrage de Filangieri' (1822–1824). Although this brochure, written as a commentary on the eighteenth-century *philosophe* Gaetano Filangieri, has received but little attention from scholars, it was one of Constant's most theoretical writings. Constant was critical in particular of Filangieri's enthusiasm for the reforming capacities of government, of his positive view on the contribution government could make to the development

¹⁸ Constant, *Collection complète*, I, pp. 177–190, quote p. 187: 'Ce qui nous importe, ce n'est pas que nos droits ne puissent être violés par tel pouvoir, sans l'approbation de tel autre, mais que cette violation soit interdite à tous les pouvoirs.'

of society. Throughout the 'Commentaire', Constant propagated, like the industrialists, the idea that the government's function was a negative one: that the government should 'repress evil, and let the good come into being by itself'. 'For intellectual life, for education, for industry, the watchword of governments should be', Constant wrote, 'laissez faire et laissez passer'.¹⁹

In the light of this evidence, it is hardly surprising that Constant has often been portrayed as the founding father of *laissez-faire* liberalism.²⁰ Contemporary thinkers who propagated a limitation of the state sphere, such as Dunoyer, recognized his writings as a major source of inspiration.²¹ Historians have likewise portrayed Constant as an exponent of *laissez-faire* doctrine, stressing from this point of view the distance between Constant's brand of liberalism and Montesquieu's. Georges Benrekassa, for instance, has argued that Constant did not believe that a limitation of sovereign power, by opposing one power against another, as proposed by Montesquieu, was at all possible. Instead, Constant propagated the limitation of the political sphere itself, pleading for the creation of a private sphere as large as possible, rather than for the balancing of powers.²²

Recently, however, students of Constant's thought have become much more critical of the view that Constant propagated a purely negative type of liberalism. In a revisionist reading first initiated by Stephen Holmes' seminal survey of Constant's thought, it has been argued that Constant's liberalism did not entail a rejection of democracy, that his emphasis on the limitation of the role of the state did not preclude a more positive view on how such a limitation could be safeguarded in the long run. More specifically, it has become clear that Constant believed that individual liberty could only be safeguarded if the citizens of post-revolutionary France actively participated in government to make sure that the governing classes – be it the king's ministers or the representatives of the people – did not abuse their power.

¹⁹ Benjamin Constant, 'Commentaire sur l'ouvrage de Filangieri' in *Oeuvres de Filangieri traduites de l'italien; nouvelle édition, accompagnée d'un commentaire par Benjamin Constant et l'éloge de Filangieri*, ed. M. Salfi (Paris, 1840, 3 vols.), III, pp. 397–398: 'Pour la pensée, pour l'éducation, pour l'industrie, la devise des gouvernements doit être, laissez faire et laissez passer.'

²⁰ The seminal text in this regard is Isaiah Berlin's 'Two concepts of liberty', in his *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), pp. 118–172. More recently, Constant's preference for 'modern' liberty has been emphasized, although in a more nuanced way, by Biancamaria Fontana, 'The shaping of modern liberty: commerce and civilisation in the writings of Benjamin Constant', *Annales Benjamin Constant* 5 (1985), 5–15; and Fontana, *Benjamin Constant*.

²¹ Dunoyer, 'Esquisse historique', p. 371.

²² Georges Benrekassa, 'De Montesquieu à Benjamin Constant: la fin des lumières?' *Dix-huitième siècle* 21 (1989), 116–133.

Or to put it in terms closer to Constant's own, he believed that civil or modern liberty could only be safeguarded through a measure of political or ancient liberty.²³

As Holmes has argued, this point was made in Constant's famous text *De la liberté des anciens comparée à celle des modernes* (1820).²⁴ Although this text is usually invoked to underpin an interpretation of Constant as an exponent of *laissez-faire* liberalism, such a reading does not really do justice to the complexity of his argument. It is true that *De la liberté des anciens* started out by underlining the distinctions between the types of liberty suitable for the ancients ('the active and constant participation in collective power') and for the moderns ('the peaceful enjoyment of private independence').²⁵ It is also true that Constant insisted that political liberty or self-government should never be imposed on modern citizens at the cost of individual liberty, that modern citizens could no longer be satisfied with the liberty of the ancients, with the participation in national sovereignty, if this was achieved at the cost of their private peace and happiness.

However, Constant emphasized the value of political liberty no less explicitly in *De la liberté des anciens*. In his view, modern or civil liberty could not survive without the active participation of the people in the government. Other than in the ancient republics, participation in modern states was partly mediated through the representative system, which he defined as self-government by proxy. But the mere existence of regular elections did not suffice to make a representative government work. Constant believed that even more was required of modern citizens to ensure a stable, liberal system. Only with 'a constant and active surveillance of their representatives' could liberty be preserved.²⁶ Nothing threatened modern liberty more, Constant believed, than the pursuit of private interests, and the neglect of the public good, which, although typical of modern societies, became a threat to liberty when it encouraged citizens to renounce their right to participate in political power. 'Therefore, Sirs, far from renouncing either of the two sorts of freedom which I have described to you', he concluded, 'it is necessary, as I have shown, to learn to combine the two together'.²⁷

²³ Holmes, *Benjamin*, p. 2. See also Lucien Jaume's conclusion to *Coppet, creuset de l'esprit libéral. Les idées politiques et constitutionnelles du groupe de Madame de Staël. Colloque de Coppet, 15 et 16 mai 1998* (Paris: Economica, 2000), p. 238; Helena Rosenblatt, 'Re-evaluating Benjamin Constant's liberalism: industrialism, Saint-Simonianism and the Restoration years', *History of European Ideas* 30 (2004), 23–37.

²⁴ Constant's text was first published in 1820 in volume VII of his *Cours de politique constitutionnelle*. I have used Biancamaria Fontana's translation: Constant, *Political writings*.

²⁵ *Ibid.*, p. 316. ²⁶ *Ibid.*, p. 326. ²⁷ *Ibid.*, p. 273.

Constant stressed this idea repeatedly in his other writings of the Restoration period. While he explained in his 'Commentaire sur l'ouvrage de Filangieri', as we have seen, that government should be as limited as possible, he made it equally clear that such a limitation was impossible without the active involvement of the population and its representative body. Thus, Constant criticized Filangieri at the very beginning of his text for expecting that power would limit itself. Instead, Constant wrote, the people and their representatives should keep it in check.²⁸ In short, Constant's brand of liberalism can be distinguished from the *laissez-faire* liberalism à la Dunoyer. Constant himself made this explicit as well in his commentary 'De M. Dunoyer, et de quelques-uns de ses ouvrages' (in the *Mélanges de littérature et de politique*), where he accused Dunoyer of not paying enough attention to the threats posed to the preservation of liberty by the power of government.²⁹

Constant's distance from the *laissez-faire* paradigm is also illustrated by the importance he attached to public spiritedness, which he saw as being threatened by modern, commercial society.³⁰ In his critique on Dunoyer of 1829, Constant explained that the progress of civilization, which was in itself positive, brought significant problems with it as well. An industrial society, a society in which the acquisition of goods held a central place, promoted 'good order' rather than 'moral virtue'. The progress of civilization encouraged 'a type of resignation founded on calculus, and which, balancing the inconveniences of resistance, with the inconveniences of giving in, harms both the maintenance of liberty against interior despotism, and the defence of independence against foreign invasions'.³¹ This did not mean that the progress of commerce and industry should be rejected. But it was necessary at the same time to rekindle 'the generous emotions', and 'the power of sacrifice, the faculty of devotion' which the enjoyments of commercial society undermined.³²

Constant therefore suggested on several occasions that the government should not just preserve liberty by limiting its sphere of activities, but that it should actively encourage public spiritedness. Even modern citizens, he

²⁸ Constant, 'Commentaire', III, p. 191.

²⁹ Benjamin Constant, 'De M. Dunoyer, et de quelques-uns de ses ouvrages', in his *Mélanges*, I, pp. 87–111, quote pp. 88–89.

³⁰ Constant differed in this respect from Restoration thinkers such as Jean-Baptiste Say who claimed that modern civilization, and especially industry, encouraged public virtue amongst the citizenry. See Roberto Romani, *National character and public spirit in Britain and France, 1750–1914* (Cambridge: Cambridge University Press, 2002), pp. 99–106, 109–121; and Richard Whatmore, *Republicanism and the French Revolution. An intellectual history of Jean-Baptiste Say's political economy* (Oxford: Oxford University Press, 2000).

³¹ Constant, *Mélanges*, II, p. 92. ³² *Ibid.*, p. 96.

emphasized at the end of his *De la liberté des anciens*, should be encouraged to feel involved in the *res publica*. As he put it in an interesting but little-known passage that deserves to be cited in full:

The work of the legislator is not complete when he has simply brought peace to the people. Even when the people are satisfied, there is much left to do. Institutions must achieve the moral education of the citizens. By respecting their individual rights, securing their independence, refraining from troubling their work, they must nevertheless consecrate their influence over public affairs, call them to contribute by their votes to the exercise of power, grant them a right of control and supervision by expressing their opinions; and, by forming them through practice for these elevated functions, give them both the desire and the right to discharge these.³³

In sum, Constant's political doctrine differed markedly from the purely *laissez-faire* liberalism propagated by the industrialists. This difference can be attributed to the fact that Constant's definition of the concept of liberty remained closer to that used in the *Esprit des lois* than it was to Dunoyer's. As we have seen, the industrialists defined liberty as the full flowering of human capabilities; and, starting from this conception, they had become convinced that liberty did not depend so much on the political system, but on the possibilities for human development offered by the socio-economic framework. Like Montesquieu, however, Constant defined liberty as security, as something that could be guaranteed only through the rule of the law. Even though he rejected Montesquieu's specific solution for the safeguarding of liberty, the *Esprit des lois* influenced Constant too much for him to think that liberty was something that could be achieved without specific political guarantees.³⁴

But Constant's definition of liberty as security explains only in part why he felt it necessary to highlight the importance of institutional guarantees in general and self-government in particular. As Stephen Holmes has pointed out, the intricacies and internal contradictions in Constant's writings are related to the fact that he was combating two very different enemies in his writings of the Restoration period: on the one hand (the memory of) the Jacobins, and on the other hand the royalists.³⁵ This is illustrated in particular in *De la liberté des anciens*, where Constant at the beginning of

³³ Constant, *Political writings*, p. 328.

³⁴ 'Throughout his life, Constant regarded Montesquieu as his master', Biancamaria Fontana comments: Fontana, *Benjamin Constant*, p. 26. Evidence of Constant's admiration for and engagement with the *Esprit des lois* is especially clear in his *Fragments d'un ouvrage abandonné sur la possibilité d'une constitution républicaine dans un grand pays*, ed. Henri Grange (Paris: Aubier, 1991).

³⁵ Holmes, *Benjamin Constant*, pp. 28–52.

his text indicated that he was trying to define a political model – representative government – that was not just different from the ancient republics, but also from ‘the regime of the Gauls’, ‘which quite resembled the one that a certain party would like to restore to us’.³⁶ From this perspective, the apparently contradictory position he defended in his writings of the Restoration period – stressing on the one hand the dangers of ‘ancient liberty’, and on the other hand the necessity of self-government – becomes more understandable.

Thus, in response to opponents on both the left and the right, Constant developed a particular brand of liberalism that can be described as neo-republican. His mode of thinking differed from eighteenth-century republicanism in its rejection of the ancient republics as a viable model and in its emphasis on the importance of civil or modern liberty, but it nevertheless retained the republican emphasis on the importance of active political participation by the population at large. While Constant’s rejection of republicanism was inspired by the memory of Jacobin direct democracy, the royalists’ anti-democratic ideology and policies made him no less concerned about the opposite tendency. The emphasis on the importance of public spiritedness in his later writings suggests that, as time progressed, Constant started to feel less need to combat the dangers of excessive political liberty, and a greater concern about the political and ideological ascendancy of anti-democratic royalism. Against the royalist ideal of a society in which mighty landowners protected the liberty of all, Constant pitted the ideal of a society in which freedom was preserved through an indirect form of self-government and public spiritedness.

ARISTOCRATIC LIBERALISM REVISITED: PROSPER DE BARANTE

Constant’s neo-republicanism, however – any more than Dunoyer’s *laissez-faire* liberalism – was not the established nor the most prevalent answer to the question of how to save liberty in the modern world. Yet another variant of Restoration liberalism can be discovered in the writings of the so-called ‘doctrinaires’. This small group of politicians and publicists was led in parliament by Pierre-Paul Royer-Collard, their most talented orator, and Victor de Broglie, a member of the Chamber of Peers and one of the wealthiest noblemen in France. The doctrinaires counted many talented publicists among their number, such as François Guizot, Prosper de Barante and Auguste de Staël, who was the son of Germaine de Staël and

³⁶ Constant, *Political writings*, p. 310.

Victor de Broglie's brother-in-law. They kept, especially in the beginning of the Restoration period, their distance from the more radical liberals, led by former revolutionaries such as Benjamin Constant and the Marquis de la Fayette, and they were seen as the representatives of a more moderate, conservative liberalism. This distinction would become even more pronounced under the July Monarchy, when doctrinaires formed the kernel of the 'Resistance' liberalism, which opposed itself to the more progressive 'Movement'.³⁷

In his seminal book *Le moment Guizot*, Pierre Rosanvallon has described doctrinaire liberalism as a rationalist, elitist political doctrine, which was formulated against the voluntarist and democratic discourse of the revolutionaries. Central to the doctrinaire's brand of liberalism, Rosanvallon argues, was Guizot's theory of the sovereignty of reason. Guizot expounded this theory most clearly in his *Histoire des origines du gouvernement représentatif en Europe* (1851), in which he reacted against the doctrine of popular sovereignty by arguing that sovereignty did not belong to any particular group or individual in the state, not even to the people. Only 'reason' could be legitimately sovereign. While this doctrine was liberal in the sense that it protested against absolutism, it was also anti-democratic, because Guizot used it to legitimate a restricted franchise. In his view, the fact that reason was sovereign implied that no-one had an automatic right to participate in the government. Only those who had access to reason could be allowed to participate in the government, those with the right 'capabilities' – which excluded the large majority of uneducated citizens.³⁸

More recently, however, historians have pointed to another, at least as vital, element of thought within the doctrinaire circle. For the doctrinaires were aware that sovereignty did not just need to be properly defined in order to avoid despotism. It should be limited as well.³⁹ This concern with the limitation of power, it is important to realize, led the doctrinaires to adopt one of the key concepts of their political opponents, the royalists: namely, the idea that central government should be limited by intermediary powers. This is not to say that the doctrinaires called for the restoration of a landed nobility in France. Like other liberals, they believed that the demise of the aristocracy had been both inevitable and irreversible. However, doctrinaire thinkers agreed with the royalists that the levelled and atomized condition

³⁷ On the doctrinaires' position in the intellectual landscape of the Restoration period, see Craiutu, *Liberalism under siege*, chapter 2.

³⁸ Rosanvallon, *Le moment Guizot*.

³⁹ Thus, Aurelian Craiutu highlights the doctrinaires' commitment to decentralization in chapter 6 of his *Liberalism under siege*.

of post-revolutionary society had left the French without protection against despotism. This led them to argue, in response to the royalists, that new intermediary powers, and more specifically a new elite were necessary in order to safeguard France's liberty.⁴⁰

An engagement with royalist political thought is evident, in the first instance, from the writings of Auguste de Staël. While Staël wrote several brochures to support specific liberal policies in the 1820s, he was also preoccupied with the need to develop a more theoretical answer to the problem of how to safeguard liberty in the modern world. In order to do so, Staël turned to the English example. Together with his brother-in-law Victor de Broglie, he edited his mother's posthumous *Considérations sur la Révolution française* in 1818 – a book in which, as we have seen, the English example holds a crucial place. Auguste produced his own extensive discussion of the English political model in his *Lettres sur l'Angleterre* (1825), which was reprinted again two years after his premature death, in 1829.⁴¹ Unlike his mother Germaine, Auguste de Staël did not devote his book to a discussion of the English institutions. He was more concerned with the question of whether the English socio-political system, and in particular its system of succession laws, should function as a model for the French. For this reason, Staël's book can be seen as a response to the royalist pamphlet-literature on the English example, and in particular to Cottu's *De l'esprit du gouvernement anglais*.

Like Cottu, whose book he had read,⁴² Staël set out to discover the secret of English liberty. Why were the English more free than the French? In answer to that question, Staël pointed in the first instance to the fact that the English were a more practical people than the French, less taken to theoretical flights.⁴³ But he then moved on to confront the question raised by Cottu and other royalist thinkers: was English liberty related to their socio-economic structure, and more specifically to the English succession laws?⁴⁴ Staël started out by describing, like Cottu, the condition of landed property in England, nuancing many of the latter's claims. He pointed out that wealth was much more divided in England than the French imagined,

⁴⁰ On the importance of this theme in the doctrinaires' thought, see as well Jaume, *L'individu effacé*, pp. 288–320. However, Jaume argues that the doctrinaires' interest in a new elite was related more to their concern with order than with liberty: 'C'est parce que la société a préservé des groupes d'intérêt organisés qu'elle peut assurer par elle-même le maintien de l'ordre – un ordre qui n'est pas ressenti comme oppression exercée sur la liberté mais pratique même de la liberté': p. 318.

⁴¹ Benoît Yvert, 'La pensée politique d'Auguste de Staël', *Annales Benjamin Constant* 17 (1995), 77–86.

⁴² Staël referred to Cottu's book in a footnote as 'l'écrite très distingué de M. Cottu, sur l'Administration de la justice criminelle en Angleterre': Auguste de Staël, *Lettres sur l'Angleterre* (Paris, 1829), p. 198, note 1.

⁴³ *Ibid.*, pp. 1–40. ⁴⁴ *Ibid.*, chapters 3 to 7.

even landed property. This tendency was encouraged by the fact that land sold for more when divided into small lots. Nevertheless, Staël had to admit that public opinion in England was an important obstacle to the more equal division of property, and that this remained concentrated in the hands of the aristocracy to a far greater degree than was the case in France. This led him to raise the question of whether the system of primogeniture should be adopted in France.

The way in which Staël grappled with this problem illustrates the extent to which Restoration liberals felt intellectually challenged by the royalist discourse. Staël first argued that the adoption of primogeniture in France would, as such, make little sense, because the concentration of landed property in England was a consequence of habits rather than legislation.⁴⁵ But if it was possible, Staël continued to ask, would it be a good idea to transpose the English system of concentrated landed property to France? From an economic point of view, his conclusion was clear: primogeniture had an indifferent, or even a detrimental, effect on agriculture. Whether the land was divided into great or small plots was more a question of climate and geography than of inheritance laws, he argued; and prosperity depended as much on the industriousness of the landowners as on the amount of arable land. The French Revolution, for instance, had increased prosperity not so much by dividing the land as by putting it into more industrious hands.⁴⁶

But from a political perspective, Staël could see more reasons for primogeniture. In chapter 6 of his book, he recapitulated all arguments proffered by the royalists in favour of primogeniture. Some publicists had claimed, Staël wrote, that primogeniture was necessary for the stability and liberty of a monarchy. Under the law of equal partibility, no individual acquired a fortune and a social weight that allowed him 'to oppose, when necessary, a dyke against the encroachments of power, or the aberrations of popular opinion'. It created a society in which no one was capable of protecting the weak or the poor against injustice. No one had the leisure to devote time to public affairs, citizens became indifferent to all that was not in their personal interest. Apathy prevailed, and egoism and vanity allowed the government to increase its influence each day. In other words, the establishment of a military despotism was a constant threat in a country in which landed property was divided. These arguments seemed to contain much truth in Staël's view. Had not the French often been without defence against oppressive regimes?

⁴⁵ *Ibid.*, pp. 40–53.

⁴⁶ *Ibid.*, pp. 54–92.

But in the end, Staël rejected this mode of reasoning. In itself, he pointed out, the English example did not prove conclusively that primogeniture was necessary for liberty, because the English had known times of servility and weakness as well. The resistance of an independent aristocracy might help liberty, but the importance of its role was often exaggerated. Staël also emphasized, as did so many other Restoration liberals, that the English system was simply unsuitable for French society. The aristocratic element no longer existed in France, or it was so feeble and so little in accordance with French *moeurs* and ideas that attempts to recreate it smacked of the ridiculous. It was true that special legislation, given sufficient time, might change this. But why go through the trouble? 'To found the hope of liberty on the imperceptible germs of an aristocracy, which might never develop themselves', Staël commented, 'would be acting like the archbishop who gave the order to sow hemp, when he was told that his pages needed shirts'.⁴⁷ Even in England, the demise of the aristocracy was inescapable. Society was bound to grow more and more equal, as a result of the diffusion of enlightenment, and the progress of industry and talent.⁴⁸

Staël therefore focused in the remainder of his book on other aspects of the English political system, which were more worthy of imitation in France. He was especially impressed with the powerful newspaper press, and the many associations and assemblies which allowed citizens to participate in politics without giving direct control over the government to the population at large.⁴⁹ In subsequent letters, added to the posthumous edition of his book, however, Staël came to reject the relevance of the English example taken as a whole. He now retracted his view that England was the home of liberty and argued that France was more free, pointing out that an aristocracy and entailments limited liberty rather than protecting it. In his view, French political life was characterized by public moderation, which was an adequate substitute for its lack of strong institutional barriers against government arbitrariness.⁵⁰

Staël's book shows, in other words, that he, like other Restoration liberals, was sensitive to the arguments developed by their royalist opponents, although in the end he disagreed with them. However, another doctrinaire publicist, Prosper de Barante, developed a view that remained even closer to the royalists'. While Barante protested against their proposals to restore a territorial aristocracy in France modelled on the English example, he was

⁴⁷ *Ibid.*, p. 107: 'Fonder l'espoir de la liberté sur des germes imperceptibles d'aristocratie, qui peut-être ne se développent jamais, ce serait imiter cet archevêque qui donnait l'ordre de semer du chanvre, quand on lui venait dire que ses pages manquaient de chemises.'

⁴⁸ *Ibid.*, pp. 110–131, quote p. 130. ⁴⁹ *Ibid.*, chapters 8–14. ⁵⁰ *Ibid.*, pp. 315–329.

nevertheless convinced that the levelling of modern society posed a threat to liberty. Unlike Staël, Barante did not place his faith in the moderation of the French as a solution to this problem. Instead, he pleaded for the creation of a new type of social elite, a natural aristocracy, that would be recognized spontaneously by the population on the basis of free elections. In doing so, he developed a political doctrine that differed from both Dunoyer's and Constant's political thought, and that was closer to the aristocratic liberalism of Montesquieu and his royalist followers.

While Barante is now known especially as a historian who made an important contribution to the rise of Romantic historiography with his *Histoire des ducs de Bourgogne* (1824–1825), he was no less renowned during the Restoration period as a liberal politician and publicist.⁵¹ Like the other liberal publicists discussed here, Barante was highly critical of the royalist discourse. As we have seen, he denounced their invocation of Montesquieu's political precepts during the debate about the Succession Laws Bill as anachronistic. But despite his criticism of the way in which Montesquieu's ideas were used by royalists to legitimate a re-establishment of primogeniture, his ideas were deeply influenced by the *Esprit des lois*.

Barante's admiration for Montesquieu appears clearly in one of his earliest publications, *De la littérature française pendant le dix-huitième siècle* (1809).⁵² This book was written in response to counter-revolutionary accusations, developed most famously by Abbé de Barruel, that the Revolution had been caused by the depraved writings of the eighteenth-century *philosophes*. Instead, Barante depicted the *philosophes* as products of their society, their depravity being a symptom of a 'general illness'.⁵³ In Barante's view, however, Montesquieu had been able to escape from this malaise, and had produced with the *Esprit des lois* 'the monument that might honour him and his century the most'.⁵⁴ Impressed with Montesquieu's empirical spirit, Barante wrote that no other book presented more useful advice on the government and administration of European nations, in particular for France.⁵⁵

⁵¹ Although Barante had a well-established reputation as a liberal political thinker in his own time, this is not reflected in recent literature on French liberalism, which tends to neglect his writings in favour of his more famous contemporaries, such as Guizot and Constant. Antoine Denis' biography *Amable-Guillaume-Prospér Brugière, baron de Barante (1782–1866): homme politique, diplomate et historien* (Paris: Champion, 2000), sketches Barante's political career but not his intellectual development.

⁵² This book was reworked and reprinted in 1832 as the *Tableau de la littérature française au dix-huitième siècle* (Paris, 1832), on which the following is based.

⁵³ Barante, *Littérature française*, p. 38.

⁵⁴ *Ibid.*, p. 115: 'le monument qui peut-être honorera le plus et son siècle et son pays'.

⁵⁵ *Ibid.*, p. 118.

This praise was no vain rhetoric for Barante. Montesquieu's influence was noticeable in all of his writings. Thus, Barante's conception of liberty was clearly borrowed from the *Esprit des lois*. Although he did not provide an explicit definition of liberty in any of his writings, several of his remarks show that, like Montesquieu, Barante believed liberty to be equivalent with the security of each individual citizen, with the absence of absolute power. In the preface to his famous *Histoire des ducs de Bourgogne* (1824–1825), he wrote an invective against all those who believed that power should be 'absolute and sacred', whether they were in favour of royal absolutism or popular sovereignty, because this meant recognizing 'the right of the strongest'.⁵⁶ In his brochure *Des communes et de l'aristocratie* (1821), he likewise argued that 'to be free' was to be able to 'conserve one's right', which required guarantees against the abuse of power.⁵⁷ And in his brochure *Questions constitutionnelles*, published in 1849, he wrote: 'No authority can be absolute if liberty and the guaranteed rights for all are to exist.'⁵⁸

Then how was this liberty or security to be safeguarded? Barante's most important reflection on this problem in the immediate post-revolutionary period was his widely read brochure *Des communes et de l'aristocratie*, written in response to the royalist government's proposals for decentralization in 1821 and reissued in 1829. While the royalist government advocated a very limited measure, which would introduce elections only on the level of the municipal administration, not on the level of the departments,⁵⁹ Barante's brochure defended a more radical form of decentralization. He attempted to convince the government that freely elected general councils, organized in each department, should have power of control over the prefects. However, Barante couched his arguments in a more general discussion of the political system, in which he attempted to provide an alternative to the royalists' aristocratic liberalism that took the liberal critique of Montesquieu's model into account. As such, it was generally praised by Barante's liberal contemporaries. In an exhaustive review written upon the republication of this brochure in 1829, *Le Journal des débats* acclaimed *Des communes* as 'a courageous manifest against the men who . . . gave themselves over to . . . dreams of factitious aristocracy and counter-revolution'.⁶⁰

⁵⁶ Prosper de Barante, *Histoire des ducs de Bourgogne de la maison de Valois, 1364–1477* (Brussels, 1838, 6 vols.), I, p. 27.

⁵⁷ Prosper de Barante, *Des communes et de l'aristocratie* (Paris, 1821), p. 171.

⁵⁸ This brochure was reprinted in Barante's *Etudes littéraires et historiques* (Paris, 1858, 2 vols.), quote I, p. 360: 'Pour qu'il y ait liberté et garantie des droits de tous, aucune autorité ne doit être absolue.'

⁵⁹ Thadden, *La centralisation*, pp. 239–263.

⁶⁰ Quoted in *ibid.*, p. 305, note 158: 'un manifeste courageux contre les hommes qui . . . s'abandonnaient à . . . rêves d'aristocratie factice et de contre-révolution'.

Barante started out by arguing, as other liberal publicists had done, that proposals to recreate a territorial aristocracy in France, modelled on the English example, were doomed to fail. A return to feudalism was impossible in an advanced society such as post-revolutionary France, he explained, because the decline of the landed nobility had not been an accidental, remediable consequence of the Revolution, but dated from long before 1789. It had become inevitable when commerce and enlightenment expanded at the end of the Middle Ages. While these impersonal forces undermined the aristocratic edifice, the growth of monarchical power had contributed to the demise of feudalism as well. The absolute kings had greatly encouraged the abasement of the aristocracy by turning it into a court nobility. This was an irreversible development, Barante stressed. The feudal nobility was no longer a viable instrument for the protection of post-revolutionary liberty. 'We have to learn not to administer to old age the remedies of childhood.'⁶¹

It was therefore hardly surprising that all attempts to recreate a nobility in post-revolutionary France had failed. Both Napoleon and successive Restoration governments had endeavoured to re-establish an aristocracy. But neither the imperial nobility nor the Chamber of Peers qualified as a true aristocracy that existed independently from the will of the monarch. Barante was in particular dismissive of the attempts of the royalists, 'the party that believes itself to be aristocratic', to restore a territorial aristocracy in France.⁶² Their campaign for primogeniture was doomed to fail, because it attempted to remedy a long-term process of social change through an alteration in legislation. Again, Barante pointed out that the division of property did not date from the Revolution, that it had started centuries ago. The nobility had ruined itself, encouraged by Louis XIV, and their property became divided as a result of their general poverty. In other words, the division of property had nothing to do with the legal system, it was the result of irreversible tendencies in French society. Likewise, the English aristocracy survived more because of the special characteristics of the English than of the inheritance laws.

Thus, French society had never been less aristocratic, and never had individuals been more isolated from one another.⁶³ However, Barante did not believe that the levelling of French society was a process with wholly positive results. As we continue in *Des communes et de l'aristocratie*, it becomes clear that he feared it as a threat to the continued liberty and stability of

⁶¹ Barante, *Des communes et de l'aristocratie*, pp. 23–59, quote p. 30: 'Il faut apprendre à ne point donner à la vieillesse les remèdes de l'enfance.'

⁶² *Ibid.*, pp. 87–88. ⁶³ *Ibid.*, p. 73.

the post-revolutionary state. Despite their misguided support for primogeniture, the royalists were right in saying, he argued, that social hierarchy was a condition of order and liberty. If the individuals of a nation remained isolated, they were without defence against the usurpation of their rights. An elite of enlightened and independent citizens was necessary both to resist abuses and to protect the government against disorder.⁶⁴ Without such a hierarchy, despotism and anarchy threatened, as was illustrated by the troubled situation in post-revolutionary France. In other words, a new social elite was necessary – and Barante believed that decentralization would allow such an elite to develop in France. By having elected administrators, he hoped, ‘a progressive hierarchy would establish a non-interrupted chain between the monarch and his subjects’.⁶⁵ By giving the more elevated ranks in society a role in the political system, they would provide ‘an honourable and faithful retinue’ for the monarch, and they would defend, at the same time, the national liberties against the usurpations of the agents of power.⁶⁶

In Barante’s view, in other words, decentralization was in the first place an instrument for achieving a reorganization of society, rather than a way to create a better administration. He hoped that decentralization would make the growth of a new social hierarchy possible. It would counteract the social indifference characteristic of post-revolutionary France by turning local administrators into a class of magistrates, freely elected and therefore recognized by the population as their superiors, rather than as government employees: ‘An aristocracy is based on influence and independence. Its position should be conferred by the free consent of the citizens; the government should not be able to discard it from this position.’⁶⁷ His proposal for decentralization did not just aim to achieve good administration – above all, it was meant to establish a better constitution of society by encouraging ‘the spirit of association between citizens’, as well as ‘the use of social superiorities for the general interest, which is the sole just and reasonable principle of aristocracy’.⁶⁸

Barante put much emphasis on the differences between his scheme and that of the royalists. He underscored that the aristocracy he defended was

⁶⁴ *Ibid.*, pp. 132–157.

⁶⁵ *Ibid.*, pp. 254–255: ‘une hiérarchie progressive établirait une chaîne non interrompue entre le monarque et les sujets’.

⁶⁶ *Ibid.*: ‘un cortège honorable et fidèle’.

⁶⁷ *Ibid.*, p. 148: ‘L’aristocratie se compose d’influence et d’indépendance. Il faut que sa position lui soit conférée par le libre consentement des citoyens; il faut que le ministère ne puisse lui enlever cette position.’

⁶⁸ *Ibid.*, p. 22: ‘l’esprit d’association entre les citoyens . . . l’emploi des supériorités sociales à l’intérêt général, qui est le seul principe juste et raisonnable de l’aristocratie’.

very different from the territorial magnates idealized by them: it was an elective, local elite. Free elections would allow the formation of a true aristocracy, based on the influence of its natural superiority, that was moreover independent from the government. It was not his goal to defend the interests of one specific class, as the royalists did with their advocacy of primogeniture. But despite these differences, it is clear that Barante's brochure was inspired by the same school of thought as the royalists', based on Montesquieu's *Esprit des lois*. Like the royalists, Barante believed that the levelling and atomization of French society was problematic because this meant that there were no intermediary powers. And, like the royalists, Barante believed that French society needed to be reorganized to make it more resistant to despotism and anarchy, to counteract the malaise that had caused the Revolution.⁶⁹

In sum, as appears from the writings of Staël and Barante, a number of liberals of the Restoration period formulated their solution to the problem of how to preserve liberty and stability in the post-revolutionary world in direct engagement with the royalists' discourse. Unlike the royalists, these liberal thinkers did not subscribe to the social ideal of a society dominated by landed aristocrats. Neither did they look to England as an example to be readily imitated. Nevertheless, they agreed with their political opponents that a levelled society left its citizens without protection against despotism. Although Staël failed to escape from this conundrum, in the end putting his hope in the moderation of the French rather than in concrete guarantees, Barante pleaded for the necessity of social reforms that would allow the true, natural aristocracy of France to come forward. In essence, Barante's political doctrine therefore remained much closer to the aristocratic liberalism of Montesquieu and his royalist followers than it was to either of his liberal contemporaries Dunoyer and Constant.

⁶⁹ *Ibid.*, pp. 252–256.

CHAPTER 5

The new aristocracy: a theme in Restoration liberalism

If Prosper de Barante was the most articulate advocate of the theme of the new aristocracy, he was by no means the only one. The arguments he developed in response to the royalists in *Des communes et de l'aristocratie* were repeatedly echoed among liberals in the Restoration period. Like Barante, liberal thinkers responded to the royalist discourse by arguing that the demise of the landed nobility was irreversible and permanent. But, again like Barante, they agreed that the subsequent atomization of society, and the isolation of individuals from one another posed a threat to liberty, which should be counteracted by the creation of a new aristocracy.

These arguments occupied an important place in the writings of Barante's fellow-doctrinaires, but they were not exclusively defended by them. Rather, the theme of the new aristocracy was propagated by liberals of various stripes and colours. It appeared in a number of important political debates of the Restoration period: the proposals of certain liberals to reform the Chamber of Peers, the debate about decentralization in the Restoration period, and the prolonged discussion about the liberty of the press that was conducted between 1814 and 1830.

THE DEBATE ABOUT THE BICAMERAL SYSTEM

Throughout the Restoration period, the composition of the Chamber of Peers was subjected to much debate. At first, as we have seen, liberals were enthusiastic about the Chamber of Peers, adopting Montesquieu's perspective that an aristocratic intermediary body was necessary for the preservation of liberty and stability in post-revolutionary France. However, in the course of the Restoration period, they became more critical of such a hereditary chamber.¹ But the debate about the peerage did not end there. A number of liberals suggested that, while the Chamber of Peers as a

¹ See above, chapter 3.

hereditary, aristocratic body might have lost its relevance for modern-day France, this did not mean that the necessity of a bicameral system had disappeared with it. Despite their opposition to the hereditary peerage, many liberals continued to believe that the post-revolutionary political system needed a legislative institution other than the Chamber of Deputies.

In this debate, many different arguments were used to legitimate the bicameral system. It was explained that a more moderate, second chamber was necessary to assure a better deliberation of the laws, and to put a check on the impetuosity of a single assembly. A single legislative assembly, liberal publicists argued, would automatically become despotic, as had happened during the Revolution.² Along similar lines, the Chamber of Peers was often depicted as a conservative force, in the literal sense of the word, required to slow down the legislative process.³ However, liberal defenders of the bicameral system also used arguments that were similar to Barante's. Like Barante, they claimed that the levelled condition of the post-revolutionary society prevented the restoration of a landed nobility, such as the English House of Lords. Nevertheless, the liberty and stability of the political system required an institution that would be capable of forming a barrier between government and people. For this reason, the Chamber of Peers, rather than artificially recreating a hereditary, territorial aristocracy, should be made representative of the new social elites of post-revolutionary France.

An indication of how important this idea was to the liberals of the Restoration period can be found, perhaps somewhat surprisingly, in *Le Censeur européen*. In the previous chapter, we have seen that the editors of this journal, and in particular Dunoyer, developed into committed defenders of a *laissez-faire* liberalism that denied the importance of political structures as a way of safeguarding liberty, and instead pleaded for the greatest possible limitation of the state. However, one article in *Le Censeur européen*, by Charles Comte, forms an exception to this general attitude. In 'De l'organisation sociale considérée dans ses rapports avec les moyens de subsistance des peuples', published in 1817, Comte discussed the relationship between forms of government and a people's mode of subsistence. In doing so, he made clear that he did not believe that a limitation of the government sphere, necessary in an industrial society, would be possible without

² This argument took a prominent place in François Guizot's defence of the bicameral system; see his *Histoire des origines du gouvernement représentatif en Europe* (Brussels, 1851, 2 vols.), II, chapters 17 and 18. Another example can be found in H. de Lourdoueix, *De la France après la révolution* (Paris, 1816), pp. 32–55.

³ H. C. Mittré, *Quelques réflexions sur la révolution de 1830 et principalement sur la pairie* (Paris, 1831).

institutional guarantees. More specifically, Comte pleaded for a reform of the Chamber of Peers, because he believed that such an intermediary institution was necessary to preserve France from the twin dangers of anarchy and despotism.⁴

Comte started out by rejecting the idea that the aristocracy of the Old Regime could be restored in France. The feudal economic system in which a rapacious warrior class lived off the produce of the common people was no longer viable. Commerce had made war superfluous, and therefore the nobility as well. The feudal system had crumbled, and, in 1789, it had disappeared altogether in France. However, this did not mean that social hierarchy as such had disappeared in France. Another elite had grown up since then: the elite of the productive citizens. The government should be adapted to this new social condition, Comte believed: it should be put under the influence of the productive classes. Public functions needed to be exercised by those who contributed most to national prosperity. This would increase national wealth by putting the government under the control of those most interested in increasing prosperity. More concretely, Comte proposed to create a council in which the most important representatives of different national interests would play a part.

Such an institution would not just be useful as an instrument of government. It was also necessary as a buffer against the central government, Comte emphasized. Modern individuals were more independent from one another than they had been in the past. Although this was in itself a positive evolution, it had also increased their isolation from one another, and this had been one of the principal causes of the rise of absolutism and the concomitant instability of the state. The existence of the new social elite that had grown up in France should therefore be recognized in the political system. Only such an institution would be able to alleviate the atomization of society, and to form a barrier powerful enough to protect the population against government despotism and the threat of anarchy. 'It has been said that a monarchy cannot sustain itself without an intermediary class of men between the prince and the people', Comte wrote; 'This observation is correct; it is just wrong to apply it exclusively to the monarchical government.'⁵

If attempts to create an intermediary class in post-revolutionary France had so far been unsuccessful, this was because they did not recognize the

⁴ Comte, 'De l'organisation sociale'.

⁵ *Ibid.*, p. 58: 'On a dit qu'une monarchie ne peut se soutenir, s'il n'existait pas entre le prince et le peuple une classe d'hommes intermédiaire: cette observation est juste; on a tort seulement de l'appliquer exclusivement au gouvernement monarchique.'

natural elite, but instead imposed from above an artificial aristocracy. The Chamber of Peers, composed of government pensioners, had become an instrument in the hands of the government on which it was financially dependent. In order to solve that problem, government donations to the Peers should be abolished. Similarly, Comte emphasized that the hereditary nature of the peerage should be abolished. The qualities that made one suitable for being a Peer were not transmitted hereditarily. To have a true aristocracy, the Chamber of Peers should always be open to new recruits who could increase its force. In turn, this was necessary for the preservation of liberty. Without the support of a powerful aristocracy, Comte feared, a government would be obliged to lean on the military, and rule through violence and intimidation.⁶

The reasoning developed by Comte was repeated by other publicists of the Restoration period. Charles Bailleul, a former member of the Convention and a radical anti-royalist writer, likewise pleaded for a reform of the peerage in his brochure *Du projet de loi sur les successions et sur les substitutions* (1826). Bailleul had made his name as a publicist in the early Restoration period through an extensive critique of Germaine de Staël's *Considérations sur la Révolution Française*, published in 1818, in which he had shown himself highly critical of the oppressive role of the nobility in the French past.⁷ His brochure of 1826 was written as a response to the royalist campaign to change the revolutionary succession laws. Bailleul protested vigorously against the re-introduction of primogeniture, arguing that the French nobility had never been a support for the throne or a barrier against despotism, and that it should therefore not be restored as an intermediary class. Nevertheless, Bailleul did believe that such an intermediary body, in another form, was necessary in France, and he therefore proposed to replace the Chamber of Peers by a series of 'High councils' that would be capable of forming a new elite.⁸

At the base of these proposals were Bailleul's qualms about the levelled condition of French society, which were very similar to those of the royalists. In his brochure, he explained at length how the French Revolution had destroyed all intermediary bodies in France, warning his readers that, under the restored monarchy, there were no barriers left to counteract ministers

⁶ *Ibid.*, p. 61.

⁷ Jacques Charles Bailleul, *Examen critique des considérations de Mme la baronne de Staël sur les principaux événemens de la révolution française, avec des observations sur les dix ans d'exil, du même auteur et sur Napoléon Bonaparte* (Paris, 1822, 2 vols.).

⁸ Jacques Charles Bailleul, *Du projet de loi sur les successions et sur les substitutions, pour comparaison, quelques idées sur des institutions appropriées à l'ordre de choses qui nous régit, et qui en seraient les garanties et les appuis* (Paris, 1826), pp. 40–41.

if they had bad designs. Instead, the king faced a multitude of isolated individuals. This situation was highly dangerous, in Bailleul's view:

I confess that the more I contemplate [our] condition [he wrote] the more frightened I am of this isolation, this mobility, which leaves everything to power, and even more so, of power rendered to itself, because it can be reduced to a single agent, who does not encounter any resistance, any restraint, any necessary advice, nothing even which obliges it to take the counsel of time. I can see nothing fixed in such circumstances. In such a state, one can only pass alternately, and always, from despotism to anarchy, and from anarchy to despotism.⁹

Bailleul realized that this analysis was close to the royalists'. But in his view, the royalists' solution for this problem – the reintroduction of primogeniture – was mistaken. It was an attempt to return to the Old Regime, in which the feudal nobility, although it limited the power of the kings, had at the same time oppressed the people. Moreover, it was impossible to change society back to its old form, even if one would want to do that. Bailleul, therefore, proposed an alternative to the reintroduction of primogeniture. Instead of a territorial aristocracy, he felt that it was necessary to create a series of 'High councils', which would take over the duties of the Chamber of Peers. Each High council would be composed of members appointed for life, and have a moderator with the title of 'duke'. These 'great intermediary bodies' would fill 'the gap between the throne and the nation', and thus preserve the monarchy from 'anarchy and despotism'.¹⁰

THE DEBATE ABOUT DECENTRALIZATION

Although the discussion about the Chamber of Peers is an obvious place to look for references to the theme of the new aristocracy, it was by no means the only debate in which this trope turned up. The concern of Restoration liberals about the levelled condition of French society is also clearly visible in the discussion about decentralization, in the context of which Barante, as we have seen, published his brochure *Des communes et de l'aristocratie*.

The reform of the local administration was one of the most important political issues of the Restoration period. Administrative centralization

⁹ *Ibid.*, p. 37: 'J'avoue que plus je contemple cet état de choses, plus je reste effrayé de cet isolement, de cette mobilité, qui livrent tout au pouvoir, et plus encore du pouvoir livré à lui-même, lorsqu'il peut se réduire à un seul agent, qui ne rencontre nulle part aucune résistance, aucun frein, aucun avis nécessaire, rien même qui l'oblige à prendre les conseils du temps. Je ne puis voir là rien de fixe. Dans un tel état de choses, il faut passer alternativement, et toujours, du despotisme à l'anarchie, et de l'anarchie au despotisme.'

¹⁰ *Ibid.*, p. 39: 'grands corps intermédiaires . . . le vide qui se trouve entre le trône et la nation'.

(both on the municipal and on the departmental level) was fiercely condemned by the post-revolutionary generation. Criticism of centralization (the term was coined in the 1820s), was perpetuated first and foremost on the grass roots level. Between 1817 and 1829, sixty-two departmental councils of eighty-six expressed a wish to increase local independence.¹¹ But the problem was also kept on the political agenda by publicists and politicians. Benjamin Constant argued in 1815 that decentralization was one of the most urgent issues the French parliament would have to address, and many politicians on both the left and the right agreed. A first attempt to reform the administration was made in 1821 by the royalist government, and in 1829 a new attempt was made by Jean-Baptiste Martignac's centre-left government.¹²

Opportunism played an important role in this debate. Although decentralization was advocated by both royalists and liberals, hidden political agendas and tactical considerations resulted in the failure of all attempts to reform the local administration during the Restoration period. The Bill of 1821, prepared by Joseph Siméon, with modest proposals for reform, was withdrawn by the royalist government even before the debate in the Chamber of Deputies had really begun. Although Martignac's Bill of 1829 represented a more serious attempt to reorganize local administration, it foundered on the combined opposition of the royalist and liberal factions, who each had their own reasons to wish for a defeat of Martignac's centrist government.¹³ But despite this failure to effect a substantial reform of local administration, the debate on decentralization was important from an intellectual point of view. Although some of its advocates emphasized practical considerations first and foremost, arguing that centralization made the administration slower and less efficient, more often the proponents of decentralization focused on general political considerations.

Different types of argument were developed to plead for decentralization.¹⁴ Some publicists concentrated, first and foremost, on the relationship between local communities and central government in their argumentation for administrative reform. They objected against centralization because it violated the local communities' right to make decisions about their own

¹¹ François Burdeau, *Liberté, libertés locales chéries!* (Paris: Cujas, 1983), p. 72.

¹² On the resulting debates, see *ibid.*, pp. 60–96; Rudolf von Thadden, *La centralisation contestée*, trans. Hélène Cusa and Patrick Charbonneau (Paris: Actes Sud, 1983).

¹³ Charles Pouthas highlights the opportunistic twists and turns in these debates in his 'Les projets de réforme administrative sous la Restauration', *Revue d'histoire moderne*, 1 (1926), 322–367.

¹⁴ Burdeau's *Liberté* offers a very good overview of all arguments used in this debate.

interests. Louis de Guizard, for instance, a liberal journalist, argued that the local communities were, like individuals, 'natural' bodies pre-existing the state. For this reason, they had an inalienable right, again like individuals, to own and administer their own property.¹⁵ Likewise, advocates of decentralization pointed out that local communities in France had always had the right to elect their administrators in the past, and that the institution of the prefects was an illegal usurpation of that ancient right. Thus, the liberal publicist François Raynouard argued in 1829 that municipalities had a 'primitive right' to elect the officers responsible for local administration, which was already established at the time of the Gauls.¹⁶

Second, a number of political thinkers advocated decentralization as a way to revitalize the public spiritedness of the French. Illustrative of this position were Constant's views on the importance of decentralization in post-revolutionary France. In his *Principes de politique* of 1815, Constant devoted a chapter to discussing the reorganization of 'municipal power'. Decentralization was necessary first and foremost, Constant argued, on the basis of the principle of equity. Local communities had the right to administer to their own particular interests, like individuals. But second – and this argument especially must be seen in the context of Constant's neo-republicanism – he claimed that local self-government was necessary to instil patriotism in the population. Love of one's birthplace, Constant argued, was the only true source of patriotism in modern societies. By allowing communities to govern themselves in those affairs that had no bearing on the general interest, 'all disinterested, noble and pious feelings' would be encouraged. Eventually, the citizens would become more devoted to the nation at large when they felt connected to their local community.¹⁷

But decentralization was also advocated from a very different perspective. We have already seen how the debate about decentralization was used by Barante as an occasion to reflect on the necessity of a new aristocracy for France. A very similar view was developed by Barante's friend and close political collaborator François Guizot. In a letter of 7 July 1821 to Barante, Guizot wrote how life in the provinces had convinced him of the necessity of decentralization, in order to give more political influence to the local elites. 'The more I see, the more I think like you', he wrote, 'what we lack are points of reunion and communal activity'. Like Barante, he had come

¹⁵ Louis de Guizard, *De l'administration communale et départementale (extrait de la Revue française – mars 1829)* (Paris, 1829), p. 6.

¹⁶ François Raynouard, *Histoire du droit municipal en France* (Paris, 1829, 2 vols.), I, pp. I–xlvi.

¹⁷ Constant, *Political writings*, pp. 251–255, quote p. 255.

to think that it was necessary to 'call the influences to power and to permit life to manifest itself where it is'.¹⁸

Decentralization was therefore one of the main themes of Guizot's brochure *Des moyens de gouvernement et d'opposition dans l'état actuel de la France* (1821), which outlined an ambitious programme for political reform in response to the royalists' rise to power.¹⁹ Guizot started from the idea that the government needed to look to 'the new France' to guide it in its policies, and not to 'the old France', as the royalists did.²⁰ Like Barante, he emphasized that the old aristocracy could no longer fulfil its role as a defender of liberty, because it no longer had any real influence or power:

As [the old aristocracy] does not lack elevated spirits, nor generous characters, it dreams sometimes of recovering its liberties and rights, and of using them, if not for the public good, then at least according to its own honour, and of maintaining them with dignity against power. But, it can no longer take such a high and mighty position; it has quarrelled, if you will allow me to use this expression, with France; it can no longer act for the people and it no longer has any support against authority. The liberty which it demands from the institutions would have principles and results which France no longer wants, it would have to impose this liberty at the same time on the people and on those in power.²¹

For this reason, the old nobility had become an impediment to, rather than one of the mainstays of, liberty in post-revolutionary France.

The royalists believed, Guizot continued to argue, that this situation – the fact that the new social order was irrevocably based on equality – prevented the establishment of a regular government in France. Convinced that 'all liberty is a privilege, all superiority an element of aristocracy', they believed that 'ranks, conditions, professions, the whole society should be

¹⁸ Quoted in Prosper de Barante, *Souvenirs du baron de Barante*, ed. Claude de Barante (Paris, 1890–1901, 8 vols.), vol. II, pp. 495–496: 'Plus je vois, plus je pense comme vous, ce qui manque, ce sont des points de réunion et d'activité commune . . . appeler les influences au pouvoir et permettre à la vie de se manifester là où elle est.'

¹⁹ Aurelian Craiutu points to the importance of this brochure for our understanding of Guizot's political thought: see his *Liberalism under siege*, pp. 155–183.

²⁰ François Guizot, *Des moyens de gouvernement et d'opposition dans l'état actuel de la France* (Paris, 1821), p. vii: 'Il s'agit de maintenir le trône légitime et de fonder l'ordre constitutionnel; est-ce par les maximes, les pratiques et le secours de l'ancien régime, ou par les principes et l'alliance de la France nouvelle que ce but peut être atteint?'

²¹ *Ibid.*, p. 69: 'Comme elle [l'ancienne aristocratie] n'est dépourvue ni d'esprits élevés, ni de caractères généreux, elle se rêve quelquefois recouvrant des libertés, des droits, les constituant sinon dans le bien public, du moins selon son propre honneur, et les maintenant avec dignité contre le pouvoir. Il ne lui appartient plus de prendre ainsi une position haute et indépendante; qu'on me permette cette expression; elle s'est brouillé avec la France; elle ne peut plus rien pour le peuple et n'a plus, pour elle-même, aucun point d'appui contre l'autorité. La liberté qu'elle demanderait à des institutions, aurait des principes et des résultats dont la France ne veut point; il faudrait qu'elle l'imposât en même temps au peuple et au pouvoir.'

hierarchically constituted and classified'. In the absence of such an aristocracy, 'nothing is possible except for social dissolution through the independence of individuals, or the equal humiliation of all under the yoke of despotism'.²² For this reason, Guizot explained, the royalists attempted to change the French customs and laws, by re-establishing entailments, by recreating corporations, by 're-founding in a word the whole society; without this, they have declared, society will never be free and it will even die'.²³

In Guizot's view, however, such an attempt to return to the 'old France' was impracticable and wrong-headed. It was not necessary to restore the old social hierarchy – even if that had been even remotely possible – because a 'new aristocracy' was already forming itself.²⁴ Decentralization was the best way to bring this new elite to the fore. Each department, each city, Guizot explained, counted a number of men who exercise 'a more or less decisive and extended influence'. These men – landowners, lawyers, notaries, capitalists, manufacturers and merchants – occupied themselves at present solely with their own affairs, but they had nevertheless a natural influence, and they should be part of the larger machine of government. 'If the superiorities, the natural influences which exist in a country are not to be lost', Guizot wrote, 'they should be employed'.²⁵

Arguments similar to Barante's and Guizot's can be found in Pierre-Paul-Nicolas Henrion de Pansey's important treatise *Du pouvoir municipal et de la police intérieure des communes* (1825). A well-known lawyer, who had briefly acted as a Minister of Justice at the beginning of the Restoration period, Henrion de Pansey published many treatises on the history of French law and on the new institutions introduced by the Charter. His writings were permeated by an odd mixture of liberalism and traditionalism. While he was greatly attached to the ancient French constitution, and repeatedly praised it in his books, Henrion de Pansey at the same time defended the French Revolution and the introduction of a constitutional monarchy in 1814, one of the main liberal achievements.²⁶ This liberal inspiration is

²² *Ibid.*, p. 151: 'toute liberté est un privilège, toute supériorité un commencement d'aristocratie . . . Il faut donc que les rangs, les conditions, les professions, la société tout entière, soient hiérarchiquement classées et constituées . . . il n'y a que la dissolution sociale par l'indépendance des individus, ou l'égalité humiliation de tous sous le niveau du despotisme'.

²³ *Ibid.*: 'refondre en un mot toute la société; sans quoi ils ont déclaré qu'elle ne serait jamais libre et même qu'elle mourrait'.

²⁴ *Ibid.*, p. 157.

²⁵ *Ibid.*, p. 270: 'Pour que les supériorités, les influences naturelles qui existent dans un pays ne soient pas perdues, il faut qu'elles soient employées.'

²⁶ On Henrion de Pansey's original brand of liberalism, see J. H. M. Salmon, 'Constitutions, old and new: Henrion de Pansey before and after the Revolution', *The Historical Journal* 38 (1995), 907–931.

also evident in his brochure on decentralization. He pleaded for elected municipal councils, and even argued that the population should have some say over the choice of the mayor, both of which were radical-liberal demands in the context of the Restoration. Apart from Barante's *Des communes et de l'aristocratie*, *Du pouvoir municipal* was probably the most widely read and influential liberal treatise on decentralization, and it was frequently reprinted in the course of the nineteenth century.²⁷

The greater part of Henrion de Pansey's book was devoted to a learned discussion of the nature of municipal power and the different functions it should have, in which he made a number of concrete suggestions for the reform of local administration. But Henrion de Pansey also discussed the necessity of decentralization from a more theoretical perspective.²⁸ He argued, like Barante, that political institutions in themselves did not suffice to preserve a stable, liberal regime, but that it was equally necessary to counteract the atomized condition of society. And, again like Barante, he stressed that France was confronted with a serious problem from this perspective. While in the feudal past, many institutions had acted as 'intermediary bodies' between the government and the people, these had been dismantled in the course of time. As a result, French society had become completely levelled, while royal authority grew: 'Thus disappeared all intermediary bodies. On their debris absolute power elevated itself: royal authority subsequently had no limits, but neither did it have support.'²⁹

In 1814, the restored Bourbons had failed to address this problem. Although Henrion de Pansey was an enthusiastic supporter of the constitutional monarchy which the Charter of 1814 had introduced in France, he did not believe that a new constitution sufficed to guarantee the continued liberty and stability of the French state. Intermediary bodies should be created between government and people. But this did not mean that Henrion de Pansey supported the royalists' attempts to restore an aristocracy in France. Instead, he argued that the 'democratic' or bourgeois elite should fulfil the role of a new intermediary power. The 'notabilities' of the bourgeoisie, who formed a democratic elite distinct from the 'proletarians', needed to be given a political role by increasing their control over local administration. Together with the old aristocracy, this 'new aristocracy'

²⁷ This brochure was first published in 1822; a revised and extended version was re-issued in 1825, and again in 1833 and 1840. I have used the last edition.

²⁸ Pierre-Paul Henrion de Pansey, *Du pouvoir municipal et de la police intérieure des communes* (Paris, 1840), pp. 8–22.

²⁹ *Ibid.*, p. 12: 'Ainsi disparurent tous les corps intermédiaires. Sur leur débris s'éleva le pouvoir absolu: l'autorité royale fut alors sans limite, mais elle fut sans appui.'

would form a powerful barrier against anarchy and despotism, and thus guarantee the survival of the government instituted by the Charter.³⁰

More brochures on this theme were published in the context of the debate about the Municipal Bill introduced by Martignac's government in 1829. The first serious effort to reform the local administration undertaken in the Restoration period after Siméon's abortive attempt in 1821, Martignac's Bill was first and foremost an attempt at compromise. It incorporated an important liberal demand by introducing the elective principle at the level of municipalities. But, at the same time, the Bill proposed an elevated franchise qualification that in practice would give electoral predominance to the wealthier sections of the citizenry, which, as Martignac hoped, would pacify the royalist party (indeed, the Bill was so restrictive that it gave electoral rights to only 40,000 citizens, while there were 88,000 voters in the parliamentary elections). However, despite these concessions (or perhaps because of them) both royalists and liberals found so much at fault with Martignac's Bill that neither party supported it in parliament. As a result, the Bill failed to pass, thus leaving the reform of the administration unsettled for the remainder of the Restoration period.³¹

During the debate about Martignac's Bill, royalist publicists such as Vincent de Vaublanc, as we saw,³² supported decentralization as a means to 'strengthen the feeble aristocracy of France', by giving the nobility a greater influence in local affairs.³³ This argument aroused much protest from the liberal quarter. In the Chamber of Deputies, the radical liberal Charles Guillaume Etienne vehemently objected to the aristocratic bias of the Bill. Like so many other liberal publicists, Etienne repeated that all endeavours to restore an aristocracy in France, including the new Bill, were vain attempts to combat irreversible social changes. For the past fifteen years, he pointed out, royalist governments had tried to recreate an aristocracy, but France lacked the territorial wealth that was its necessary foundation. This situation could not and should not be changed by legislation such as the Bill proposed by Martignac's government, because the laws had to be adapted to the social condition rather than the other way around.³⁴

In his brochure *De la démocratie dans la monarchie constitutionnelle* (1828), Joseph Aubernon similarly criticized the government's attempts to hand over local government to the landed, provincial nobility. Aubernon, a former prefect and a liberal deputy, started out by complaining, like Etienne,

³⁰ *Ibid.*, p. 17. ³¹ On this debate, see Thadden, *La centralisation*, pp. 239–317.

³² See above, chapter 2. ³³ Vincent-Marie Viennot de Vaublanc, *Des administrations*, pp. 42–44.

³⁴ Charles Guillaume Etienne in *Archives parlementaires*, LVII, pp. 751–752.

that Martignac's Bill would give too much power to the landed nobility. By doing so, the Bill completely disregarded the changed social conditions. French society was democratic and the political system should be adapted to that fact. Aubernon explained at length how the levelling of French society had come about. In his view, this process had been encouraged in particular by the absolute monarchy, which had encouraged the development of 'the spirit of equality'.³⁵ The Revolution had not really changed the nature of French society; rather, it had confirmed a pre-existing condition. Thus, post-revolutionary France had become a 'democratic' or levelled society.³⁶

Aubernon emphasized that the royalists' attempts to change that social condition by re-introducing an aristocracy in France, were both dangerous and doomed to fail. During the Restoration period, he warned, a faction had come into existence that had begun an outright war against the 'democratic' part of the nation. With for instance the Electoral Law of 1820, or the Succession Laws Bill, this faction was responsible for the continued political agitation that characterized the post-revolutionary period. As a result, the influence on the government of Jesuits and priests had increased, because the government needed their influence to counteract the agitation. Aubernon therefore concluded that such attempts were 'vain projects to return to a regime that no longer existed', and that an 'alliance of monarchy and democracy' should be aimed for.³⁷

But, nevertheless, Aubernon believed, like Barante – whose *Des communes et de l'aristocratie* he had read with admiration³⁸ – that the atomization of society was problematic as well. He criticized 'those theories which have at once crowned and isolated the citizens, made them into sovereigns as well as slaves, and engendered anarchy and despotism'.³⁹ French society, having escaped from those two extremes, could re-establish order and true liberty only when the government approached individuals not as isolated beings, but as connected to their communities and interests. Decentralization would contribute in an important way to alleviating the 'isolation' of French citizens. It would allow the old aristocracy to be replaced with 'the political notabilities included in the democracy.' Such a new social hierarchy was perfectly compatible with natural equality, Aubernon emphasized.

³⁵ Joseph Aubernon, *De la démocratie dans la monarchie constitutionnelle, ou essai sur l'organisation municipale et départementale, et sur la formation des notabilités politiques en France* (Paris, 1828), p. 12.

³⁶ *Ibid.*, p. 19.

³⁷ *Ibid.*, p. 4: 'de vains projets de retour vers un régime qui n'est plus . . . alliance de la royauté et de la démocratie'.

³⁸ He explicitly referred to Barante's brochure: *ibid.*, p. vii.

³⁹ *Ibid.*, pp. 62–63: 'les théories qui ont tout à la fois couronné et isolé les citoyens, fait d'eux des souverains et des esclaves, et enfanté l'anarchie et le despotisme'.

A 'national notability' existed even in a levelled society such as France, and that new social elite should be given a fixed place in the political system.⁴⁰

THE DEBATE ABOUT PRESS FREEDOM

Between 1815 and 1830, the issue of press freedom was no less heatedly debated in France than decentralization. Although this right had been guaranteed by the constitutional Charter of 1814, the subsequent governments of the Restoration continued to impose limitations upon its exercise. Immediately after the proclamation of the Charter in 1814, the short-lived government of Abbé de Montesquiou re-established a form of censorship by ordinary law, and governments continued to change the legislation on this subject. Before 1830, no less than five different press laws were debated in parliament. As a result, a continual debate about the pros and cons of press freedom was conducted throughout the Restoration period.⁴¹ Although opportunism played an important role in this discussion, as the party in control of the government at a given period was less inclined than its opponents to defend the right to press freedom, the debate was generally conducted on a high intellectual level, and many different arguments were developed to defend this principle.

To a certain extent, the debate about the press was a debate about the rights and liberties of the French. Restoration liberals pointed out that press freedom was a natural right of mankind – a right guaranteed, moreover, by the Charter. Because of this, the legislature could not impose censorship on its own initiative. This thesis had been established in 1791, as art. 11 of the Declaration of the Rights of Men and the Citizen claimed that 'the free communication of thoughts and opinions is one of the most precious rights of men', and it continued to be defended during the Restoration period.⁴² But the debate about the liberty of the press was not just conducted from the perspective of the rights and liberties of the French people. Far more often, the press was discussed from an institutional perspective. Publicists

⁴⁰ *Ibid.*, pp. 33–40: 'les notabilités politiques que la démocratie renferme'.

⁴¹ On these debates, see Eugène Hatin, *Histoire politique et littéraire de la presse en France, avec une introduction historique sur les origines du journal et la bibliographie générale des journaux depuis leur origine* (Geneva: Slatkin, 1967, 8 vols.), VIII.

⁴² Jacques Godechot, *Les constitutions de la France depuis 1789* (Paris: Flammarion, 1979), p. 3. This argument was repeated in the very first debate on the liberty of the press in the Restoration by Count Cornudet: *Archives parlementaires*, XII, 23 August 1814, pp. 364–368. It was also used by Benjamin Constant in his brochure *Observations sur le discours prononcé par S.E. le ministre de l'intérieur en faveur du projet de loi sur la liberté de la presse*, reprinted in the *Collection complète des ouvrages, publiés sur le gouvernement représentatif et la Constitution actuelle de la France, formant une espèce de Cours de politique constitutionnelle* (Paris, 1818, 8 vols.), III.

and political thinkers claimed that the liberty of the press fulfilled a crucial role in the political system, that it was an important political institution rather than a (natural or positive) right, because it was indispensable for the expression of public opinion.

Recently, historians of ideas have devoted much attention to the concept of public opinion. In particular, they have focused on its role in the political debates of the second half of the eighteenth century, when this concept was first invoked on a large scale. Scholars such as Mona Ozouf and Keith Baker have argued that the emergence of a concept of public opinion after 1750 encouraged the turn to a republican, self-governing conception of politics. Frequently invoked as a tribunal whose authority was greater than that of the king, the concept of public opinion weakened the absolutism of the French state and identified political authority with the public. In this sense, it is argued, public opinion was a highly subversive concept, and its rise contributed to the outbreak of the Revolution.⁴³

In the debates of the Restoration period, such republican invocations of the concept of public opinion were still present. Political thinkers such as Benjamin Constant believed that the liberty of the press was necessary for the stimulation of public interest in political matters. In his view, a vigorous public opinion was an indispensable instrument in the self-government of modern nations; it was a forum through which the people could participate in the government. Thus, in his 'Commentaire sur l'ouvrage de Filangieri', Constant explained that the invention of the printing press had created a new channel for modern people 'to interest themselves in their fatherland', unknown to their republican forebears of classical antiquity. He emphasized that restrictions on press freedom would cause a general apathy for political matters in the population, which endangered the very survival of states.⁴⁴ This theme was also explored at great length in Antoine de Guérard de Rouilly's treatise *De l'esprit public ou de la toute-puissance de l'opinion* (1820).⁴⁵

However, it is important to emphasize that the concept of public opinion did not necessarily, nor even primarily, have this republican connotation. As J. A. Gunn has brought to light, the concept of public opinion was often invoked by those happy with the status quo of the Old Regime, for

⁴³ K. M. Baker, 'Politics and public opinion under the old regime: some reflections' in *Press and politics in pre-revolutionary France*, eds. Jack R. Censer and Jeremy D. Popkin (Berkeley: University of California Press, 1987), pp. 204–246; Mona Ozouf, 'L'opinion publique' in *The French Revolution and the Creation of Modern Political Culture. Vol. I. The Political Culture of the Old Regime*, ed. K. M. Baker (Oxford-New York: Pergamon Press, 1987), pp. 419–434.

⁴⁴ Constant, 'Commentaire', quote p. 228.

⁴⁵ Antoine Guérard de Rouilly, *De l'esprit public ou de la toute-puissance de l'opinion* (Paris, 1820).

instance to discredit the opposition of the *parlements* to royal absolutism.⁴⁶ In the context of the Restoration period, this more conservative connotation can be found in the conception of public opinion as a counter-weight against the central government, rather than as the embodiment of public authority. In a levelled society, several publicists argued, where all previously existing barriers against the central power had disappeared, the unfettered expression of public opinion was of crucial importance because it was the only counter-force left. Rather than being a replacement of the power of the absolute monarch, many Restoration liberals visualized public opinion, in other words, as a replacement of the power of the aristocracy, as a force that would check the government without actually usurping its power.

The first to do so was Charles de Rémusat, a young liberal close to the doctrinaire faction and a talented journalist. In his brochure *De la liberté de la presse*, written in response to the debates about the new press law of 1819, Rémusat prefaced a more technical discussion of those laws with a general enquiry into the role of public opinion in the post-revolutionary political system. First, Rémusat described how public opinion had become a genuinely political power in the eighteenth century. In his view, this power had come into being through the progress of civilization, which, in the eighteenth century, had, for the first time in history, allowed to a substantial amount of people the leisure to think for themselves. Despite attempts to stifle this new force by censorship, the governments of the Old Regime had been obliged to take it into account. The press continued to be seen as an important means of government during the Revolution, and even Napoleon had not been able to discard the power of public opinion altogether.⁴⁷

Thus, public opinion was a new force, a modern political instrument. But what role did it play in the political system? In answer to that question, Rémusat developed a theory that was very similar to Barante's. In France, he argued, historical development had produced a society characterized by 'social equality'. The traditional barriers against despotism once provided by the noble elite had disappeared. As a result, despotism could only be combated by uniting individual citizens. In turn, this made press freedom indispensable. Only such a medium could give a common voice to the interests of individual citizens.⁴⁸ When individuals remained 'isolated'

⁴⁶ J. A. Gunn, *Queen of the world: opinion in the public life of France from the Renaissance to the Revolution* (Oxford: The Voltaire Foundation at the Taylor Institution, 1995), pp. 1–10.

⁴⁷ Charles de Rémusat, *De la liberté de la presse et des projets de loi présentés à la chambre des députés dans la séance du lundi 22 mars 1819* (Paris, 1819), pp. 1–10.

⁴⁸ *Ibid.*, pp. 15–16.

from one another, however, the twin dangers of despotism and anarchy were inevitable. 'Under a [despotic] government', Rémusat wrote, 'society, levelled and without consistency, resembles those immense and monotonous African plains, where the caravan encounters no obstacles in pitching its tents and establishes itself for a day; but the first gust of wind heaves up the sand, and engulfs everything'.⁴⁹

A very similar argument was developed by the doctrinaire orator Pierre-Paul Royer-Collard, who delivered a number of highly acclaimed and widely publicized speeches on press freedom between 1814 and 1830. In these speeches, as in his speeches against the Electoral Bill of 1820, Royer-Collard concentrated more on general principles than on the actual details of the Bills under debate. He was not a defender of press freedom in all of its forms. In a speech delivered in 1819, he emphasized that censorship was necessary for certain types of publications. The newspaper press, in his view, did not express the opinion of individual citizens. Rather, journals had become the voice of the factions that had come into being during the Revolution. They wanted to make king and nation subservient to their interests and views. Instead of encouraging the growth of a truly national public opinion, they prevented it from coming into being. Therefore, a limitation of press freedom was necessary to prevent the dangers of faction.⁵⁰

However, in a speech of January 1822, in which he protested against the abolition of the jury system in press trials, Royer-Collard developed a powerful defence of press freedom as a general principle, linking this question explicitly to the problem of how to safeguard liberty in the levelled conditions of post-revolutionary France. The issue at stake, he argued, was not so much the individual's right to express his opinions. Rather, press freedom played a crucial role in the political system. By denouncing the wrongdoings of the government, it created a 'resistance' against the powers that be. Thus, it functioned as an institution, 'a public liberty'.⁵¹

In particular, press freedom was necessary in a democratic society such as France, Royer-Collard continued, because there were no other means of resistance left: 'Society no longer possesses, or it does not yet possess a single institution which it has created. There is no truth which has been proclaimed more often and with more *éclat* in this Chamber.'⁵² All ancient

⁴⁹ *Ibid.*, p. 11: 'Sous ce gouvernement [despotique], la société, nivelée et sans consistance, ressemblerait à ces plaines immenses et monotones de l'Afrique, où la caravane dresse ses tentes sans obstacles et s'établit pour un jour; mais le premier coup de vent va soulever le sable, et tout engloutir.'

⁵⁰ Quoted in Barante, *Royer-Collard*, I, pp. 307–317.

⁵¹ *Ibid.*, pp. 129–139, quote p. 129.

⁵² *Ibid.*, p. 130: 'La société ne possède plus, ou elle ne possède pas encore une seule institution qui soit son ouvrage. Il n'y a pas de vérité qui ait retenti plus souvent et avec plus d'*éclat* à cette tribune.'

institutions that provided a bulwark against abuses of power by the central government had perished with the Revolution. The combined effects of the Revolution and of Napoleon's dictatorship had atomized French society. 'A spectacle without precedent! Only in the books of the *philosophes* had one seen a nation thus decomposed and reduced to its last elements.'⁵³ In the face of this atomized society, a new power, centralized government, had come into being, which had held the nation under its tutelage ever since.

In Royer-Collard's view, it was wrong to think that the separation of powers (executive, legislative and judicial) was a solution to this problem. For in reality those powers were under the control of the same body – parliament. A purely constitutional division of powers was therefore inadequate as a protection against despotism. It was in society itself, Royer-Collard wrote, that barriers against despotism needed to be created. Government should be opposed from the outside rather than be divided internally. For this reason, press freedom was a political institution with a crucial role. The moment it was lost, the French would return to servitude. Barriers were necessary for the stability of the throne as well as for the liberty of the nation, as a protection against despotism and anarchy. 'Confronted with either the one or the other, our society, disarmed of institutions, would have remained without defence', Royer-Collard concluded; 'It was only by founding the liberty of the press, as public law, that the Charter truly founded all those liberties, and rendered society to itself.'⁵⁴

CONCLUSION

In short, on several occasions, liberal journalists and pamphleteers expressed their concern about the levelled condition of French society, arguing that the absence of intermediary powers posed a threat to the maintenance of the liberal institutions introduced in 1814. But like Barante, the publicists discussed here rejected the royalist solution to this problem, arguing that the restoration of a territorial aristocracy had become impossible in the changed social conditions of the post-revolutionary society. Instead, they agreed that new intermediary bodies, a new elite, should be created in order to replace the aristocratic barriers of old.

⁵³ *Ibid.*: 'Spectacle sans exemple! On n'avait encore vu que dans les livres des philosophes une nation ainsi décomposée et réduite à ses derniers éléments.'

⁵⁴ *Ibid.*, pp. 132–133: 'Devant l'une comme devant l'autre, la société désarmée d'institutions serait restée sans défense. Ce n'est qu'en fondant la liberté de la presse, comme droit public, que la Charte a véritablement fondé toutes les libertés, et rendu la société à elle-même.'

The liberal enthusiasm for a new aristocracy did not go unnoticed by royalist publicists, who denounced this discourse, not unnaturally, as hypocritical and self-serving. Dominique de Montlosier, for instance, a royalist historian whose *De la monarchie française* celebrated the role of the feudal nobility in the French past, sharply objected to the liberal plans to form 'an elite democracy'.⁵⁵ P. L. B., the anonymous author of the anti-doctrinaire brochure *De la restauration considérée comme le terme et non le triomphe de la révolution*, was likewise critical of liberal plans to create a new social hierarchy. Liberal publicists protested against the claims of the old aristocracy, P.L.B. pointed out, but they wanted at the same time to turn their own constituency, the bourgeoisie, into a new aristocracy.⁵⁶

This does not mean that a concern about the levelled condition of post-revolutionary society was shared by all liberals of the Restoration period. As Roberto Romani has shown in a recent study, many Restoration liberals were, like Constant, convinced that an extension of political liberty was the only way to overcome the problems of French society.⁵⁷ What has become clear, however, is that the alternative conceptions of liberty developed by Dunoyer and Constant failed to replace Montesquieu's aristocratic liberalism in the discourse of Restoration liberals. Dunoyer's *laissez-faire* liberalism held no appeal to publicists who feared that French society was on the brink of degenerating again into despotism. At the same time, the discourse discussed here shows that Constant's attempt to link 'modern' liberty firmly to 'political' liberty or self-government was not wholly successful.

This point is also underscored by the fact that the theme of the new aristocracy appeared in the writings of liberal publicists of various persuasions. Although publicists connected to the doctrinaire faction – Barante himself, Guizot, Rémusat, Royer-Collard – contributed much to the dissemination of these ideas, it is important to note that they were not the only ones to defend these views. Political journalists such as Charles Comte, Charles Bailleul or Henrion de Pansey had little or no connection with the doctrinaires. An important section of the liberal movement remained no less convinced than their royalist opponents that the recreation of intermediary powers between government and the population was the only way to preserve a stable liberal regime in a levelled society such as France. In making this argument, they bequeathed an important legacy to the liberals of a following generation.

⁵⁵ François Dominique de Montlosier, *De la monarchie française au 1er janvier 1824* (Paris, 1824), p. 398.

⁵⁶ P. L. B., *De la restauration*, p. 132. ⁵⁷ Romani, *National character*, pp. 140–148.

CHAPTER 6

The danger of democracy: Orleanist liberalism and Alexis de Tocqueville

THE JULY REVOLUTION AND ORLEANIST LIBERALISM

In 1830, the Restoration monarchy was overthrown by the July Revolution. Charles X was deposed, and his cousin Louis-Philippe, of the Orléans branch of the Bourbon dynasty, became the new king. The Revolution of 1830 also brought several other institutional adjustments with it, which, however, were mostly of a symbolic nature. The most visible of these changes was the abolition of the hereditary peerage, which was replaced with a Chamber of Peers appointed by the king. Furthermore, the king and his successors would from now on swear fidelity to the constitutional Charter before parliament, instead of making the oath to the deity, depriving them of any aura of divine right. As in the Constitution of 1791, the head of state was 'King of the French', supposedly a more democratic title than 'King of France'. Yet his actual power had only been slightly decreased. The constitutional significance of 1830 lies less in the textual changes to the Charter of 1811 than in the conviction of the deputies that they were, by fact and by right, the most powerful element.¹

In the new political regime, the royalists (now also called 'legitimists') lost much of their political importance. Most royalists refused to adapt to the new regime and remained faithful to the exiled Bourbons. They did not take the oath to the new king, which meant that they were excluded from political functions and from public life. Many royalist nobles withdrew into internal exile on their estates in the provinces. In 1832, the Duchess de Berry attempted to restore to the throne her infant son, Henry V, through a violent uprising in southern France. This attempt ended in failure and the royalist movement recovered with great difficulty from the blow to their hopes to restore the lawful king. While the 'parliamentarian' faction of the royalist movement, which opted for the legal way to restore the Bourbons,

¹ H. A. C. Collingham, *The July Monarchy. A political history of France 1830–1848* (London and New York: Longman), pp. 23–34.

gained in importance after the Berry *débâcle*, the royalists were not very successful from an electoral point of view, and they had little or no political relevance for most of the July Monarchy.²

Instead, the July Revolution brought the liberal party, which had been in opposition for most of the Restoration period, to power. Now that their common foe had disappeared, however, liberals became more divided between their more radical and their more conservative aisles, between the parties of 'Movement' and 'Resistance'. The more radical left or Movement wanted July to be more than a dynastic alteration; the events of 1830 should be followed by a complete repudiation of the Restoration. Its more moderate members adhered to the *centre gauche* led by Adolphe Thiers, which stressed the revolutionary, anti-clerical and anti-aristocratic nature of Orleanism. To their left were the *gauche dynastique*, men of the radical Movement led by Odilon Barrot. They too stressed the revolutionary birth of the July Monarchy, but went further than Thiers in demanding a more democratic system, an extension downwards of the bourgeoisie by widening the franchise, and an aggressive foreign policy.³

Even farther to the left, one could find the republicans, who made a marked come-back after the July Revolution after having led an underground existence for most of the Restoration period. The more radical section of the republican movement, the so-called *montagnards*, was led by Godefroi Cavaignac, who looked back to Robespierre and the Jacobins as his model. More influential, however, was the American school led by the popular journalist Armand Carrel, who propagated an American-type republic as their political ideal. They believed that the new regime should be based on popular sovereignty, as was the American Republic, which should be expressed in the establishment of universal suffrage. Initially, the republicans believed that the July Revolution would result in the establishment of their political ideal, even if the monarchy remained in place. But it soon became clear that this was not going to be the case, and republican hostility towards the July Monarchy increased.⁴ As a result, many republicans participated in the popular insurrection against the regime in Paris and Lyons in 1834.⁵

² *Ibid.*, pp. 116–131; Stéphane Rials, *Le légitimisme* (Paris: Presses Universitaires de France, 1983).

³ Collingham, *The July Monarchy*, p. 24.

⁴ Dissatisfaction about the conservative nature of the July Monarchy was expressed in several republican brochures, e.g. Guardet, *Le droit naturel, ou pétition à messieurs les députés des départements* (Lyons, 1831). On the invocation of the American example by republicans, see Jean-Claude Lamberti, 'Le modèle américain en France de 1789 à nos jours', *Commentaire* 39 (1987), 490–498; René Rémond, *Les États-Unis devant l'opinion française, 1815–1852* (Paris: Armand Colin, 1962, 2 vols.), II, pp. 664–672.

⁵ Collingham, *The July Monarchy*, pp. 132–142.

In the face of this opposition, the Resistance was determined that the July Revolution of 1830 should become no more than the accompaniment of a change in the head of state, which would produce an improved practice of constitutional principles.⁶ Led by talented politicians and orators such as Casimir Périer, François Guizot and Victor de Broglie, and supported by Louis-Philippe, the Resistance came firmly in control of the government after 1831, when the king appointed Périer to control the popular discontent that threatened the new regime. Périer and his successors could count on the support of a large, albeit loose, majority of over 200 deputies, whose dominant characteristics were an interest in firm quiet government, and loyalty to the 1830 settlement. The distance between Movement and Resistance increased when, in 1834, a popular insurrection led by the republicans took place in Lyons and in Paris. The insurrection, violently suppressed by the government, was followed by the Fieschi attempt on Louis-Philippe's life, which killed 18 and seriously wounded another 22. These events, and the reaction they provoked among conservative liberals, forced the Orleanist left led by Odilon Barrot into permanent opposition, while the republicans were driven underground for the remainder of the July Monarchy.⁷

Ideologically, the liberalism of Resistance was characterized by a firm adherence to the constitutional monarchy. The Revolution of 1830 had founded a *juste milieu* between the abuses of royal power and the excesses of popular power, as Louis-Philippe told a deputation in January 1831.⁸ Orleanist liberals believed that the constitutional monarchy established in 1814, and re-established in 1830, was the most suitable form of government for post-revolutionary France.⁹ In this sense, little changed *vis-à-vis* the Restoration period, when the constitutional monarchy, in which the king and his ministers shared legislative power with a bicameral legislature, was likewise the political ideal of the ruling elites. However, on another level, liberals of the 1830s and 1840s had concerns that differed substantially from those of the Restoration liberals. While the latter had been mainly preoccupied with the need to respond to their royalist opponents, Orleanist liberals felt more threatened from the left. Their brand of liberalism was shaped to a large extent in opposition to the republicanism that had proven its capacity to stir up popular support in the insurrection of 1834.

More specifically, Orleanist liberalism was an ideology formulated against the doctrine of popular sovereignty propagated by republicans.

⁶ On the Resistance's attempts to emphasize continuity between the Charters of 1814 and of 1830, see Rosanvallon, *Le moment Guizot*, pp. 105–121.

⁷ Collingham, *The July Monarchy*, pp. 55–70, 157–169.

⁸ Quoted in *ibid.*, p. 108. ⁹ *Ibid.*, pp. 108–116.

The adherents of the new 'bourgeois-king' Louis-Philippe were eager to argue that the July Monarchy's foundation on a popular revolution did not imply that it was founded on popular will. The American political example, so frequently invoked by the republicans, was dismissed as an unsuitable model by the Orléanist liberals, who argued that America was too different from France for its government to be imitated across the Atlantic. Instead, Orléanist liberals argued that popular sovereignty needed to be limited to those with true capability; a middle-class government, rather than a popular government, was the most suitable for the modern world. In order to argue this way, they modified the view on social change that had been developed by liberals of the Restoration period. The levelling of French society, they claimed, had not created a wholly equal society, but it had concentrated power and force into the hands of the bourgeoisie. In a sense, the bourgeoisie had become a new aristocracy, even though – as Orléanist liberals repeatedly stressed – it did not have the odious privileges and fixed nature of the nobility of the Old Regime. This particular social stratification should be reflected in the political system; a bourgeois society required a bourgeois regime.

The most coherent expression of this view was provided in *De la démocratie nouvelle, ou des moeurs et de la puissance des classes moyennes en France*, written by Edouard Alletz, a minor official of the Ministry of Foreign Affairs. Alletz had already published a number of philosophical-religious works, but *De la démocratie nouvelle* was his first political brochure. He started out by arguing that the social changes in the modern world – which he described as the rise of the middle classes rather than of the people at large – were an unprecedented fact in the history of mankind. The social condition of post-revolutionary France was wholly unique; it was 'a new form of society completely unknown in the world up till now'.¹⁰ In Alletz' view, such a bourgeois society required a wholly new type of government that was 'neither despotic, nor oligarchic, nor democratic, nor mixed-aristocratic as in England'.¹¹ This new type of government, the government of the middle classes, resembled in many ways an aristocratic government, the rule of an enlightened elite. The bourgeoisie had become 'a fraternal and mobile aristocracy'.¹²

¹⁰ Edouard Alletz, *De la démocratie nouvelle, ou des moeurs et de la puissance des classes moyennes en France* (Paris, 1837), pp. 2–3: 'une nouvelle forme de société totalement inconnue jusqu'à présent dans le monde'.

¹¹ *Ibid.*: 'ni le despotique, ni l'oligarchique, ni le démocratique, ni le gouvernement mixte-aristocrate, tel qu'il existe en Angleterre'.

¹² *Ibid.*, p. 82: 'une aristocratie fraternelle et mobile'.

According to Alletz, the elitist, middle-class government, which concentrated power in the hands of an enlightened minority, was the government of the future.¹³ In the recent past, political regimes had succumbed whenever they had failed to seek the support of the bourgeoisie. Napoleon had lost his power because he had no longer been supported by the middle classes, who had favoured the establishment of a constitutional monarchy. Under Louis XVIII, the aristocracy had tried to regain power, but these attempts had been thwarted by an alliance of the people and the bourgeoisie in 1830. After 1830, however, the weaker element in this coalition, the people, had been defeated and the bourgeoisie now ruled alone. With this argument, Alletz reacted against the republican conviction that the bourgeois regime installed in 1830 was but a first step that would lead to the establishment of a truly popular government. He argued that a popular republic was suitable for an earlier, less-developed stage in history, comparing the republican admirers of the American government to Israelites waiting for the restoration of their temple, which had been destroyed for ever.¹⁴

Alletz' book was received enthusiastically by the Orléanist liberals, and in particular by Guizot. Guizot published a favourable review in the *Revue française* in 1837 – 'De la démocratie dans les sociétés modernes' – in which he supported Alletz' claim that the American model, the 'sovereignty of the number', was altogether inappropriate for the French. In particular, Guizot rejected the idea that universal suffrage (granted in most American states) was necessary for liberty. While all citizens had the right to good government, not everyone had the right to judge in person the sagacity and justice of these laws. The former was a universal right, the latter a variable right, depending on capacity.¹⁵ In 1849, Guizot developed this theme again, now at greater length, in his *De la démocratie en France*, written in response to the February Revolution which had ousted him from power. This brochure reiterated the view that an elitist government was the most suitable for post-revolutionary France, and condemned 'democratic idolatry' as the most important problem of the times.¹⁶

The Orléanist liberals' preference for bourgeois government entailed a highly critical view of the American example invoked by their republican

¹³ *Ibid.*, p. 116. ¹⁴ *Ibid.*, pp. 83–116.

¹⁵ François Guizot, 'De la démocratie dans les sociétés modernes', *Revue française* (1837), 193–225. A year later, an anonymous brochure entitled *De l'aristocratie dans les sociétés modernes* was published, which likewise reiterated Alletz' claim that the electoral classes formed a new aristocracy, based on wealth.

¹⁶ François Guizot, *De la démocratie en France* (Paris, 1849).

opponents, as is illustrated, for instance, by Michel Chevalier's *Lettres sur l'Amérique du nord* (1836), which was, apart from Alexis de Tocqueville's *De la démocratie*, the most widely read book on the American political system during the July Monarchy.¹⁷ Chevalier had travelled through the United States between 1833 and 1835 on a government mission to study the development of industry across the Atlantic.¹⁸ His book described the American system as wholly democratic. Compared to France, he emphasized, where the bourgeoisie ruled, the political system in the United States had enthroned popular rule; it was 'a giant democracy becoming more and more radical, because it was reigning more and more without rival and without counter-weights'.¹⁹ However, far from being a model to the French, the American system of government was breaking down. Chevalier had noticed 'symptoms of Revolution' everywhere. The Americans had lost their respect for the law and for legal procedure. Instead, they were subjected to the tyranny of popular will, as was illustrated by the way in which popular violence against abolitionists and bank directors was tolerated. All in all, Chevalier was doubtful whether the Americans would be able to maintain their democracy in its existing form.²⁰

Louis de Carné, the prominent historian and liberal-Catholic political thinker, agreed with Chevalier in his review of the latter's book, 'De la démocratie aux Etats-Unis et de la bourgeoisie en France'.²¹ Although Carné was hostile to the doctrinaires, and joined the left-wing coalition against Guizot's government when he was elected as a deputy in 1839,²² he accepted the idea that a bourgeois state was necessary. Carné started out by describing the important social changes which had characterized French society in recent history, and which had made the 'democratic' element in the nation ever more important. These social changes were bound to have an important impact on the political system, especially as the 'aristocratic school' of the Restoration had shown itself powerless to counter the progress of democracy. But what exactly would that effect be? Would the French state come to resemble the American regime of popular sovereignty? Carné rejected that idea. Across the Atlantic, direct democracy was made possible

¹⁷ On this book: Rémond, *Les Etats-Unis devant l'opinion française*, I, pp. 370–390.

¹⁸ Chevalier's *Lettres* were first published in the *Journal des débats*; the edition in book form under the title *Lettres sur l'Amérique du Nord*, first published in 1836, was reprinted four times. I have used the third edition of 1838.

¹⁹ Michel Chevalier, *Lettres sur l'Amérique du Nord* (Brussels, 1838, 3 vols.), I, p. 62.

²⁰ *Ibid.*, pp. 62, 80, 111; III, pp. 124–138.

²¹ This review was first published in the *Revue des Deux Mondes* in 1837; I have used the re-edition in Carné's *Des intérêts nouveaux en Europe depuis la révolution de 1830* (Paris, 1838, 2 vols.), I, pp. 96–118.

²² Carné also expressed his hostility to the doctrinaires in his *Des intérêts nouveaux*, pp. 199–200.

by American *moeurs* and the sheer size of the country, which allowed for the formation of small, self-governing communities. But in Europe, popular sovereignty was impracticable.

More specifically, Carné believed that the social condition of European societies did not allow for a regime based on political equality. Although the aristocracy of birth had disappeared, European societies were still characterized by social inequalities. Important differences in intellectual development continued to exist. Wealth also remained divided unequally in France. The division of property effected by the French Revolution had concentrated land in the hands of the middle classes rather than of the poor. Moreover, new forms of social inequality, originating in the rise of industry, had divided French society into two separate classes: a bourgeoisie, which possessed capital and machinery, and a proletarian class, which depended on its bourgeois masters. For all these reasons, a popular government modelled on the American example was impossible in Europe, and political capacity would remain a precondition to participate in government. Instead of popular democracy, the rule of an enlightened elite was the most suitable form of government for a country like France.

In short, the liberals who had come to power in 1830 believed that the rule of the bourgeoisie was the most appropriate to preserve a stable, liberal regime in the changed conditions of post-revolutionary France. The Orléanists' doctrine entailed a rejection of the principle of popular sovereignty. Only those with the right 'capacities' should be able to participate in politics. Orléanist liberalism was, in other words, very much an 'elitist' liberalism.²³ At the same time, it was based on a specific view of social change, which encouraged a certain complacency. Liberals like Alletz believed that historical progress was characterized by the rise of the Third Estate, the bourgeoisie, rather than that of the people. By bringing the bourgeoisie to power, the July Revolution had therefore accomplished the adaptation of the political system to the new social realities. In a sense, the 'end of history' had thus been achieved.

ALEXIS DE TOCQUEVILLE: THE *DÉMOCRATIE* OF 1835

However, not all liberals of the July Monarchy accepted this elitist, complacent liberalism. Indeed, the most famous political text of the 1830s, Alexis de Tocqueville's *De la démocratie en Amérique* (1835–1840), was to a large extent

²³ Extensive discussions of this elitist liberalism are to be found in: Rosanvallon, *Le moment Guizot*; Jaume, *L'individu effacé*, pp. 119–169.

written as a critique of Orleanist liberalism. *De la démocratie* was the fruit of a nine-month trip to the United States, which Tocqueville, at this point a young and unemployed lawyer, had undertaken together with his friend Gustave Beaumont in 1831–1832. Tocqueville published the first volume of *De la démocratie*, in which he discussed the democratic political regime in the United States, in 1835, three years after his return to France. The book knew an immediate and overwhelming success, propelling Tocqueville to lasting celebrity as a political thinker. A second volume was published five years later, dealing with the influence of the democratic social condition on American customs, habits and mores. Although this volume was less successful with the public than the previous one, it was acclaimed by many political thinkers and publicists because of its analytical depth and intellectual rigour.²⁴

Tocqueville himself put much emphasis on the innovativeness of his book, describing it as an attempt to formulate ‘a new political science’.²⁵ Moreover, he carefully avoided all references to possible influences on his thought, which heightened the impression of complete originality. But if Tocqueville’s particular brand of thought was clearly distinct from the complacent liberalism propagated at the beginning of the July Monarchy, he shared many of the concerns and anxieties formulated during the Restoration period. Most scholars now agree that the conceptual framework from which Tocqueville started, the problem at the heart of his political thought – how to safeguard liberty in a democratic, levelled society – was deeply influenced by the debates of the Restoration period.²⁶ Moreover, it is possible to argue that Tocqueville was no less indebted to his Restoration predecessors in the answers he gave to this question; and, even more importantly, that

²⁴ The seminal work on the reception of Tocqueville’s thought is Mélonio, *Tocqueville et les Français*. I have used Arthur Goldhammer’s translation of *Democracy in America*, ed. Olivier Zung (New York: The Library of America, 2004).

²⁵ Tocqueville, *Democracy*, p. 7.

²⁶ Larry Siedentop was among the first to emphasize Tocqueville’s indebtedness to Restoration liberals, in particular the doctrinaires, in the formulation of his conceptual framework, in his article ‘Two liberal traditions’, an argument which he elaborated in his study *Tocqueville*. This case was strengthened by François Furet’s discovery of Tocqueville’s student notes of Guizot’s lectures on French history: see Furet’s article ‘The intellectual origins of Tocqueville’s thought’ in *The Tocqueville Review* 7 (1985/1986), 117–129. More recently, a few scholars have gone as far as describing Tocqueville as a disciple of the doctrinaires: see Aurelian Craiutu, ‘Tocqueville and the political thought of the French doctrinaires (Guizot, Royer-Collard, Rémusat)’, *History of Political Thought* 20 (1999), 456–493. However, this view is disputed by Cheryl B. Welch and Françoise Mélonio, who, while highlighting Tocqueville’s embeddedness in the intellectual context of his time, argue simultaneously for his essential originality *vis-à-vis* his contemporaries. See Welch, *De Tocqueville* (Oxford: Oxford University Press, 2001), pp. 7–48; Mélonio, *Tocqueville et les Français*, p. 304.

he drew not just upon the vocabulary developed by liberals such as Guizot or Barante, but also on the royalists' discourse.

In the preface to his *Démocratie* of 1835, Tocqueville explained that his book was written in order to answer a very specific question – a question that, as we saw, had been the core problem of Restoration liberalism: how do you preserve liberty in a levelled, democratic society, where the old aristocratic barriers against central power had disappeared? Modern history, Tocqueville wrote, had been characterized by 'a great democratic revolution', which had levelled social conditions and made individual citizens more equal to one another.²⁷ As a result, the specific form of liberty that had existed in France under the Old Regime, when the power of great nobles formed an insurmountable barrier against central power, could no longer be restored. A return to aristocratic liberty had become impossible. 'People who think of reviving the monarchy of Henri IV or Louis XIV seem to me quite blind', he wrote in the *Démocratie* of 1835;²⁸ he repeated this in the volume of 1840: 'I am convinced, moreover, that anyone who attempts to base liberty on privilege and aristocracy in the age we are now embarking on will fail. Anyone who attempts to amass and hold authority within a single class will fail.'²⁹

In other words, Tocqueville's new political science was, like the writings of the Restoration liberals, first and foremost an attempt to formulate an alternative to the doctrine of aristocratic liberalism. His view on social change was in many details similar to that of the Restoration liberals.³⁰ In his preface, Tocqueville described how the levelled condition of modern society was the result of a historical development that could not be reversed. French history was characterized, in his view, by an ever increasing equality. Although Tocqueville did not refer to the French Revolution as the harbinger of a new and more equalized social condition – a theme that had been of great importance to the Restoration liberals – he mentioned several other elements in French history which had also been discussed by Restoration publicists. The rise of the Third Estate, the increase of wealth, growing enlightenment, and the levelling activities of the monarchy, Tocqueville wrote, had all contributed in diverse ways to the demise

²⁷ Tocqueville, *Democracy*, p. 3. ²⁸ *Ibid.*, p. 363. ²⁹ *Ibid.*, p. 822.

³⁰ As has also been emphasized by Larry Siedentop in his *Tocqueville*, pp. 41–68, and, with specific reference to the thought of the doctrinaires, Craiutu, 'Tocqueville and the political thought of the French doctrinaires (Guizot, Royer-Collard, Rémusat)'. Note that Melvin Richter makes a claim for Tocqueville's growing intellectual independence *vis-à-vis* Guizot in 'Tocqueville and Guizot on democracy: from a type of society to a political regime', *History of European Ideas* 30 (2004), 61–82.

of the old feudal society.³¹ Tocqueville described this development, as had Pierre-Paul Royer-Collard, as 'a providential fact'.³²

As a result, a 'democratic' or levelled society had come into being, characterized not so much by a real equality in wealth, as by the absence of an aristocracy, of a fixed and stable hierarchy exercising power over its dependants. In Tocqueville's view, for instance, the planters of the American South were not an aristocracy because they had no legally circumscribed privileges that set them apart from the rest of the population. Neither had those planters tenants who depended on them, as did the aristocracy of the Old Regime.³³ Similarly, Tocqueville emphasized that the industrial class of manufacturers forming itself in the United States was not a true aristocracy. The class of manufacture-owners, he emphasized, was too mobile. Although they were much richer than the rest of the population, they had neither spirit nor traditions in common. Moreover, industrial labourers did not depend on their master as tenants depended on the landowner, because a labourer was free to choose which master he wanted to work for, so that he was more independent.³⁴

Like the publicists of the Restoration period (and like Montesquieu), Tocqueville attached much importance to the division of landed property as the harbinger of social change in the modern world.³⁵ In his view, succession laws had an 'incredible' influence on the social condition of a people. 'I am astonished', he wrote, 'that ancient and modern writers on public matters have not ascribed greater influence over human affairs to the laws governing inheritance. Such laws belong, of course, to the civil order, but they should be placed first among political institutions because of their incredible influence on a people's social state, of which the political laws are merely the expression.'³⁶ Thus, the 'democratic' social condition of the United States was to an important extent the product of partible inheritance. This system undermined the material basis of an aristocracy by encouraging the partition of landed property. Moreover, it undermined the *esprit de famille*, the desire to perpetuate territorial possessions within the same family. As a result, wealth circulated rapidly in the United States.³⁷

How was liberty, security, to be preserved in this modern, levelled society? In answer to that question, as we have seen, Restoration liberals such as Charles Dunoyer, Benjamin Constant and Prosper de Barante

³¹ Tocqueville, *Democracy*, pp. 3–5. ³² *Ibid.*, p. 6. ³³ *Ibid.*, p. 53. ³⁴ *Ibid.*, pp. 649–652.

³⁵ Again, Tocqueville's indebtedness in this respect to the political debates of the Restoration period has been pointed out by Siedentop, *Tocqueville*, pp. 41–68.

³⁶ *Ibid.*, p. 54. ³⁷ *Ibid.*, p. 57.

had formulated very different answers. In his *De la démocratie*, Tocqueville distanced himself from the liberalism of industrialists such as Dunoyer. While Dunoyer had defined liberty as the full flowering of human capabilities, necessitating the greatest possible limitation of the state, Tocqueville's idea of liberty was, like Constant's or Barante's, defined as the opposite of arbitrariness. This is not to say that Tocqueville had a limited conception of liberty. In his view, freedom had all kinds of useful effects on human life: it encouraged economic activity in the state, it stimulated patriotism – indeed, the very existence of a nation depended on it (like Montesquieu, Tocqueville believed that a despotic state would not survive long). In other words, only in a free state could man truly develop all his capacities. But that development, although made possible by liberty, was not liberty itself. Liberty did not exist in the limitation of the state in favour of the private sphere. Rather, it was defined by the existence of guarantees against arbitrary government.³⁸

In defining what those guarantees were, Tocqueville seems at first sight to have been influenced by Constant's neo-republicanism rather than by Barante's aristocratic liberalism. In the *Démocratie* of 1835, Tocqueville defended the American system of popular self-government, which was rejected with so much vehemence by the Orléanist liberals, as a model for all modern societies. In the United States, he explained, popular sovereignty had been established in its most complete form ('The people reign over the American political world as God reigns over the universe', Tocqueville wrote³⁹). Yet the Americans had succeeded at the same time in preserving a stable and liberal regime, in which the sovereign citizen obeyed the law not because it was imposed by force, but because he realized that a society could not exist without a regulating force. The American political system was therefore, in its essential features, an important model for democratic or democratizing nations such as France, although not all of its particular details should or could be imitated in Europe.

A first crucial feature of the American system, in Tocqueville's view, was the division of powers. The legislative power in the different states was divided into two branches, which allowed more discussion and reflection before a law was passed than the unicameral system could offer. The executive power was represented by a governor, who acted as a moderating force upon the power of the legislature.⁴⁰ On the federal level, the division of powers was even more pronounced. While the bicameral system existed here as well as

³⁸ For a similar view on Tocqueville's conception of liberty, see Jack Lively, *The social and political thought of Alexis de Tocqueville* (Oxford: Oxford University Press, 1962), pp. 10–22.

³⁹ Tocqueville, *Democracy*, p. 65. ⁴⁰ *Ibid.*, pp. 96–97.

in the different states, the president enjoyed more independence from the legislature than any of his counterparts on the state level. At the same time, the judiciary had more autonomy on the federal level than in any of the different states. As a result, the federal constitution avoided a danger that was inherent in a democratic government: the concentration of all power in the hands of the legislature.⁴¹

But more important for the success of American democracy, Tocqueville made clear, was the fact that power was brought as close to the people as possible on all different levels of government. On the national level, this proximity was made possible by the federal nature of the American state. By delegating power to the lower levels, a federal state allowed for the public spiritedness that made small nations so suitable for self-government. However, Tocqueville did not consider federalism to be a political system suitable for the European Continent, as it was too complicated a model for the uneducated masses in Europe.⁴² A feature of the American system that could and should be imitated on the Continent, however, was the administrative decentralization which characterized all American states to a greater or lesser degree. As a result of this system, power was spread out so that as many people as possible could participate in it. Indeed, in Tocqueville's view, decentralization was the most direct manifestation of the principle of popular sovereignty in the United States. On the municipal level, each citizen formed 'an equal share of the sovereign', and participated 'equally in the government of the state'.⁴³

The system of decentralization was important, Tocqueville explained, because it limited the power of government and administration by dividing it over several people, by multiplying functionaries. In New England, as in other American states, there was no administrative hierarchy, where one public servant decided everything. Power was divided over at least nineteen officials. This rendered authority 'less irresistible and less dangerous', without undermining it. Tocqueville compared this system favourably with what he described as the European way of safeguarding liberty. Europeans believed that liberty was safeguarded when power was weakened in its very principle, when the state sphere was as limited as possible. In America, on the contrary, the rights of society over its members were not contested, power was not attacked in its principle. Rather, it was divided in its exercise.⁴⁴

Even more crucial was the fact that decentralization, by giving the population a large share in the American government, stimulated the public

⁴¹ *Ibid.*, p. 185.⁴² *Ibid.*, p. 193.⁴³ *Ibid.*, p. 72.⁴⁴ *Ibid.*, p. 79.

spiritedness necessary to uphold a popular government. Local institutions, Tocqueville wrote in a remarkable echo of Constant's remarks on the same subject, were the 'schools' of liberty. They taught the people what liberty was and made them used to it.⁴⁵ Without communal institutions, a nation could give itself a popular government, but it would lack public spiritedness, as was the case in Europe, where many inhabitants felt complete indifference to the fate of their community: 'When a nation has reached this point, it must either change its laws and mores or perish, for the well of public virtue has run dry: in such a place one no longer finds citizens but only subjects.'⁴⁶ In the United States, on the contrary, patriotism was guaranteed by decentralization. The American had the same love for the fatherland as he had for his family.⁴⁷

In short, Tocqueville formulated an answer to the question of how to preserve liberty in a levelled society in his *Démocratie* of 1835, which was very similar to the political doctrine developed in Constant's writings: self-government, through a representative body on the national level, directly exercised on the local level, was the only alternative to despotism in post-revolutionary societies.⁴⁸ Tocqueville made this clear in particular at the end of the *Démocratie* of 1835, writing that the choice of the future was between 'democratic liberty' or 'the tyranny of the Caesars'.⁴⁹ If modern peoples did not adopt American-style popular sovereignty, they would be subject sooner or later 'to the *unlimited* power of a single individual'.⁵⁰ Like Constant, in other words, Tocqueville believed that political liberty, or self-government, was indispensable for the preservation of freedom, defined as the opposite of arbitrary despotism, and this particular feature of his thought has led some commentators to describe him as a republican author.⁵¹

However, this does not mean that Tocqueville ignored the dangers of popular sovereignty. In the *Démocratie* of 1835, he dwelled at length on the tyranny of the majority, which he believed, like the Orléanist liberals, to threaten all democratic regimes. The government of the United States, he explained, was not a weak type of government – on the contrary, its

⁴⁵ *Ibid.*, p. 68. ⁴⁶ *Ibid.*, p. 105. ⁴⁷ *Ibid.*, pp. 106–107.

⁴⁸ The similarities between Constant's and Tocqueville's ideas as expressed in the first *Démocratie* have been more or less ignored, as Tocqueville scholars tend to see Constant as a representative of *laissez-faire* liberalism. See Claude Lefort, *Democracy and political theory* (Minneapolis: University of Minnesota Press, 1988), pp. 197–216; Kelly, *The Humane Comedy*, chapter 2; Jean-Claude Lambert, *Tocqueville et les deux démocraties* (Paris: Presses Universitaires de France, 1983), pp. 9–21.

⁴⁹ Tocqueville, *Democracy*, p. 363. ⁵⁰ *Ibid.* Tocqueville's emphasis.

⁵¹ For a republican reading of Tocqueville, see Boesche, *The strange liberalism of Alexis de Tocqueville*; Romani, *National character*, pp. 148–156; Stefan-Ludwig Hoffmann, 'Democracy and associations in the long nineteenth century: toward a transnational perspective', *The Journal of Modern History* 75 (2003), 269–299.

power was too great. There was no real counter-weight against the power of the majority, which had ‘immense actual power together with a power of opinion that is almost as great’.⁵² As soon as the opinion of the majority on a specific issue had been formed, no obstacle was capable of stopping or even hampering its course. This had highly dangerous consequences. The omnipotence of the majority, Tocqueville wrote, could easily degenerate into an actual tyranny. For this reason, sovereign power, even when exercised by the people, should always be limited. ‘Thus there is no authority on earth so inherently worthy of respect, or invested with a right so sacred’, he wrote, ‘that I would want to let it act without oversight or rule without impediment’.⁵³

Tocqueville proposed several ways in which to combat the illiberal tendencies of democracies. As we saw, he attached much importance to the principle of the separation of powers, exemplified in the federal constitution. But Tocqueville did not just argue for a constitutional, legally defined balance of powers. He also pointed to several elements in American society which were capable of providing a counter-weight to the democratic majority, without being in any way institutionalized. Thus, he reminded his readers that decentralization allowed local administrations and municipalities to slow down the impetuosity of the central government if necessary. The presence of the jury system likewise formed a check on popular passions, because it engendered a ‘juridical spirit’ among the population, which in turn encouraged the love for law and order.⁵⁴

However, an even more important barrier against the democratic majority, in Tocqueville’s view, was provided by the growth of a new type of aristocracy in American society: the class of lawyers. Lawyers held a very important place in American society. They formed a body distinct from the rest of the nation by their special knowledge, convinced of their own superiority. In this sense, lawyers were the most ‘aristocratic’ element in American society. Rather than merely wealthy people such as bankers, lawyers shared ‘some of the tastes and habits of aristocracy’.⁵⁵ This aristocratic class was actively hostile to many elements of the democratic system. Their penchant for order turned American lawyers into the natural opponents of the revolutionary spirit and unreflective passions of democracy. Combined with its very real influence in American society, this class formed ‘the most powerful, if not the only counterweight to democracy’.⁵⁶

⁵² Tocqueville, *Democracy*, p. 285. ⁵³ *Ibid.*, p. 290.

⁵⁴ *Ibid.*, pp. 311–318. ⁵⁵ *Ibid.*, p. 304. ⁵⁶ *Ibid.*, p. 309.

ARISTOCRATIC LIBERALISM IN THE *DÉMOCRATIE* OF 1840

As his discussion of the tyranny of the majority shows, Tocqueville was not an uncritical admirer of popular self-government. Like the Orléanist liberals, he was to a certain extent apprehensive of the dangers inherent in a democratic system, and in particular of its illiberal tendencies. In response, Tocqueville pleaded for the necessity of counter-weights against the democratic predominance, attaching much importance to the presence of a pseudo-aristocratic class such as the legal profession in the United States, which was capable of forming a check on the democratic majority. In this sense, the *Démocratie* of 1835, despite its positive evaluation of democracy and popular self-government as the only possible alternative to despotism, shows some traces of having been influenced by the themes of aristocratic liberalism. The influence of aristocratic liberalism on Tocqueville's mindset becomes far more clear, however, in the sequel to his *Démocratie* of 1835, which was published in 1840. In this book, Tocqueville exchanged his emphasis on popular self-government and public spiritedness for a sustained critique of democracy as leading to despotism, pleading at the same time for a restoration of intermediary bodies as the best way to combat that danger.

The sequel to the *Démocratie* of 1835 had already been announced in the first volume, but it had taken Tocqueville another five years to complete it.⁵⁷ While the first volume described the democratic political system, as exemplified by the United States, the volume published in 1840 aimed to depict the democratic 'civil society'. What sentiments, opinions, instincts did the equality of conditions engender? This was the central question Tocqueville attempted to answer in his second volume, as he explained in the preface. In four different parts, he discussed the influence of democratic social conditions on, respectively, the intellectual movement of a people, their sentiments and ideas, their *moeurs* and their political life.⁵⁸ The second *Démocratie* also differed in another respect from its predecessor. Tocqueville now talked about levelled societies in general rather than about the United States. This is also illustrated by the fact that he had wanted to change the title of this second volume to 'L'influence de l'égalité sur les idées et les sentiments des hommes', although his publisher eventually dissuaded him from doing so.⁵⁹

⁵⁷ James Schleifer provides a detailed account of the arduous process which eventually led to the publication of the second volume of the *Démocratie*, in his *The making of Tocqueville's Democracy in America* (Indianapolis: Liberty Fund, 2000), chapter 2.

⁵⁸ Tocqueville, *Democracy*, pp. 509–511. ⁵⁹ Mélonio, *Tocqueville et les Français*, p. 96.

However, Tocqueville's claim that the *Démocratie* of 1840 was in essence a counterpart to the first volume, discussing democracy from a different angle, is not wholly correct. On frequent occasions, he returned to problems he had already dealt with in the first volume and gave a new twist to them.⁶⁰ There is evidence that Tocqueville himself was aware of the fact. Among the notes for his preface was a reminder to himself (dated 5 February 1838) to point out that 'in the second book I have been brought to take up again subjects already touched upon in the first, or to modify a number of opinions expressed in it'.⁶¹ In particular, in the second *Démocratie*, Tocqueville distanced himself from his original enthusiasm for self-government. He now formulated a criticism of democracy that was very similar to the royalists' discourse on this topic. Furthermore, while the model of aristocratic liberty had only been present in the first *Démocratie* to be rejected as an anachronism, in the second *Démocratie*, it functioned as a model still relevant to the modern world. In other words, while Tocqueville had been close to Constant in the first *Démocratie*, the political analysis he made in the second *Démocratie* was much closer to the royalists' and to Barante's.

In the Restoration period, as we have seen, criticism of the condition of social and political equality as a threat to liberty was widespread. This theme was first introduced into the post-revolutionary debate by royalist thinkers such as Charles Cottu – whose book Tocqueville had read with admiration⁶² – Antoine Ferrand and René de Chateaubriand. In response to the Jacobin discourse, in which liberty had been identified with (political and social) equality, these royalist publicists pointed out that a levelled society, far from being automatically free, offered no protection against despotism. A society which lacked intermediary bodies was a society in which the individual had no resistance against government arbitrariness. Similar concerns had inspired several Restoration liberals to plead for the reconstruction of new intermediary bodies. As we saw, Barante's argument for decentralization had been based on the conviction that social reform, alleviating the levelled condition of French society, was necessary to stave off the danger of despotism in France.⁶³

⁶⁰ As is pointed out, for instance, by *ibid.*, p. 89.

⁶¹ Alexis de Tocqueville, *Oeuvres*, ed. André Jardin (Paris: Gallimard, 1991–2004, 3 vols.), II, p. 1085: 'j'ai été amené dans le second ouvrage à reprendre les sujets déjà touchés dans le premier ou à modifier quelques opinions exprimées dans celui-là'.

⁶² J. P. Mayer points to Cottu's influence on Tocqueville in the 'avertissement' to the edition of Tocqueville's 'Voyages en Angleterre, Irlande, Suisse et Algérie' in the *Oeuvres complètes*, ed. J.-P. Mayer et André Jardin (Paris: Gallimard, 1958, 2 vols.), p. 7.

⁶³ See above, chapters 2 and 4.

In the 1830s, the opposition between liberty and equality continued to be defended by a number of political thinkers, even though the rise of democracy was now accepted by most publicists and politicians as an irreversible feature of modern society. An extensive criticism of the illiberalism of democracy was developed, as we have seen, in N. A. Salvandy's *Vingt mois* at the beginning of the July Monarchy. In Salvandy's view, the common people were naturally inclined towards despotism because it enjoyed seeing the high and mighty being put down.⁶⁴ Likewise, the legitimist deputy and political thinker Ferdinand Béchard depicted democratic France as being on the brink of despotism in his *Essai sur la centralisation administrative* (1836–1837). In particular, he had criticized the 'individualism' of French society as an important threat to liberty.⁶⁵ These themes were picked up again by Tocqueville in his *Démocratie* of 1840.

This becomes clear from the analysis of the psychological make-up of democratic man which Tocqueville developed in the second and third parts of his *Démocratie* of 1840. Describing the influence of the levelled condition of society on the sentiments and *moeurs* prevalent in democratic societies, Tocqueville made a sustained and often unflattering comparison with the attitudes which he deemed typical of aristocratic societies.⁶⁶ More specifically, he identified three 'passions', which he believed to be typical of a democratic people: the love of equality, the taste for well-being, and individualism. All of these passions posed, in his view, a threat to liberty, albeit for different reasons.

First, he pointed out – echoing a criticism that had been formulated by royalists such as Chateaubriand – that the passion for equality characteristic of a democratic people threatened liberty because such a people was prepared to sacrifice freedom if this would prevent the return of aristocracy.⁶⁷ Second, Tocqueville argued that social equality engendered a passion for material comforts, for well-being. Democratic man was typically an acquisitive man. At first sight, the love of well-being was more compatible with liberty than the other passions engendered by equality. According to Tocqueville, history showed that there was a close link between liberty and the industriousness of a people. A democratic people needed liberty to fulfil its passion for material goods. Nevertheless, this passion could easily lead to despotism. If citizens were not enlightened enough to see the

⁶⁴ See above, chapter 2.

⁶⁵ Ferdinand Béchard, *Essai sur la centralisation administrative* (Marseilles and Paris, 1836, 2 vols.).

⁶⁶ Cf. Larry Siedentop's perceptive discussion of Tocqueville's distinction between 'democratic' and 'aristocratic' man in his *Tocqueville*, pp. 69–95.

⁶⁷ Tocqueville, *Democracy*, pp. 581–584.

connection between liberty and industry, they might easily be persuaded to give up their political rights in exchange for protection against the threat of anarchy – they might become more interested in order than in liberty.⁶⁸

But the greatest threat to liberty, in Tocqueville's view, came from the 'individualism' typical of levelled societies, a sentiment which predisposed each citizen to isolate himself from the rest of the population, and to withdraw into a private sphere. Individualism was an inevitable consequence of a democratic social condition. In aristocratic societies, on the contrary, which lacked the geographical and social mobility of democratic societies, solidarity across time and space was more pronounced. Aristocratic institutions established closer links between citizens, because individuals were always connected to those on a higher and lower level: 'Aristocracy linked all citizens together in one long chain from peasant to king. Democracy breaks the chain and severs the links.'⁶⁹ This left individualized citizens of democratic societies without resistance against despotism, for equality made it easier to isolate citizens and to make them indifferent to one another. For this reason, Tocqueville argued, despotism was more to be feared in democratic societies than in any other type of society. Moreover, despotism aggravated this particular vice of democratic societies, because it encouraged individualism by destroying all intermediary powers.⁷⁰

In part three of the *Démocratie* of 1840, Tocqueville again indicated how equality led to the atomization of society, to the withdrawal of citizens into their own private sphere. In a democratic society, he wrote, hierarchy was undermined and people became more and more similar. At the same time, a democratic people was divided into 'a multitude of small private societies', which were all isolated from one another.⁷¹ As a result, the interests of a democratic people were restricted to their own private sphere, and their ambitions were limited. Although recent French history might lead one to think otherwise, democratic society was therefore not a society threatened by revolutions, but rather the opposite, as Tocqueville explained in the famous chapter 21, 'Pourquoi les grandes révolutions deviendront rares'. The danger of democracies was not that they would change incessantly, but that they would no longer progress, that they would become stationary.⁷²

Thus, the levelling of society throughout the ages had created an atomized, individualistic society, where citizens were isolated from one another. Like the royalist publicists of the Restoration period, Tocqueville believed that the equalized condition of modern societies therefore encouraged the

⁶⁸ *Ibid.*, pp. 614–619.

⁶⁹ *Ibid.*, p. 586.

⁷⁰ *Ibid.*, p. 590.

⁷¹ *Ibid.*, p. 709.

⁷² *Ibid.*, p. 747.

unlimited growth of government power. However, he differed from his predecessors in his evaluation of how despotism would be established in the levelled societies of modern Europe. While the publicists of the Restoration period had thought of this process as a violent one, leading from anarchy to the establishment of a military despotism such as Napoleon's imperial regime, Tocqueville had more of an eye for the unobtrusive, non-violent developments by which power could be made absolute. In his view, the administrative centralization of power already pronounced in many European countries would eventually result in the establishment of a 'soft' despotism in which the external trappings of liberty – such as an elected parliament – might remain in existence.

This was explained in particular in part four, where Tocqueville discussed the influence of the sentiments and ideas engendered by democracy on the political society. He described the progress of centralization as the result of psychological attitudes typical of democratic societies. An aristocratic people, he argued, naturally tended towards the creation of 'secondary powers, placed between sovereign and subjects', because important individuals and families were readily available in such a society. A democratic people, however, had a penchant for the establishment of a unique and central power and a uniform legislation, because it had a high opinion of the rights of society and a low opinion of the rights of individuals. As conditions became more levelled, individuals became more and more insignificant, and society seemed more and more encompassing, until 'nothing can be seen any more but the vast and magnificent image of the people itself'.⁷³ The sentiments of a democratic people contributed to this tendency as well. The passion for individualism and the materialism of democratic peoples drew them away from public life, made them more interested in order. Particular causes, Tocqueville emphasized, related to the revolutionary inheritance, made this tendency even more pronounced on the Continent than in the United States.⁷⁴

As a result, sovereign power in most European states was continually growing. Independent bodies that had cooperated with the central power in government and administration had been abolished. The 'secondary powers' had been destroyed, and all rights previously exercised by bodies such as the nobility had been concentrated in the hands of the sovereign. But, at the same time, the sovereign power had penetrated into areas that up till then had been reserved for individual independence. While aristocratic governments limited themselves to areas that were of national interest,

⁷³ *Ibid.*, p. 790.

⁷⁴ *Ibid.*, p. 803.

democratic governments believed themselves responsible for the actions of their individual subjects. Moreover, central power showed itself more active and independent than ever, because it became more centralized internally, and because the development of industry made centralization more and more necessary.⁷⁵ This increasing governmental power, Tocqueville warned, might eventually lead to the establishment of despotism on the European Continent. Already, he pointed out, the government had rendered 'man's use of his free will rarer and more futile'.⁷⁶

Tocqueville underscored that the despotism to be feared in democratic societies differed from the military despotism of the Roman Emperors, established by force and exercised with violence. He described it as a more peaceful kind of dictatorship, stifling rather than violent. Not a bloody tyranny, but an oppressive tutelage threatened to become the future government of European nations, degrading its subjects rather than tormenting them.⁷⁷ But, at the same time, the new despotism would be more complete and interfering than even the most absolutist regime of the past. The different nations of the Roman Empire had all been able to retain their customs and *moeurs*, as Tocqueville reminded his readers; the provinces were dotted with rich and powerful municipalities. Although the emperors had exercised power alone, and decided over everything in principle, many details of social life and the individual existence had escaped their control. The new despotism, however, would leave no room for this type of individual resistance and aberration, but would reduce the nation to 'a flock of timid and industrious animals, with the government as its shepherd'.⁷⁸

In short, Tocqueville developed a highly critical analysis of the rise of democracy that was in many ways inspired by the royalist discourse. However, he did not limit himself to an analysis of the threats to liberty posed by equality. In part four of the second *Démocratie*, he also attempted to formulate a solution to this problem; and it is especially in this section of his book that the influence of Restoration liberals such as Barante on Tocqueville's thought becomes clear. In the previous chapters, we saw how these liberals, while rejecting the royalist plea for the restoration of a landed nobility, agreed that the levelled condition of French society needed to be reformed. For this reason, they pleaded for the creation of a new social

⁷⁵ *Ibid.* ⁷⁶ *Ibid.*, p. 818.

⁷⁷ Tocqueville's innovating notion of despotism is discussed by Roger Boesche in his 'Why did Tocqueville fear abundance? Or the tension between commerce and citizenship', *History of European Ideas* 9 (1988), 25–45. Note that Boesche's article identifies Tocqueville's fears as inspired by the republican tradition rather than by aristocratic liberalism.

⁷⁸ Tocqueville, *Democracy*, p. 819.

hierarchy, or they proposed to unite citizens in their own local community, which would give them the power to resist the government when necessary. Many liberals of the Restoration period had pleaded for decentralization as a way to reorganize society so as to make it more resistant against despotism.

We do not know to what extent Tocqueville might have been acquainted with the pamphlets and brochures produced during the debates of the Restoration period. But it is surely interesting to note that Hervé de Tocqueville, Alexis' father, actively participated in the discussion about Martignac's Bill of 1828. A former prefect and a member of the Chamber of Peers, Hervé had been appointed as a member of the commission for decentralization by Martignac. He also published a brochure *De la Charte provinciale* (1829), in which he defended the Bill for decentralization framed by the government. In doing so, he developed a line of reasoning that was very similar to that used by liberal advocates of decentralization, such as Barante or Aubernon.⁷⁹ He expressed his concern about the fact that France had lacked a 'moderating power' since the destruction of the aristocracy, and he argued that decentralization should allow the creation of a new social hierarchy, which was to be drawn from 'the most elevated portion of the democracy'.⁸⁰

Similar arguments were used eleven years later by Alexis de Tocqueville in his *Démocratie* of 1840. Indeed, one of the most striking features of the second *Démocratie* is that the aristocratic type of society, which had been briefly mentioned in the *Démocratie* of 1835, only to be dismissed immediately as obsolete, was now repeatedly invoked as a model to be imitated, albeit in an adapted form, by those who wished to establish a liberal regime. Tocqueville reflected on the various ways in which intermediary powers, which limited central power almost naturally in aristocratic societies, could be recreated in the levelled world of post-revolutionary France, thus sketching a programme for social reform that was in many ways reminiscent of the discourse of the Restoration liberals.

Tocqueville developed this programme at length in part four of the *Démocratie* of 1840. In this part, as we have seen, he dwelled on the contrast between aristocratic societies, in which power was limited almost naturally, and democratic societies, in which this was not the case. But it was also in this section that he made several suggestions which would allow the recreation of such barriers in levelled societies. This is not to say that Tocqueville

⁷⁹ Hervé de Tocqueville was not a liberal, but neither did he belong to the hard-line royalists. He supported the liberal government of Martignac and was hostile to the ultra-royalist government led by Polignac.

⁸⁰ Hervé de Tocqueville, *De la Charte provinciale* (Paris, 1829), p. 29.

pleaded for a return to the Old Regime. Like Barante, he emphasized that it was impossible to turn back the clock, and that a return to an aristocratic society was impossible: 'Thus, the goal is not to reconstruct an aristocratic society but to bring forth liberty from the midst of the democratic society in which God has decreed we must live.'⁸¹ Democratic societies, Tocqueville wrote, would never offer as much personal independence as aristocratic societies had done. An active central power was indispensable in those societies. Nevertheless, Tocqueville believed that the elements that made aristocratic societies more resistant to despotism could be recreated in a mitigated form in the levelled conditions of the post-revolutionary world.

Unlike Barante, or his father, Tocqueville did not suggest that social hierarchy should be restored. Instead, he proposed that democratic societies should be reorganized so as to make them more similar to aristocratic societies without losing their democratic character. In Tocqueville's view, liberty in aristocratic societies was guaranteed, more than by anything else, by the fact that the king governed and administered the country in co-operation with the nobility. In modern societies, such a sharing of power was of course no longer possible, but Tocqueville believed that there were 'democratic procedures' capable of replacing the role of noble elites. The administrative functions formerly exercised by nobles could be handed over to 'secondary bodies temporarily constituted of ordinary citizens'; in this way, the citizens' liberty would be more secure, without endangering their equality.⁸² Moreover, the hereditary transmission of many functions in the local administration could be replaced by elections, which would give these administrators a greater independence *vis-à-vis* central government.

Tocqueville believed that the absence of noble elites capable of resisting the government in democratic societies could also be compensated in other ways. In aristocratic countries, the presence of 'rich and influential' citizens instilled moderation in the government, because they could not be oppressed 'easily or in secrecy'. These could be replaced in democratic countries through the art of association. 'I am firmly convinced that aristocracy cannot be re-established in the world', Tocqueville wrote; 'But ordinary citizens, by associating, can constitute very opulent, very influential, and very powerful entities – in a word, they can play the role of aristocrats.'⁸³ Moreover, in aristocratic societies, despotism was avoided because ordinary citizens could, when oppressed, appeal to a network of powerful friends. Similarly, democratic subjects could appeal to the nation through

⁸¹ Tocqueville, *Democracy*, p. 822.

⁸² *Ibid.*, p. 823.

⁸³ *Ibid.*, p. 824.

the press. Like Charles de Rémusat or Pierre-Paul Royer-Collard during the Restoration period, Tocqueville argued that press freedom was one of the most important weapons to correct the atomization of a democratic society: 'Equality isolates and weakens men, but the press places a very powerful weapon within each man's reach, a weapon that can be used by the weakest and most isolated . . . I think that men who live in aristocracies can if need be do without freedom of the press, but those who live in democratic countries cannot.'⁸⁴

In short, Tocqueville invoked, as Sheldon Wolin has pointed out, an aristocratic past to criticize the democratic present.⁸⁵ In his view, the democratic, levelled social condition was almost incompatible with liberty. A levelled society made people less interested in one another, more individualistic; in short, it atomized society. Furthermore, a levelled society encouraged the growth of a state power without limits in the face of this atomized society. The solution Tocqueville proposed to this problem was close to Barante's, although he did not go so far as to plead for the creation of a new social elite. He argued that a democratic society should be reorganized to allow the existence of new intermediary bodies: so as to make it more similar, in other words, to an aristocratic society. In this sense, the *Démocratie* of 1840 represented an important change in Tocqueville's thought when compared to his ideas of 1835, when he had pleaded for an acceptance of popular democracy as the only alternative to despotism in the modern world.

Many Tocqueville scholars have remarked upon this discrepancy between the ideas expressed in the two volumes of Tocqueville's *De la démocratie en Amérique*. Seymour Drescher, for instance, argues that the *Démocratie* of 1840 was a 'revision as well as a sequel of the first'.⁸⁶ Likewise, Tocqueville's contemporaries recognized this shift in his thought; thus, the second *Démocratie* was seen as a far more conservative book than the first.⁸⁷ The reason why Tocqueville felt it necessary to revise his book, however, remains

⁸⁴ *Ibid.*, p. 843.

⁸⁵ Wolin, *Tocqueville between two worlds*, p. 555. But compare Seymour Drescher, 'Who needs ancientness? Tocqueville on aristocracy and modernity', *History of Political Thought* 23 (2003), 624–646.

⁸⁶ Seymour Drescher, 'Tocqueville's Two *Démocraties*', *Journal of the History of Ideas* 25 (1964), 202. In his *Les deux démocraties*, Lamberti likewise emphasizes that Tocqueville came to two very different conclusions in his two volumes; and Françoise Mélonio argues that especially the fourth part of the second volume, in which Tocqueville looked again into many of the problems that had already been dealt with in the first volume, was 'véritablement un traitement nouveau des questions abordées en 1835': Mélonio, *Tocqueville et les Français*, p. 89. But compare Max Lerner, *Tocqueville and American civilisation* (New Brunswick: Transaction Publishers, 1994), and Schleifer, *The making of Tocqueville's Democracy*, pp. 285–286, who argue for the essential unity of Tocqueville's *Démocratie*.

⁸⁷ Mélonio, *Tocqueville et les Français*, pp. 81–121.

a puzzling one. Scholars of Tocqueville's thought have pointed to two different explanatory factors. Drescher claims that the changes in the French political landscape played a crucial role in Tocqueville's intellectual development. While France had been characterized by revolutionary upheaval in the years immediately after the July Revolution of 1830, the country had become far more stable by 1840, which encouraged Tocqueville to revise his evaluation of democracy. While, in the first *Démocratie*, his concern had been mainly with the revolutionary, populist character of democratic societies, his second volume emphasized the danger of government oppression. As time progressed, he began to fear bureaucratic despotism rather than the tyranny of the majority.⁸⁸

Other scholars have pointed out that Tocqueville's intellectual development between 1835 and 1839 was also stimulated by new travels abroad, now to England rather than to the United States. Across the Channel, as Françoise Mélonio argues, he discovered that many negative aspects of the process of social levelling, which he had believed to be specific to France, were in fact the result of the levelling itself – in particular the atomization of society and the growth of central absolute power.⁸⁹ In his travel notes, he wrote on 11 May 1835: 'Why is centralization more in the habits of democracy? Great question to dig into . . . capital question'.⁹⁰ Conversely, Tocqueville came to believe that the preservation of English liberty was connected to its powerful aristocracy, as appears from his notes of a conversation with John Stuart Mill on 26 May 1835 about the decentralized nature of the English local government. During this conversation, Mill explained to Tocqueville that centralization had been successfully kept at bay in the United Kingdom, because the English were little prone to general, uniform ideas, and because they were committed to individual liberty. In his reply, however, Tocqueville attempted to convince his friend that the strength of English liberty was connected to its aristocracy: 'Is not what you call the English spirit the spirit of the aristocracy? Is it not in the spirit of the aristocracy to isolate oneself, and as one's individual corner is pleasant, to fear being troubled in one's pleasure, rather than to desire to impose upon others?'⁹¹

Another explanation for Tocqueville's increasing apprehension about the danger of democracy can be found in his growing interest in French history.

⁸⁸ Drescher, 'Tocqueville's two *Démocraties*', 201–216.

⁸⁹ Mélonio, *Tocqueville et les Français*, p. 84. ⁹⁰ Tocqueville, *Oeuvres*, III, p. 49.

⁹¹ *Ibid.*, p. 467: 'Ce que vous appelez l'esprit anglais ne serait-il pas l'esprit aristocratique? Ne serait-il pas dans l'esprit aristocratique de s'isoler et, comme la part individuelle de chacun est belle, de plus craindre d'être troublé dans sa jouissance, que désiner de s'étendre sur les autres?'

It was in the French past that he detected for the first time the connection between democratization and centralization. After the completion of his first *Démocratie* in 1835, Tocqueville turned to the study of the history of the French Revolution. This resulted in the publication of an essay on the 'Etat social et politique de la France avant et après 1789', which was translated and published by John Stuart Mill in the *Westminster Review* in 1836. In this essay, Tocqueville described how, even under the Old Regime, French society had become more and more democratic. At the same time, however, the French state had become more and more centralized. This led Tocqueville to reflect, as he would do in the second volume of the *Démocratie*, that these two tendencies were interrelated.⁹²

TOCQUEVILLE'S PESSIMISM

Whatever the reasons for Tocqueville's change of mind, it remains clear that his second *Démocratie* was influenced, either directly or indirectly, by the writings of the royalists and of liberals such as Prosper de Barante, rather than by Constant's. Like Barante's *Des communes et de l'aristocratie*, Tocqueville's second *Démocratie* was based on an ambivalent evaluation of the rise of democracy. On the one hand, Tocqueville argued that the democratic, levelled condition of society was a typical characteristic of modernity; but, on the other hand, he argued that this particular tendency was very dangerous as well. In *Démocratie*, we see how this combination of ideas encouraged a highly critical attitude towards democracy. Tocqueville dwelled at great length on the different ways in which the equalization of society contributed to the rise of despotism in modern nations. Although his book did offer a number of solutions to these problems, which were similar to those of Restoration liberals, it is nevertheless clear that the critical tendency held the upper hand. In Tocqueville's book, we see, in other words, how the conundrum identified by liberals such as Barante could lead to a pessimistic evaluation of modern society, which, it should be noted, was quite absent from its Montesquieuian source.

Tocqueville's concerns about the rise of democracy and its concomitant tendency towards despotism were shared by many opponents of the Orléanist regime. In particular, advocates of decentralization – amongst whom both radical liberals such as Odilon Barrot, the leader of the *centre gauche*, and a large number of legitimists can be counted – worried, like Tocqueville, about the lack of barriers in post-revolutionary French society

⁹² *Ibid.*, pp. 26–28.

and the concomitant despotic tendencies of the July Monarchy. These fears were expressed during the debate about the reform of local administration in 1830–1831, and they were again reiterated by Ferdinand Béchard in his *Essai sur la centralisation*. In 1840, moreover, Henrion de Pansey's treatise on decentralization, which contained, as was seen earlier, a call for the re-establishment of a new, local aristocracy, was republished.⁹³ Ideas very similar to Tocqueville's can also be found in the *Revue provinciale*, edited between 1848 and 1849 by his friends Louis de Kergolay and Arthur de Gobineau, in order to encourage the new regime in a decentralist direction.⁹⁴ As we shall see, after the February Revolution of 1848, the themes of aristocratic liberalism became even more widespread. The rise and fall of the Second Republic, and the establishment of Napoleon's dictatorship convinced even Tocqueville's enemies, the Orléanist liberals, that the end of history had not been reached with the establishment of the July Monarchy.

⁹³ Henrion de Pansey, *Du pouvoir municipal*.

⁹⁴ Louis de Kergolay and Arthur de Gobineau, eds., *Revue provinciale* (Paris, 1848–1849, 2 vols.). But compare to Mélonio, *Tocqueville et les Français*, pp. 81–121, who argues that Tocqueville's second *Démocratie* mainly encountered incomprehension and criticism from his contemporaries during the July Monarchy.

*The French predicament: aristocratic liberalism
in the Second Empire*

Liberal political thought of the 1850s and 1860s is often neglected in the existing literature. In comparison with major thinkers such as Benjamin Constant during the Restoration period, or Alexis de Tocqueville during the July Monarchy, the Second Empire seems to offer but little of interest to the historian of political ideas. Thus, G. A. Kelly describes the liberalism of the 1850s and 1860s as a ‘Parnassian liberalism’, a doctrine in retreat from political competition to spheres of culture and criticism.¹ However, this view does not do justice to the vibrancy of liberal thought in the Second Empire. Faced with the dictatorship imposed by Napoleon III, a marked revival of liberal thought took place. As André Jardin points out, in the 1850s and 1860s the French elite became more, not less, attached to the liberty it had lost.²

In particular, it is possible to argue that the themes of aristocratic liberalism were widespread in the debates of the 1850s and 1860s. Many liberals of the Second Empire were deeply influenced by Montesquieu’s aristocratic liberalism. The events of 1848–1852, while highlighting the inadequacy of bourgeois Orléanist liberalism, revived concerns about the levelled condition of modern societies in general and of French society in particular. As a result, Tocqueville’s analysis of the dangers of democracy found a responsive audience in the 1850s and 1860s.³ But Second Empire liberals also reached back to the themes developed during the Restoration period. Many elements of the royalist discourse – their condemnation of revolutionary egalitarianism, their idealization of England and primogeniture – were re-appropriated by liberal thinkers of the 1850s and 1860s. However, liberals remained committed, at the same time, to the democratic myth

¹ Kelly, *The Humane Comedy*, chapter 6.

² Jardin, *Histoire du libéralisme politique*, p. 393.

³ But see Mélonio, who claims that liberals of the Second Empire were *laissez-faire* individualists like Laboulaye, so that Tocqueville remained isolated with his aristocratic-liberal concerns: Mélonio, *Tocqueville et les Français*, pp. 163–213.

developed in the Restoration period, which denounced all attempts to revive the aristocratic past as an impossible enterprise. In the end, liberals of the Second Empire therefore despaired, as we shall see, not just of an imitation of the English example, but also of the decentralist model, as possible solutions to the French predicament.

THE FRENCH PREDICAMENT

The period 1848–1852 was a very turbulent one in France. In February 1848, the July Monarchy was overthrown in the wake of a fierce campaign in favour of electoral reform. The revolutionary leadership opted for the establishment of a republic, and on 4 November, a new constitution was promulgated. The Second Republic put legislative power in the hands of a unicameral Assembly, elected through universal suffrage, although more moderate politicians, led by Alexis de Tocqueville, had pleaded for a bicameral system. The executive power was to be exercised by a president elected through universal suffrage. His power was limited by the fact that he could not be re-elected after a two-year term.⁴ While the National Assembly was debating the constitution, the provisional government was confronted with an insurrection in Paris, where socialists controlled the industrial boroughs. Although the rebellion was successfully put down, it did much to damage the Republic. The working classes were alienated by the massacres of the June Days, while fear of the socialists made the Republic unpopular with the bourgeoisie.

In 1849, Louis-Napoleon Bonaparte, Napoleon's nephew, was elected as president of the Republic. On 2 December 1851, when his two-year term came to an end, he refused to surrender his powers. One year later, he crowned himself emperor. The new regime was based on popular sovereignty, expressed through universal suffrage and plebiscites (of which three took place in 1851, 1852 and 1870). The Second Empire knew no separation of powers, all power was concentrated in the hands of Napoleon III. Ministers were no longer responsible, except to the emperor. The Council of State was nominated by Napoleon III, and bicameralism was re-introduced with the establishment of a Senate, whose members were appointed for life by the emperor, next to a Legislative Corps. Although the latter retained a certain independence from the emperor, the government usually succeeded in having its own candidates elected. Individual liberty was suspended in 1852 after an attempted insurrection, and again in 1858 after an attempt

⁴ P. Bastid, *Doctrines et institutions politiques de la Seconde République* (Paris: Sirey, 1945, 2 vols.).

on the emperor's life. The police intervened arbitrarily in private affairs. Liberty of the press was more restricted than ever since the First Empire.⁵ Although Napoleon III's grip on political life was loosened after 1860, when he granted more independence and power of initiative to the legislature, France remained essentially a dictatorship until the defeat of the imperial army at Sedan in 1870.

In the face of Napoleon's authoritarian rule, a liberal opposition was formed in which the Orléanist elite joined forces with some of its former opponents. It brought together people such as Victor de Broglie, one of the most important representatives of Resistance, Odilon Barrot, the leader of the *centre-gauche*, who had actively participated in the February Revolution, and Charles de Montalembert, who had played an important role in the liberal-Catholic movement during the July Monarchy. They were supported in their opposition to Napoleon III by a number of talented journalists and political thinkers, such as Emile de Laboulaye, Lucien-Anatole Prévost-Paradol and Charles Dupont-White.⁶ As active political opposition had become impossible, these liberals used their pens to attack the imperial regime. The cerebral nature of the opposition to Napoleon III was also highlighted by the fact that the actual seat of opposition was in the Académie française, rather than in the Legislative Corps or the Senate.⁷ As a result, the 1850s and 1860s saw the publication of a series of important political treatises, in which the principles of a liberal politics were explained in various ways.

The liberal opponents of Napoleon III agreed on a common constitutional platform, which was expounded most clearly in Laboulaye's *Le parti libéral et son programme* (1863).⁸ They had a fond memory of the constitutional monarchy as it had existed between 1814 and 1848, and were, on the whole, in favour of a monarchical restoration. But they agreed that the choice between a conservative republic and a constitutional monarchy was not a fundamental one. More important than the form of government in the strict sense of the word, in their view, were the conditions in which the representative government was exercised. The experience of the Second Republic had left these liberals convinced of the danger of a single, popular legislature. They were therefore in favour of a bicameral legislature in which

⁵ Jardin, *Histoire du libéralisme politique*, pp. 367–374; Louis Girard, *Problèmes politiques et constitutionnelles du Second Empire* (Paris: Centre de documentation universitaire, 1964).

⁶ Jardin, *Histoire du libéralisme politique*, p. 375.

⁷ As is remarked by Montalembert's biographer, R. P. Lecanuet, *Montalembert* (Paris: Gigord, 1912, 3 vols.), III, p. 136.

⁸ Other important liberal treatises in this respect were Lucien-Anatole Prévost-Paradol's *La France nouvelle* (1868) and Victor de Broglie's *Vues sur le gouvernement de la France* (1870).

a popular, elective Chamber was balanced by a more conservative Senate, which should preferably be composed by local notables. Moreover, they pleaded for a strong executive power, which should be independent from but nevertheless responsible to the legislature.⁹

In other words, the institutional doctrines of the liberalism propagated in the 1850s and 1860s were much the same as they had been during the July Monarchy. However, this does not mean that its ideological basis remained identical. The political ideal of Orléanist liberalism, the bourgeois state, was generally rejected during the 1850s and 1860s. Most liberals of this period accepted universal suffrage, albeit grudgingly, as an indispensable element of the political system. As they had discovered, the separation between *pays légal* and *pays réel* had only given the opponents of the July Monarchy the opportunity to claim that they represented the real voice of the people. Moreover, the complacency of Orléanist liberals, who had argued that liberty could be preserved simply by limiting sovereignty to a pseudo-aristocratic caste of *capacitaires*, seemed insufficient as a response to the problems of the post-1848 state. The bourgeois state had proven to be an unstable regime, which was easily overthrown. In the 1850s and 1860s, even former Orléanists came to see liberty as a condition that could only be reached with great difficulty in modern societies.

In short, another brand of liberalism was required in face of the more complex world of the Second Empire. To a large extent, this liberalism was formulated in opposition to the republican ideal of popular self-government, which had led to such deplorable results in 1848–1849. This is illustrated, for instance, by the writings of Edouard Laboulaye, who was one of the most important spokesmen of the liberal coalition against the Second Empire. During the July Monarchy, Laboulaye had published several erudite works on the history of property laws in Europe, and he was appointed as professor of comparative legislation at the Collège de France in 1851. At the time of the February Revolution, however, he gave up his life as a scholar to become engaged in national politics as a journalist and liberal activist, a career which he pursued with considerable success during the Second Empire.¹⁰ A great admirer of Benjamin Constant – Laboulaye re-edited Constant's *Cours de politique constitutionnelle* in 1861 – he was inspired in particular by the latter's distinction between ancient and modern liberty.

⁹ On the liberal opposition to the Second Empire, and its demands, see Jardin, *Histoire du libéralisme politique*, pp. 367–374.

¹⁰ An extensive overview of Laboulaye's political career and doctrines is given in Jean de Soto, 'Edouard de Laboulaye', *Revue internationale d'histoire politique et constitutionnelle* 18 (1955), 114–150.

In his essay, 'La liberté antique et la liberté moderne', Laboulaye adopted Constant's distinction between the liberty of the ancients and that of the moderns almost without modifications.¹¹ Like Constant, he argued that political or ancient liberty, which identified freedom with sovereignty, could be actively harmful to civil liberty. The sovereign people of the ancient republics was not free to do as it liked. In the same way that the religion, education and possessions of an absolute monarch belonged to the state rather than to himself, the personal life of the sovereign people was a state affair rather than a private one. The ancient republics therefore presented the spectacle of a people that was at the same time free and enslaved. Modern or individual liberty, on the contrary, had become possible when Christianity, with its division between temporal and spiritual power, had established a private sphere, separate from the state. This ideal had become embodied in the English polity, where, after the Glorious Revolution of 1688, a clear distinction between private and public had come into being.

Like Constant, Laboulaye believed that enthusiasm for ancient liberty had caused the failure of the French Revolution. Inspired by Rousseau and Mably, the Legislative Assembly and the Convention had taken the ancient republics as their model. The Jacobins and, in particular, Robespierre, 'Rousseau's fanatical pupil', had propagated the idea that individual slavery was necessary to establish national sovereignty. This confusion between ancient and modern liberty was responsible for the escalation of the Revolution into the Terror and for the establishment of the First Empire. Moreover, Laboulaye also blamed the continued political instability in nineteenth-century France on this legacy. The Jacobin tradition had been continued by so-called liberals who in fact had but a mediocre esteem for liberty. These politicians infatuated with antiquity had failed to understand that sovereignty *à la grecque* was 'an illusion and a danger' in modern societies. Their political ideal was a state, which, as the personification of the nation, as the representative of the French people, would become master of all, the protector of the Church, charged with education, in control of charity and of the local administration.¹²

So far, Laboulaye's account differed but little from Constant's. However, as we have seen, Constant had proceeded from this criticism of the Jacobin confusion between ancient and modern liberty to argue that political liberty and public spiritedness were nevertheless indispensable for the preservation

¹¹ This essay was part of Edouard Laboulaye's collection of essays *L'état et ses limites. Suivi d'essais politiques* (Paris, 1868).

¹² *Ibid.*, p. 133: 'un leurre et un danger'.

of a liberal regime.¹³ This conclusion was not drawn by Laboulaye. On the contrary, the main doctrine propagated in Laboulaye's book *L'état et ses limites*, in which the essay on ancient and modern liberty was published, was that 'the state is only beneficent when it stays within the limits of its legitimate attributions'.¹⁴ And these attributions were very limited indeed. Quoting Wilhelm von Humboldt and John Stuart Mill, Laboulaye argued that the role of the state should be restricted to the protection of national independence and the maintenance of internal peace. The state should be powerful in those respects, but not in any other. In order to safeguard liberty in France, a new constitution was unnecessary; rather, a clear distinction should be made between the state and the individual sphere.

In short, in his rejection of Jacobin liberty, Laboulaye resorted to a *laissez-faire* liberalism that was very similar to Dunoyer's. It would be mistaken to think, however, that the liberal reaction against republicanism in the 1850s and 1860s automatically resulted in a withdrawal into a negative conception of liberty. In his brochure *De la centralisation et de ses effets* (1861), Odilon Barrot drew very different conclusions from a similar starting point. Barrot had been a member of the liberal opposition to Charles X during the Restoration period, and he participated actively in the July Revolution as the prefect of the department of the Seine. As the leader of the opposition to the Resistance, he again played an important role in the events of 1848–1849. He organized the banquet campaign for electoral reform which resulted in the February Revolution. After the establishment of the Second Republic, Barrot was appointed president of the Conseil d'Etat and Minister of Justice, but he was dismissed from his functions by Louis-Napoleon in 1849. As a result, he became one of Napoleon III's most influential political opponents.

In the introduction to his brochure of 1861, Barrot developed an extensive criticism of the republican conception of liberty. Like Laboulaye, he started out by condemning the liberty of the ancients as a threat to civil liberty. The inhabitants of ancient Greece and Rome considered participation in sovereignty to be the hallmark of a free state. This view had an important impact on the eighteenth-century French, for whom Rome and Athens had been the models of liberty. As a result, political thinkers such as Rousseau had confused liberty with the rule of the masses.¹⁵ Although some thinkers, such as Montesquieu, had understood that this conception of liberty was wrong – Barrot approvingly quoted Montesquieu's dictum that 'the power of the people has been confused with the liberty of the people, things which

¹³ See above, chapter 4.

¹⁴ *Ibid.*, p. i: 'l'Etat n'est bienfaisant que dans la limite de ses attributions légitimes'.

¹⁵ Odilon Barrot, *De la centralisation et de ses effets* (Paris, 1870), p. 8.

are nevertheless very different¹⁶ – even he had failed, in Barrot's view, to understand that power should be limited in order for a state to be free, because he had been too much preoccupied with the external forms of government.¹⁷ Neither had this been grasped by the revolutionaries, with fatal consequences.

Unlike Laboulaye, however, Barrot did not believe that it would suffice merely to distinguish clearly between private and public spheres in order to protect liberty. Rather, the establishment of a free state required the existence of checks and barriers against centralized government. From this perspective, Barrot criticized the Revolution, which had eliminated, while proclaiming individual rights, all means of resistance that could have protected them, so that liberty had no other guarantee but rebellion.¹⁸ For this reason, Barrot was highly critical of the legacy of revolutionary egalitarianism. The hatred of social hierarchy was, in his view, highly detrimental to the stabilization of a liberal regime. He chided the French mania for absolute equality which always led to servitude. Instead, the French should be made to understand that 'true and intelligent liberty' did not attack natural inequalities, but turned them to its profit and made auxiliary forces of them.¹⁹

In short, Barrot believed that liberty was threatened more by the revolutionary hatred for social hierarchy and intermediary powers than by an expansion of state power as such. A similar criticism of revolutionary egalitarianism was formulated by many other liberals in the 1850s and 1860s. The most famous to do so was Alexis de Tocqueville in his *L'Ancien Régime et la Révolution* of 1856. Tocqueville developed in this book a powerful criticism of the modern, democratic–bureaucratic state. The remnants of feudalism – a system in which the nobility had been the governing caste – had disappeared more completely in France than they had in neighbouring states. In England, Prussia and Austria, the nobility had continued to exercise the local administration, but this was no longer the case in eighteenth-century France. This had given rise to a specific political system – a centralized administration, which had eliminated all remnants of feudal intermediary powers. At the same time, an egalitarian ideology had developed, which supported the maintenance of this socio-political system by its hatred of social hierarchy.²⁰

¹⁶ *Ibid.*, p. 8: 'on a confondu le pouvoir du peuple avec la liberté du peuple, choses cependant bien distinctes'.

¹⁷ *Ibid.*, pp. 9–10. ¹⁸ *Ibid.*, p. 11. ¹⁹ *Ibid.*, p. 24.

²⁰ I have used Alan Kahan's translation of *The Old Regime and the Revolution*, ed. François Furet and Françoise Mélonio (Chicago: University of Chicago Press, 1998–2001, 2 vols.).

According to Tocqueville, the centralizing and democratizing tendencies of the Old Regime had been aggravated even more by the Revolution. Although in a first phase, the revolutionaries had seemed committed to ending the centralization of power and to instituting new checks and barriers in the political system, this attempt had failed both through particular circumstances such as the war and through the pervasive influence of habits and ideas established during the Old Regime. In the end, the Revolution had completed the work of the absolute kings rather than combated it. It had created an 'immense central power which has devoured all the bits of authority and obedience which were formerly divided among a crowd of secondary powers, orders, classes, professions, families, and individuals, scattered throughout society'.²¹ At the same time, the Revolution had stimulated the French passion for equality, which promoted the 'habits, ideas, and laws that despotism needs in order to rule'.²² In Tocqueville's view, this combined legacy of a centralized power and an egalitarian spirit had caused the failure of all attempts to establish a stable liberal regime in France in the course of the nineteenth century.²³

A similar point was made by Prosper de Barante, whose brochure *Des communes et de l'aristocratie* (1821) had already illustrated his concern with the levelled condition of French society long before the establishment of the Second Empire. Under the July Monarchy, when his fellow-doctrinaires had come to power, Barante had focused on his career as a historian and a diplomat. However, he took up his pen again after the February Revolution of 1848, resulting in the publication of a number of political pamphlets and historical treatises in the 1850s. With his collection of essays *Etudes historiques et littéraires* (1858), and notably with the article 'Histoire de l'égalité en France', Barante produced a powerful criticism of revolutionary egalitarianism as the factor that had made liberty impossible in France.²⁴

Barante began his essay by repeating the liberal doctrine that history showed a progressive development towards equality. He criticized Rousseau's view that equality was the primitive condition of mankind, which had become corrupted through the establishment of civil society and property. On the contrary, Barante argued, the natural development of mankind was from a condition of inequality towards increasing equality. This tendency had likewise characterized French history. During the Old Regime, conditions had become ever more equalized; landed property had become ever more divided. However, the political system had artificially

²¹ *Ibid.*, I, p. 98. ²² *Ibid.*, p. 246. ²³ *Ibid.*, pp. 245–246.

²⁴ Prosper de Barante, 'Histoire de l'égalité', in his *Etudes*, I, pp. 275–351.

maintained certain distinctions between French citizens, which no longer had any basis in real superiority. As a result, the Revolution had become inevitable to redress the balance and adapt the political system to the social system.

At this point, however, Barante's story took a different turn from the classic account of the rise of equality established during the Restoration period. In his view, the Revolution had not simply destroyed the remnants of feudalism, it had deteriorated into an outright attack on all forms of social hierarchy. 'From the first moments of the Revolution', Barante wrote, 'it became clear that a large and ardent body of opinion, more democratic than liberal, desired and hoped for, not liberties and guarantees, but rather the formation of a new society. It desired above all the disappearance of the aristocratic nobility; it had to proclaim that the Third Estate was the nation.'²⁵ This tendency had become more and more dominant as the Revolution progressed, until the 'apostles of equality' had started the Terror.²⁶ From this perspective, the establishment of Napoleonic despotism was hardly surprising, 'because collective rights, institutions existing on their own account, *esprit de corps*, the independence of judicial authorities within the limits of their responsibilities, all counter-weights and all guarantees had been reduced to nothing by the Revolution'.²⁷

Subsequent French history had been characterized, in Barante's view, by a series of failed attempts to recreate a new social hierarchy in France. A first endeavour to restore social hierarchy had been made by Napoleon, who had abolished universal suffrage in favour of an electoral body composed solely out of local notables, and who had founded an imperial nobility with hereditary titles. But this electoral body had failed to become a social elite in the true sense of the word, with common interests, an *esprit de corps*. Napoleon's nobility was not a true aristocracy, because a true aristocracy existed independently from the ruler. All attempts to recreate 'a kind of aristocracy', to institute 'an intermediary class between sovereign power and the mass of the nation', had failed.²⁸

²⁵ *Ibid.*, p. 301: 'Dès les premiers moments de la Révolution, il sembla qu'une vaste et ardente opinion, plus démocratique que libérale, désirait et espérait, non pas des libertés et garanties, mais bien plutôt la formation d'une société nouvelle. Elle voulait avant tout la disparition de l'aristocratie nobiliaire; il lui fallait proclamer que le Tiers Etat, c'était la nation.'

²⁶ *Ibid.*, p. 304.

²⁷ *Ibid.*, p. 307: 'car les droits collectifs, les institutions existant par elles-mêmes, l'esprit de corps, l'indépendance des magistratures dans la limite de leurs attributions, tous les contre-poids et toutes les garanties avaient été mis à néant par la Révolution'.

²⁸ *Ibid.*, p. 315: 'Si donc on avait voulu faire renaître une sorte d'aristocratie, instituer une classe intermédiaire entre le pouvoir souverain et la masse nationale, l'expérience démontra qu'on n'y avait pas réussi.'

The further development of French history only confirmed Barante in his pessimism. At the beginning of the Restoration, France still lacked a political aristocracy. In this sense, the social structure had degenerated *vis-à-vis* the Old Regime. As he had done in 1821, Barante emphasized that he had no nostalgia for the nobility of the pre-revolutionary era. In his view, it had been an order that had failed to fulfil its role as an intermediary body between the prince and the people, because it had been a court nobility rather than an independent ruling class as was the English aristocracy. But before 1789, at least there had been a certain hierarchy in France. Even that had now disappeared. The July Revolution of 1830, Barante continued, had only made this worse: 'The social constitution was therefore in law and in fact completely democratic. The heredity of the peerage was abolished. Every vestige of the aristocracy had disappeared.' In his view, this development had made the Revolution of 1848, and the subsequent rise to power of Napoleon III, inevitable: 'What could the results of that social condition have been?'²⁹

Thus, criticism of revolutionary egalitarianism was widespread among liberals of the 1850s and 1860s, as is illustrated by Tocqueville's and Barante's historical reflections. Like the royalists of the Restoration period – the writings of René de Chateaubriand in particular come to mind – liberals such as Tocqueville and Barante argued that the Revolution (except perhaps for a brief moment in 1789) had essentially been an illiberal event, thereby rejecting the traditional liberal view that the events of 1789 had been a necessary social adjustment, the abolition of distinctions that had become anachronistic because they were no longer a reflection of real power. This view was based in turn, as Barror's brochure shows, on the conviction, that the preservation of liberty required the existence of checks and barriers against the power of central government, rather than the establishment of popular sovereignty; or, in other words, it was based on an essentially Montesquieuan definition of liberty. Many other liberal publicists, as we shall see, were inspired by this conception of liberty in their attempts to formulate a response to the challenges of the post-1848 world.

THE ENGLISH EXAMPLE: CHARLES DE MONTALEMBERT

A first proposal to overcome the problems of modern democracy can be found in the writings of Charles de Montalembert, who was the scion of an

²⁹ *Ibid.*, p. 325: 'La constitution sociale fut donc en droit et en fait complètement démocratique. L'hérédité de la pairie était abolie. Tout vestige d'aristocratie avait disparu . . . Quels pouvaient être les résultats de cet état social?'

old noble family of staunch royalists. Unlike most of his peers, he had rallied to the new regime in 1830, because his loyalty was to the Catholic religion, rather than to the legitimate kings. Montalembert gained a considerable reputation during the July Monarchy as a defender of religious liberty, co-operating with Félicité de La Mennais on *L'Avenir*, and he became known to the general public with a campaign for educational liberty in the 1840s. Under the Second Republic, Montalembert initially supported Louis Napoléon's presidential regime. But after the *coup d'état* of 1851, he became an enemy of the Empire and a staunch defender of liberty in all of its forms. From being a liberal Catholic, he became, as one historian has expressed it, a Catholic liberal.³⁰

Montalembert's hostility to the new regime found expression in his first important political treatise, *Des intérêts catholiques au XIXe siècle*, which was published in 1852. In this brochure, he severely criticized the overthrow of the parliamentary regime as it had existed during the July Monarchy. While many of his former collaborators had supported Napoleon's *coup d'état*, convinced that the imperial regime was a better guarantee for Catholicism than the Second Republic, Montalembert attempted to persuade his co-religionists that the Catholic faith could thrive only in a free political system, possessing guarantees against absolute power. According to Montalembert, this meant that the parliamentary government, which was, in his view, the only system capable of guaranteeing liberty in post-revolutionary France, benefited Catholic interests the most. *Des intérêts catholiques* was an immediate success. Translated into many different languages, it caused a rupture in the French Catholic party between supporters of the new regime and its enemies.³¹

Despite his emphasis on the importance of the parliamentary system, Montalembert also showed an awareness in his brochure that such institutions were, in themselves, insufficient for the maintenance of liberty. Like Alexis de Tocqueville, whose *Démocratie* Montalembert had read with much admiration, he believed that the levelled condition of French society made the establishment of a stable, liberal regime problematic.³² The overthrow of the parliamentary regime in 1848, Montalembert argued, had not been accidental, but was related to a more fundamental deficiency

³⁰ Jaume, *L'individu effacé*, p. 211. On Montalembert's political career, see Lecanuet, *Montalembert*.

³¹ Lecanuet, *Montalembert*, III, pp. 62–85.

³² Montalembert admired in particular the second volume of the *Démocratie*, 'cette admirable prophétie, à laquelle il conviendrait de rendre son véritable titre: De la démocratie en France et en Europe'. Quoted from Charles de Montalembert, *Des intérêts catholiques au XIXe siècle* (Paris, 1852), p. 154, note 1.

in French society. More specifically, he believed that the establishment of a liberal regime was hindered by the absence of a traditional social elite in France and on the European Continent in general. 'In essence', he wrote, 'democracy is incompatible with liberty, because it is based on envy masking as equality, while liberty, by its very nature, protests continually against the tyrannical and brutal level of equality'. The truth of that assertion was proven by everything that had happened in Europe since 1789; it had 'the certitude of a geometrical theorem'.³³

As the Second Empire established itself more firmly, Montalembert became more and more concerned with the problem of the conflict between liberty and equality, which resulted in 1856 in the publication of his major political treatise, *De l'avenir politique de l'Angleterre*. Montalembert was well placed to discuss the English model. His mother was English, and he had spent most of his childhood across the Channel. In 1830 and 1839 he had already travelled extensively in England and he returned again in 1855. The publication of his book was triggered by a debate about the viability of the English model, which had developed as a result of English failure in the Crimean War. In *De la décadence de l'Angleterre* (1850), Alexandre Ledru-Rollin claimed that the British aristocratic system was on the brink of collapse.³⁴ Montalembert's response to this claim was, naturally, indignant. *De l'avenir politique* enjoyed a considerable success in France, where the book went through five successive editions; while in England, it even led to a debate in parliament in April 1856.³⁵

Montalembert started out with a discussion of the social condition of the European nations. Like Tocqueville, he believed that the constant progress and final triumph of 'democracy', implying both social and political equality, was an inevitable development in modern societies. 'Democracy governs wherever it does not yet reign', he wrote.³⁶ Again like Tocqueville, Montalembert believed that this evolution was, to a certain extent, a positive

³³ *Ibid.*, quote p. 97: 'la démocratie est incompatible avec la liberté, parce qu'elle a pour base l'envie sous le nom d'égalité; tandis que la liberté, par sa nature même, proteste sans cesse contre le niveau tyrannique et brutal d'égalité . . . la certitude d'un théorème de géométrie'. This was not the first time Montalembert had expressed this opinion. In 1839, one year before the publication of the second volume of Tocqueville's *Démocratie*, Montalembert had already criticized 'democracy' as a despotic force in his correspondence with his friend and fellow liberal-Catholic Père Lacordaire. However, Montalembert did not want to defend publicly an 'aristocratic system' during the July Monarchy, as he also indicated to his correspondent, because he had more pressing priorities as a Catholic: Lecanuet, *Montalembert*, III, pp. 184–190.

³⁴ Alexandre Ledru-Rollin, *De la décadence de l'Angleterre* (Brussels, 1850, 2 vols.), p. 171.

³⁵ As Montalembert indicated in the preface to the third edition of his *De l'avenir politique de l'Angleterre*.

³⁶ Charles de Montalembert, *De l'avenir politique de l'Angleterre* (Paris, 1856), p. 3: 'La démocratie gouverne partout où elle ne règne pas encore.'

one. He applauded the fact that the masses could now enjoy all sorts of commodities and rights, from which they had previously been barred. Equality before the law and equal taxation were acclaimed by Montalembert as conquests of justice. Likewise, he believed it to be a positive evolution that public officials were now chosen for their merit rather than for their background, as this implied a recognition of legitimate superiority.

But the progress of democracy also entailed considerable dangers. Echoing Tocqueville's criticism of democracy and the harmful psychological attitudes which it brought with it, Montalembert pointed out that a democratic condition engendered hatred, jealousy and envy of all forms of superiority. For this reason, democracy posed a threat to both liberty and stability:

[Democracy] is the enemy of everything that lasts, of everything that resists, of everything that is elevated [he wrote]. It negates the gradual progress of liberty; it insults all its natural allies; it pursues above all with implacable ingratitude the princes who have brought it into being or who have served it. It turns the life of nations into a perpetual storm; it reduces them to looking wildly for a refuge in the first haven that can be reached, and to handing themselves over as servants or as hostages to him that will save them from shipwreck.

Montalembert had little doubt about the eventual outcome of such a condition: 'Thus it can only serve to open up a route to the unity of despotism.'³⁷

In particular, Montalembert was concerned about the atomization of society engendered by the progress of democracy. In democratic societies, natural, traditional bonds, which could act as a guarantee against central power, were replaced with mechanical, artificial connections. Independence was abhorred. In a democratic society, the valour and dignity of man was absorbed by the state, and courage and uprightness were ostracized. The government by men superior through their capacity and virtue was rejected; instead, rule by numbers was imposed. By isolating individual citizens in this manner from one another, the process of democratization had encouraged the establishment of despotism. While the progress of democracy was the dominant fact of modern society, Montalembert wrote, it was also its supreme danger: 'To contain and to regulate democracy without debasing

³⁷ *Ibid.*, p. 35: 'Elle est l'ennemie de tout ce qui dure, de tout ce qui résiste, de tout ce qui grandit. Elle nie tous les progrès graduels de la liberté; elle insulte tous ses alliés naturels; elle poursuit surtout d'une implacable ingratitude les princes qui l'ont donnée ou servie. Elle fait de la vie des nations un orage perpétuel; elle les réduit à chercher éperdues un refuge dans le premier port venu, et à s'y donner pour servantes ou pour otage à celui qui les sauvera du naufrage . . . Aussi ne peut-elle servir qu'à frayer la route à l'unité du despotisme.'

it, to organize it into a tempered monarchy or a conservative republic, that is the problem of our century: but that problem has not yet been resolved anywhere.³⁸

As a counter-model to modern, atomized society, Montalembert focused – and at this point his book started to deviate from Tocqueville’s – on the English example. Contrary to other European nations, England had succeeded in preserving its freedom without upheaval, and many different features of the English system were responsible for its success. Montalembert praised the English parliamentary tradition, which protected against demagogic despotism while also being favourable to order and legitimate authority. The educational system provided free universities where public men were formed, not bookish scholars, which likewise contributed to liberty. But above all, Montalembert emphasized – as his royalist predecessors of the Restoration period had done – that the foundation of English liberty was located in its hierarchical society. English society was affected by the tendency towards democracy, like the rest of Europe, but it was nevertheless the one European country where the aristocracy had been able to maintain most of its original strength. For this reason, it had remained free.³⁹

Montalembert celebrated the powers of resilience shown by the English aristocracy at length in his book. It was an open aristocracy, which was always prepared to make room for new talent. English nobles exercised legislative, administrative and judiciary functions, which the French aristocracy of the Old Regime had not wanted to fulfil. For this reason, reforms proposed by English radicals – for instance, making the administration more meritocratic, or abolishing the House of Lords – did not threaten the survival of the English aristocracy. Its true power resided in the gentry that administrated and governed the country. Apart from its openness and adaptability, however, the strength of the English aristocracy was also guaranteed by its material wealth, which in turn depended on English property laws. Entailments and primogeniture, which concentrated land in the hands of certain families, were ‘the true palladium of the English aristocracy’.⁴⁰

This implied, Montalembert argued, in a remarkable echo of the royalists’ political discourse, that primogeniture was the basis of English liberty. In his view, the stability of property, guaranteed by inheritance laws was ‘the palladium of English society, the dual bulwark that has defended it up

³⁸ *Ibid.*, p. 38: ‘Contenir et régler la démocratie sans l’avilir, l’organiser en monarchie tempérée ou en république conservatrice, tel est le problème de notre siècle: mais ce problème n’a encore été résolu nulle part.’

³⁹ *Ibid.*, pp. 60–99. ⁴⁰ *Ibid.*, pp. 100–116, quote p. 100.

till the present against monarchical omnipotence and against the invasions of demagoguery'.⁴¹ Primogeniture created 'seats of resistance' everywhere, as it provided an economic foundation for the English gentry, which was predestined to rule the provinces. English property laws were both the consequence and the guarantee of general liberty. As long as the English retained primogeniture and entailments, Montalembert wrote, they would remain free. As soon as they were abolished, '[England] will take the first step on the downhill road which precipitates peoples, by way of the tremors of revolutions, into the depths of despotism'.⁴²

In short, Montalembert was convinced that the hierarchical structure of English society, determined in turn by its succession laws, had important political consequences. The English property laws were, from this perspective, the most important guarantee for English liberty. 'God forbid, I would not want to completely identify political liberty with primogeniture, and manacle the future of that liberty on the continent to the maintenance or re-establishment of such or such a system of inheritance', he wrote, 'But, like it or not, those who admire and envy English liberty should well understand the conditions which allow it to endure.'⁴³ Conversely, Montalembert was highly critical of the system of partible inheritance prevalent on the Continent, describing it, as his father, Marc-René de Montalembert, had done during the debate about the Succession Laws Bill in 1826, as 'the most efficient instrument which despotism could ever invent to destroy all resistances and to pulverize all collective or individual forces'.⁴⁴

It would be easy to dismiss Montalembert's remarkable defence of English aristocratic liberty as the product of his upbringing in a noble family of staunch royalists. However, his unwavering commitment to liberal, parliamentary institutions does not allow us to set him aside as a disgruntled aristocrat ranting in the face of mass democracy. The considerable success of Montalembert's book likewise belies the assumption that his views were those of a minority out of touch with reality. His celebration of the English aristocracy and of its material foundation, primogeniture, as instruments

⁴¹ *Ibid.*, p. 110: 'le palladium de la société anglaise, le double boulevard qui l'a défendue jusqu'à présent contre l'omnipotence monarchique et contre les envahissements de la démagogie'.

⁴² *Ibid.*, p. 116: '[l'Angleterre] fera le premier pas sur cette pente qui précipite les peuples, à travers les secousses des révolutions, dans les bas-fonds du despotisme'.

⁴³ *Ibid.*, p. 101: 'A Dieu ne plaise que je veuille identifier partout la liberté politique avec le droit d'aînesse, et enchaîner l'avenir de cette liberté sur le continent au maintien ou au rétablissement de tel ou tel ordre de succession . . . Mais bon gré mal gré, il faut que ceux qui admirent et envient la liberté anglaise comprennent bien les conditions qui la font durer.'

⁴⁴ *Ibid.*, p. 110: 'l'instrument le plus efficace que le despotisme ait jamais pu inventer pour bruyer toutes les résistances et pulvériser toutes les forces collectives ou individuelles'. For Marc-René de Montalembert's arguments, see above, chapter 2.

of liberty, shows that the arguments developed by royalist writers in the Restoration period, after having been rejected by the liberals for most of the nineteenth century, had gained a new poignancy after the failure of France's first experiment with mass democracy since the Revolution.⁴⁵

This point is also illustrated by the fact that liberals with a more mainstream, bourgeois profile agreed with Montalembert on the crucial role of a nobility and primogeniture in the defence of liberty. The article 'Libéralisme' in Maurice Block's *Dictionnaire général de la politique*, written by Auguste Nefftzer in 1863, is a case in point.⁴⁶ A successful journalist, Nefftzer was first an editor with *La Presse* and the founder of the anti-clerical and republican *Le Temps*, the most popular French daily of the Third Republic. In his contribution to the *Dictionnaire*, he defined himself, in terms that were very similar to Laboulaye's, as an anti-democratic liberal. Emphasizing that the defence of individual liberty was the prime concern of the liberal party, he explained that the trappings of a democratic political system were of less importance to the liberal – indeed, they often endangered the preservation of liberty. Liberals were therefore opposed to universal franchise; they believed that the right to vote was based on one's capacity rather than on birth. Instead, they were interested in establishing as many guarantees as possible for liberty.

Nefftzer clearly indicated that he counted primogeniture among those necessary guarantees for liberty. The revolutionary succession laws had destroyed 'established fortunes and situations'. This endangered liberty, Nefftzer argued: 'The liberal elements never acquire enough consistency to defeat despotism. All families, all citizens are too preoccupied with their own affairs to be able to turn themselves with care, independence and disinterestedness to public affairs: their attempts can but repeat the myths of Tantalus or Sisyphus, and despotism remains the master of it all.' It was therefore with reason, Nefftzer maintained, that a certain part of the 'contemporary liberal school' demanded the *liberté de tester*.⁴⁷ The equal division of property was far more democratic and it was more in accordance

⁴⁵ James Finlay likewise insists on the liberal inspiration of Montalembert's writings in his *The liberal who failed* (Washington: Corpus Books, 1968), p. 115.

⁴⁶ This article has been reprinted as an appendix to Jaume's *L'individu effacé*, pp. 557–567.

⁴⁷ *Ibid.*, pp. 564: 'Les éléments libéraux n'acquièrent jamais assez de consistance pour faire échec au despotisme. Toutes les familles, tous les citoyens sont trop constamment ramenés à leurs propres affaires pour pouvoir se tourner avec soin, indépendance et désintéressement vers les affaires publiques: leurs aspirations ne peuvent que renouveler les mythes de Tantale et de Sisyphus, et le despotisme reste maître du terrain.' It should be noted that Nefftzer did not plead for the re-establishment of primogeniture, which was still a sensitive issue in France. Rather, he demanded the liberty of the *paterfamilias* to dispose of his inheritance at will (*liberté de tester*), as opposed to the obligatory partible inheritance imposed by the Napoleonic Code.

with abstract justice, but it was contrary to liberty: 'The public good requires that not everyone continually has his fortune to make, and that there are independent, strong and stable individual situations, capable of keeping central power at bay.'⁴⁸

In short, demands for a restoration of the territorial aristocracy, defended by the royalists of the Restoration period as a cure for the French predicament, knew a certain revival in liberal circles of the 1850s and 1860s. Legitimist and even Bonapartist authors also contributed to this revival. L. Rupert, a Catholic legitimist, published his *Lettres sur l'aristocratie et la propriété* in 1855, in which he pleaded for the necessity of an aristocracy to limit sovereignty and stressed that entailments were necessary.⁴⁹ Alfred Nettement, a talented legitimist journalist and historian, devoted much attention to the debate about primogeniture in his history of the Restoration period, and argued that the failure to abolish the law of equal division was to a large extent responsible for the political upheaval which had confronted France since the Restoration period.⁵⁰ The titles of a number of books published in the 1850s and 1860s are also telling: J.-M. Soubdès published *La noblesse française en 1858. Nécessité de la réconstituer sur de nouvelles bases* (1858); Anatole de Barthélemy wrote *De l'aristocratie au XIXe siècle* (1859), while an anonymous brochure entitled *Réorganisation de la noblesse* was published in 1862.

Nevertheless, there was also much criticism of the demand for an aristocratic restoration in the liberal camp, even from those sympathetic to the principles defended by a writer like Montalembert. Charles de Rémusat, for instance, was a committed Anglophile, who described the English model as 'the best European solution to the problem of political liberty'.⁵¹ He regretted the historical weakness of the aristocratic element in France as having encouraged the growth of absolutism.⁵² But Rémusat denied all the same that the restoration of a territorial aristocracy was a viable strategy in France. For this reason, he was critical of the general belief in the antagonistic nature of liberty and democracy. If an aristocracy was truly necessary

⁴⁸ *Ibid.*, p. 565: 'Il importe à la chose publique que tout le monde n'ait pas toujours sa fortune à faire, et qu'il y ait des situations personnelles indépendantes, fortes et stables, capables de tenir tête au pouvoir central.'

⁴⁹ L. Rupert, *Lettres sur l'aristocratie et la propriété* (Paris, 1855).

⁵⁰ Alfred Nettement, *Histoire de la Restauration* (Paris: Jacques Lecoivre, 1869, 8 vols.), VII, pp. 284–308.

⁵¹ Charles de Rémusat, *L'Angleterre au dix-huitième siècle. Etudes et portraits pour servir à l'histoire du gouvernement anglais depuis la fin du règne de Guillaume III* (Paris, 1856), p. ix: 'la meilleure solution européenne du problème de la liberté politique'.

⁵² Charles de Rémusat, *Politique libérale ou fragments pour servir à la défense de la révolution française* (Paris, 1860), pp. 164–203.

to liberty, as many politicians claimed, this condemned democratic France, and all other modern societies, to servitude.⁵³

A more extensive critique on these ideas was formulated by Charles Franquet de Franqueville, a minor politician and a self-appointed specialist in English civilization, who in 1863 published *Les institutions politiques, judiciaires, et administratives de l'Angleterre*. Franqueville pointed out that most French authors writing on England had attempted to prove that the country was free only because it was not democratic: 'they even add that those two principles are incompatible'.⁵⁴ Franqueville himself, however, believed that English liberty was unconnected to the aristocratic nature of that society. On the contrary, in his view, England was a truly democratic society.⁵⁵ He repeated this argument in another book: 'It has been repeated ad nauseam that, if England had possessed liberty, it was at the price of equality: nothing is more inexact; the truth is, on the contrary, that England has known equality long before the nations of the continent.' Privilege was unknown in England, Franqueville explained; the peerage did not constitute a separate caste, because anybody could be elevated to the Lords on the basis of merit.⁵⁶

Even Montalembert himself made clear, at the end of *De l'avenir politique de l'Angleterre*, that English aristocratic liberty was not a suitable model for France. A democratic nation, France had lost all the vestiges of an aristocracy, and it would never be able to recover them. In the long term, moreover, the aristocratic system would disappear in England as it had done on the Continent.⁵⁷ In Montalembert's view, this was no reason to despair. English liberty would continue to exist even after the demise of its nobility, because the aristocratic spirit of independence had permeated the whole of English society. More than any other nation, Englishmen respected the opinions of other people; the majority was never out to suppress the minority. Individuals were prepared to resist the will of the masses. A certain amount of eccentricity, an aristocratic trait, was held in high esteem in England. This spirit of independence and openness was in Montalembert's view the best guarantee for liberty. He therefore concluded

⁵³ Charles de Rémusat, 'Démocratie et liberté à propos de quelques ouvrages récents', *Revue des deux mondes*, 116 (1863), 634.

⁵⁴ Charles de Franqueville, *Les institutions politiques, judiciaires, et administratives de l'Angleterre* (Paris, 1864), p. 7: 'ils ajoutent même que ces deux principes sont incompatibles'.

⁵⁵ *Ibid.*, pp. 3–37.

⁵⁶ Charles de Franqueville, *Le gouvernement et le parlement britanniques* (Paris, 1896), quote p. 29: 'On a répété à satiété que, si l'Angleterre avait possédé la liberté, c'était aux dépens de l'égalité: rien n'est plus inexact; la vérité est, au contraire, que l'Angleterre a connu l'égalité bien avant les nations du continent.'

⁵⁷ Montalembert, *De l'avenir*, pp. 230–262.

his book by arguing that continental nations should attempt to adopt an aristocratic spirit rather than resurrecting the territorial aristocracy.⁵⁸

A few years later, however, as the Second Empire continued to exist, Montalembert became more pessimistic about the possibility of liberty on the democratic Continent. In the introduction to his *Discours*, published in 1860, he expressed his feeling of desperation in light of the political developments in France. It had always been his goal, he wrote, to establish the limits of power the state could legitimately exercise over its citizens, to fight against the progress of bureaucracy and democracy, which tended to reduce Europe to the level of a despotic nation such as China. But after 1848 and 1852 he had begun to think that these goals would be for ever unattainable. France had become ever more equalized instead of more free. Society had been atomized, pulverized by 'the relentless hammer' of democratic centralization. The numerical majority had become all-powerful, and guarantees for liberty and dignity of human intelligence had disappeared – for ever, as it seemed.⁵⁹

THE DEBATE ABOUT DECENTRALIZATION: ODILON BARROT AND VICTOR DE BROGLIE

Similar concerns about the levelled condition of French society were also expressed in the vigorous debate about decentralization which took place in the 1850s and 1860s. In 1848–1849, as we have seen, the issue of decentralization was put once more on the political agenda by a coalition of liberal and legitimist decentralizers. But it was especially after the establishment of Napoleon III's regime that the cause of decentralization, which turned into a rallying cry for all opponents of the Second Empire, became a major political topic. To its liberal and legitimist defenders, decentralization offered first and foremost a means of social reform. They hoped, as many publicists of the Restoration period had done, that decentralization would restore the connections between atomized individuals, and that it would allow the growth of a natural elite, without requiring the imposition of a landed nobility as it existed in England.⁶⁰

⁵⁸ *Ibid.*, pp. 262–276.

⁵⁹ Charles de Montalembert, *Discours de M. le comte de Montalembert* (Paris, 1860, 4 vols.), I, pp. i–xxvi: 'l'impitoyable marteau'.

⁶⁰ But compare Sudhir Hazareesingh, *From subject to citizen. The Second Empire and the emergence of modern French democracy* (Princeton: Princeton University Press, 1998), who argues that the debate about decentralization was mainly important for the growth of a civic ideology. In the chapter about liberal decentralizers, however, Hazareesingh admits that their views were also influenced by a certain 'paternalism', see p. 222.

This appears clearly, for instance, from Odilon Barrot's brochure *De la centralisation et de ses effets* (1861), which was to have an important impact on the founding fathers of the Third Republic.⁶¹ We have already seen that Barrot prefaced his brochure with a harangue against the republican conception of liberty, and that he expressed the conviction that French liberty could only be safeguarded if checks and balances were restored. In Barrot's view, decentralization was obviously the best way of doing so. He developed a very dismal view on the centralized political system under which the French had lived since the Revolution. It had a detrimental effect on *moeurs*; it had engendered the class hatred that had become visible with the rise of socialism; and it was responsible for the continued instability of the French state.

In contrast, Barrot's book evinced a certain nostalgia for the traditional, hierarchical society of the Old Regime. Although the absolute monarchy had worked hard to dissolve all resisting forces in society,⁶² some remnants of the institutions of the Middle Ages had survived throughout the Old Regime. But the National Assembly had made *tabula rasa* of these last obstacles: the independence of the clergy, the privileges of the nobility, the municipal corporations, the syndicates, the provincial orders, the *parlements*, had all disappeared, while central power had continued to grow.⁶³ Napoleon completed this work by destroying everything left of individual independence. As a result, French society had become 'individualized'; the state alone was powerful.

Barrot did not believe that a return to the society of the Old Regime was an adequate response to this problem, but he made clear that it should be replaced by 'another organization more in harmony with our egalitarian *moeurs*'.⁶⁴ As he wrote in his conclusion: 'For the individual to become a force in the state, that is to say for his rights to be respected, for his natural energy to be unrestricted, he should not remain isolated, because otherwise the State will crush and absorb him inevitably. Therefore individual forces need to be grouped together and these different groups need to be linked, so that, according to M. Royer-Collard's well-put expression, one cannot strike one part of this whole without eliciting moans from the others. Our society had an organization before 1789. That organization has been shattered. I am far from recommending we re-establish it; I have already said that I do not believe in resurrections. But however democratic this society is, does it not offer us natural links which centralization might

⁶¹ On Barrot's importance in the decentralist movement, see Burdeau, *Liberté*, pp. 137–162.

⁶² Barrot, *De la centralisation*, p. 47. ⁶³ *Ibid.*, p. 49. ⁶⁴ *Ibid.*, p. 93.

have loosened, but which it has not completely destroyed? These should be strengthened.’⁶⁵

This implied in the first instance that the family, the basic unit of each society, needed to be strengthened. Like Nefftzer, Barrot pleaded for the re-establishment of the *liberté de tester*, arguing that a father should be able to leave all his possessions to one child, to protect the family property. He emphasized that this was necessary in the interests of both liberty and stability, as property conferred individual independence and stimulated at the same time an interest in order, which made it into an excellent fundament for regular government.⁶⁶ But above all, the local community, which Barrot described as an extended family, should be revitalized, by having the mayor and the president of the general council elected. This would bring about the necessary reform of French society. ‘Our social edifice, so often and so easily knocked down, surely is greatly in need of being consolidated’, Barrot commented; ‘But the building blocks are within easy reach; it is not necessary to borrow them from other countries or other times; all that is required is a little intelligence to recognize them and some good will to employ them usefully.’⁶⁷

The themes developed by Barrot were repeated in another important contribution to the liberal decentralist discourse, Victor de Broglie’s *Vues sur le gouvernement de la France* (1870). Unlike Barrot, Broglie belonged to the doctrinaire faction that had come to power with the July Revolution. He had been prime minister at the beginning of Louis-Philippe’s reign, and he continued to be one of the most influential political figures of the July Monarchy. The *Vues sur le gouvernement de la France*, his first and only political treatise, was written in 1860 to criticize the imperial regime and to plead for a restoration of the parliamentary government. Confiscated by the police upon its first publication, it was issued posthumously by Broglie’s son, a few months after the author’s death in 1870. The brochure

⁶⁵ *Ibid.*, p. 208: ‘Pour que l’individu devienne une force dans l’Etat, c’est-à-dire pour que ses droits soient respectés, que son énergie naturelle ne soit pas entravée, il ne faut pas qu’il reste isolé, sans quoi l’Etat l’écrase et l’absorbe inévitablement. Il faut donc grouper les forces individuelles et relier ces différentes groupes, de manière à ce que, selon la belle expression de M. Royer-Collard, on ne puisse frapper une des parties de cet ensemble sans que les autres rendent un long gémissement. Notre société avait une organisation avant 1789. Cette organisation a été brisée. Je suis bien loin de conseiller de la rétablir; j’ai déjà dit que je ne croyais pas aux revenants. Mais tout démocratisée que soit cette société, ne nous offre-t-elle pas des liens naturels que la centralisation peut avoir relâchés, mais qu’elle n’a pas entièrement détruits? Il s’agit de leur donner de la force.’

⁶⁶ *Ibid.*, p. 210.

⁶⁷ *Ibid.*, p. 225: ‘Notre édifice social, tant de fois et si facilement renversé, a sans doute grandement besoin d’être consolidé. Mais les matériaux sont là sous notre main; il n’est pas nécessaire de les emprunter ni à d’autres pays, ni à d’autres temps; il suffit d’un peu d’intelligence pour les reconnaître et de bonne volonté pour les employer utilement.’

went through two editions and it had, like Barrot's brochure, a considerable influence on the founding fathers of the Third Republic.⁶⁸

A considerable part of Broglie's brochure was devoted to a discussion of the institutional reforms that would be necessary to re-establish a liberal political regime in France. Broglie advocated a political system in which a strong executive (either a monarch or a president elected by the legislative) shared power with a bicameral legislature. However, he believed that a new constitution would not solve all the problems of the French, as was proved by the successive failure of all governments since 1789. At least as important was the problem of the levelled social condition of France, engendered by the rise of democracy and centralization. Broglie described French society as 'a population levelled to the ground, and reduced to individual dust'.⁶⁹ Decentralization, rather than institutional reforms, was the only way to counter this problem. Indeed, Broglie believed this issue to be of such crucial importance that he devoted over half of his book to a discussion of the necessary administrative reforms.

Like Barrot, Broglie believed that decentralization would alleviate the atomized condition of French society by re-establishing connections between individual citizens. 'The French territory,' he wrote, 'instead of being, as is at present the case, pulverized into individuals – individuals without connections, without cohesion, without personal resistance – into individuals who are carried away by the wind, one by one, like so many strands of straw, would find itself covered with collective beings, – animated beings, full of life and sap, full of activity and spirit – beings infinitely diverse in size, in power, ranging from dwarfs to giants, from Paris to the most humble commune – beings which central power would always have to take into account, without its direct impact on the citizens, where the rights of the State, the general interests of society are concerned, being either diminished or even altered.'⁷⁰

⁶⁸ On Broglie's brochure and its importance in the context of the constitutional debates of 1870–1875, see Jean-Pierre Machelon, 'Victor de Broglie et les *Vues sur le gouvernement de la France*' in *Coppet, creuset de l'esprit libéral. Les idées politiques et constitutionnelles du groupe de Madame de Staël. Colloque de Coppet, 15 et 16 mai 1998*, ed. Lucien Jaume (n.p.: Economica, 2000), pp. 187–198.

⁶⁹ Victor de Broglie, *Vues sur le gouvernement de la France*, pp. I–lxxv, quote p. v: 'une population nivelée jusqu'au sol, et réduite en poussière individuelle'.

⁷⁰ *Ibid.*, p. 61: 'La territoire de France, au lieu d'être, comme à présent, pulvérisée en individus, – en individus sans liens, sans cohésion, sans résistance personnelle, – en individus que les vents enlèvent, tour à tour, comme autant de brins de paille, se trouverait couverte d'êtres collectifs, – d'êtres animés, pleins de vie et de sève, pleins d'activité et d'entrain – d'êtres infiniment divers en grandeur, en puissance, depuis le nain jusqu'au géant, depuis Paris même jusqu'à la plus humble commune, – d'êtres avec lesquels le pouvoir central serait, sans cesse, obligé de compter, sans que son action directe sur les citoyens, en ce qui concerne les droits de l'Etat, les intérêts généraux de la société, fût ni réduite, ni même altérée'.

Furthermore, Broglie hoped – echoing Barante in this respect – that decentralization would re-create a local elite in France. He was highly critical of the fact that the existing, centralized administrative system had disconnected the administration from the local notability. The provinces were ruled by a Parisian elite, not by indigenous officials. Local public functions were not transmitted from one generation to another; rather, they were exercised by careerists who had little or no connection with the community they supervised. To solve this problem, public servants such as the prefects should be elected by local notables. By putting them under the control of their peers, they would become an elite; and the ‘bureaucratic equality’, which made public servants ‘docile or raucous instruments of tyranny or anarchy’ would end.⁷¹ Thus, decentralization would create a level between the government and the individual citizens, and temper the ‘dropsical omnipotence’ of the government.⁷²

The enthusiasm for decentralization as a means for social reform, evinced by Barrot and Broglie, was widespread not just in liberal circles of the 1850s and 1860s, but also among the legitimists.⁷³ The call for decentralization became the centrepiece of a common liberal–legitimist programme, in which the *grands notables* attempted to chip away at aspects of the imperial system that denied them political liberty and access to real power within the administration. In 1865, a group of local officials in the east led by the Orléanist Alexandre de Metz-Noblat, drew up a cautious programme for decentralization – the Nancy Programme – which was signed by nineteen local notables representing a cross-section of the local elite, and which engendered nationwide interest in decentralization. The final draft was published along with fifty-eight letters of support from influential and nationally known members of the opposition, including Orléanists and legitimists.⁷⁴

In the end, however, the optimistic hope that decentralization would be able to repair all the problems of French society did not survive the dramatic turn of events in 1870–1871, when the catastrophic Franco-Prussian War and especially the calamitous Paris Commune followed shortly upon one another.⁷⁵ In 1895, Victor de Broglie’s son Albert, who had been, like his

⁷¹ *Ibid.*, pp. 180–181: ‘l’égalité bureaucratique . . . instruments dociles ou brailleurs de la tyrannie ou de l’anarchie’.

⁷² *Ibid.*: ‘l’omnipotence hydropique’.

⁷³ See Burdeau, *Liberté!*, pp. 137–162, for an overview of the decentralist argument in this period. More specifically on the legitimist argument, see Steven D. Kale, *Legitimism and the reconstruction of French society 1852–1883* (Baton Rouge and London: Louisiana State University Press, 1992), pp. 89–134.

⁷⁴ Kale, *Legitimism*, pp. 113–114.

⁷⁵ As is pointed out by Hazareesingh, *From subject to citizen*, pp. 227–232.

father, an enthusiastic defender of decentralization, retracted his earlier beliefs in a remarkable passage in his memoirs. 'The question we have never really confronted', he wrote:

was to discover whether, when a great revolution has made a clean sweep of local, communal, and provincial institutions, . . . these could be replaced arbitrarily by new ones that have no roots, and whether, in a word, when a body has lost its joints and the energy of its muscles, forcible constraint is not the only way to keep it upright. Unfortunately, this is what experience has taught me to believe.⁷⁶

CHARLES DUPONT-WHITE'S CRITICISM

So far, it has become clear that the mindset of Second Empire liberals was deeply influenced by aristocratic liberalism. Writers such as Tocqueville and Barante condemned the revolutionary legacy of egalitarianism as being incompatible with liberty. Concerns about the levelled condition of French society led political thinkers such as Montalembert to depict England, with its strong territorial aristocracy, as a model for the French, in much the same way as the royalists had done. Likewise, liberals such as Broglie and Barrot hoped, as many liberals of the Restoration period had done, that decentralization would alleviate the atomized condition of French society. Underlying this discourse was a highly critical view of the rise of modernity, which was held responsible for this atomization and the creation of the centralized, bureaucratic state. This criticism could easily give way to a despondent acceptance of the illiberal nature of modern, and especially French society.

As in the Restoration period, however, the ideals of aristocratic liberalism were occasionally criticized as attempts to return to an anachronistic society. In 1865, for instance, the publication of the Nancy Programme was denounced by Bonapartists and republicans as an endeavour to restore the Old Regime. Although the reforms proposed in the Programme were far from radical, the regime immediately suspected that the *grand notables* were trying to recapture the social predominance Napoleon III had denied them. Newspapers loyal to the regime denounced the Nancy Programme as a monarchist effort to re-establish the influence of the aristocrats, who wanted to turn France over to a clique of local oligarchs ensconced in the general councils. *Le Siècle* treated the programme as a ploy by nobles to regain control over public life, while the republican *L'Opinion nationale*

⁷⁶ Quoted in *ibid.*, p. 232.

accused the Orléanist liberals of serving royalist plans to restore catholic, corporatist France.⁷⁷

However, a new element was added to the anti-aristocratic discourse by Charles Dupont-White in his political treatises of the 1860s, and in particular in his *La liberté politique considérée dans ses rapports avec l'administration locale* (1864). Dupont-White was the son of a devout and somewhat eccentric legitimist, but he rejected his father's political beliefs early in his life. He participated with enthusiasm in the July Revolution of 1830, and again in the revolution of 1848, when he was a member of Louis Blanc's short-lived Commission de gouvernement pour les Travailleurs. Dupont-White's political career ended, however, with Napoleon's *coup d'état*, and he remained violently opposed to the imperial regime. Until the late 1860s, when the imperial regime restored press freedom, he refused to comment on the virtues of the Second Empire on the grounds that he was not at liberty to criticize its vices.⁷⁸ In many respects a typical member of the liberal opposition to Napoleon III, Dupont-White nevertheless developed a highly original view on politics, defending modern, atomized society and the centralized state against the criticism of both *laissez-faire* and aristocratic liberalism.

Dupont-White's first two volumes, *L'individu et l'état* (1857) and *La Centralisation* (1860), both of which were twice reprinted, were written in response to the *laissez-faire* ideal of publicists such as Laboulaye. Dupont-White concentrated in particular on the argument that big government endangered the economic and social development of society. Proponents of *laissez-faire* (whom Dupont-White described as 'individualists') believed that every intervention of the state was an injury to progress, and that the elimination and even abolition of the state was the supreme good that all nations should struggle to reach. However, this view was plainly absurd. History taught that state growth was a normal feature of all progressive societies. The state was often the initiator of improvements. Countries in which authority did not become a public power were usually stationary. A strong central government was in other words indispensable for the continued progress of France.⁷⁹

Dupont-White changed his focus of attack in *De la liberté politique considérée dans ses rapports avec l'administration locale* (1864), in which he

⁷⁷ Kale, *Legitimism*, pp. 113–115.

⁷⁸ On Dupont-White's life and doctrine, see Sudhir Hazareesingh, 'A Jacobin, liberal, socialist, and republican synthesis: the original political thought of Charles Dupont-White (1807–1878)', *History of European Ideas* 23 (1997), 145–171.

⁷⁹ Charles Dupont-White, *L'individu et l'état* (Paris, 1865), pp. I–lxiii.

criticized the decentralist discourse. He started out by discussing the ideas underlying the enthusiasm for decentralization in the 1850s and 1860s. Many of his contemporaries, he wrote, were convinced that liberty was impossible in an atomized nation, where nothing but individuals existed in the face of the state. They believed that it was necessary to create 'intermediary bodies' between state and individuals to temper the power of the former. This view, Dupont-White explained, was an inheritance of the monarchical past of the French, in which the executive power was predominant. 'We are still looking for ways in which we could place, in our present society, constituted and quasi-sovereign bodies, collective and important entities, to diminish the State, to assure the nation's rights, which appear so weak, so menaced in the person of the individual.'⁸⁰

While such intermediary powers had existed in abundance in the Old Regime, in the shape of privileges accorded to all sorts of corporations and particular persons, they had been destroyed in 1789. Most of his contemporaries recognized, Dupont-White commented, that they could no longer be restored in a society characterized by 'equality, that intoxication of the times in which we live'.⁸¹ However, there seemed to be one important exception to that rule: the local communities, the departments and communes. Unlike the privileged orders, these corporations did not harm equality and were compatible with post-revolutionary social conditions. For this reason, Dupont-White explained, all attempts to find 'a support' ('un appui') against despotism had concentrated on the local communities, 'where we believe we can see the substance, the virtue of those intermediary powers which seem absent from modern society'.⁸²

But this solution was a mistaken one, Dupont-White believed, and his book set out to disprove the idea that decentralization was indispensable for the preservation of liberty in France. In doing so, he developed an argument that provided a critical assessment not just of the decentralization debate, but of the entire intellectual tradition inspired by Montesquieu's *Esprit des lois*. Dupont-White developed three different arguments against the decentralist discourse. First, he argued that the particular examples proffered by the advocates of decentralization, such as the English example, did not warrant an identification of liberty and decentralization. Second,

⁸⁰ Charles Dupont-White, *De la liberté politique considérée dans ses rapports avec l'administration locale* (Paris, 1864), p. 4: 'Nous en sommes encore à chercher ce que nous pourrions bien mettre, dans la société actuelle, de corps constitués et quasi souverains, d'êtres collectifs et imposants, pour diminuer l'Etat, pour assurer le droit national qui paraît si chétif, si menacé dans la personne de l'individu.'

⁸¹ *Ibid.*, p. 5: 'l'égalité, cette ivresse des temps où nous vivons'.

⁸² *Ibid.*: 'où l'on a cru apercevoir la substance, la vertu de ces pouvoirs intermédiaires qui semblent absents de la société moderne'.

he attempted to show that the increasing centralization of the French state had been beneficial to liberty rather than otherwise. Third, he developed a highly original theory to demonstrate that a modern, atomized society, far from being left without protection against despotism, created its own counter-weights to protect the liberty of individual citizens.

In Dupont-White's view, the English example, often invoked by decentralizers, did not prove in the least that decentralization would benefit liberty.⁸³ While he conceded that local communities had a level of independence in England that did not exist in France, he believed that this difference depended on the specific nature of the English 'race'. Anglo-Saxons were individualists, Latin races were centralizers by nature. If, in France, local communities were given more independence, they would just have a tendency to over-regulate within their own little sphere. Moreover, local self-government depended on the existence of a powerful aristocracy. In France, this aristocracy was lost for ever. It had been abused by both monarchy and Third Estate, and laws such as the equal division of property had contributed to its disappearance. The French people, driven by a passion for equality, would not accept being ruled by the richest among them.

Dupont-White also disagreed with the idea that English municipalities were a counter-force against central government. The aristocracy that ruled over the local communities, he explained, also ruled the English state. The English administration was supervised by a small and close-knit caste, on both the national and the local levels. Such a caste could control the administration much more effectively than even an absolute monarchy. While the monarch's servants might betray him or serve him badly, an aristocracy was kept together by the spirit of caste. Far from being an example of a decentralized country, English administration was organized on the principle of the 'most far-reaching centralization one could conceive'.⁸⁴ This reasoning allowed Dupont-White to criticize the arguments of aristocratic liberals such as Montalembert, while agreeing at the same time with them that England and its aristocracy were admirable models.

More importantly, however, Dupont-White also attempted to refute the decentralist argument on a theoretical level, by claiming that the centralization of power increased liberty rather than otherwise. The provincial liberties and privileges which had existed under the Old Regime, he argued, had harmed liberty because they had used their power and independence

⁸³ *Ibid.*, pp. 7-74.

⁸⁴ *Ibid.*, p. 68: 'centralisation le plus accompli que l'on puisse concevoir'.

only for their own interests and those of their members. By abolishing these privileges and corporations, the absolute monarchy and the Revolution had helped to institute a more equal and free state, rather than despotism.⁸⁵ While it was true that central power had been fortified by the Revolution, individual liberty had benefited no less. The individual citizens of the post-revolutionary state did not remain defenceless and isolated against central power, because the Revolution had constituted the sovereign nation to protect individuals' rights. Compared to the Old Regime, the situation in France had ameliorated, not deteriorated: 'What should one wish for a society? Rights here and there belonging to bodies, localities, rights organized and armed as public powers? Or right everywhere, equal rights for everyone, with, as agent and guarantee, the nation itself, sovereign and represented?'⁸⁶

Of course, it was possible that modern government might abuse the power delegated to it by the nation. But this was no reason, Dupont-White argued, to think that liberty remained without guarantees in a centralized state. The nation could always rebel, as it had done in 1830, which was a much better protection against liberty than counting on the resistance of the privileged elites, who had, after all, been easily suppressed by the monarchy. Moreover, even in an atomized, individualized society, a powerful barrier against the abuse of government power remained in existence: public opinion.⁸⁷ Defined as 'the agreement of spirits on all things that interest people', public opinion was an active force that had the power to encourage men to action.⁸⁸ In modern, levelled societies, Dupont-White pointed out – reiterating a view that had been developed during the Restoration period by publicists such as Charles de Rémusat and Pierre-Paul Royer-Collard⁸⁹ – it was the only counterforce against state power. If the English queen were to attempt to reign arbitrarily like the Tsar, she would be resisted by opinion and not by the local municipalities.

In Dupont-White's view, public opinion was above all an important force in France, where society was more levelled, and where sociability was more expanded than in any other country. French political liberty did not depend on the existence of castes or privileges, on 'such or such particular and physical force', but on opinion, 'a general and moral force'.

⁸⁵ *Ibid.*, pp. 192.

⁸⁶ *Ibid.*, p. 275: 'Que faut-il souhaiter à une société? Des droits ça et là parmi des corps, des localités; droits organisés et armés en pouvoirs publics? Ou bien le droit partout, droit égal pour chacun, avec un organe et une garantie telle que la nation elle-même, souveraine et représentée?'

⁸⁷ *Ibid.*, pp. 279–306.

⁸⁸ *Ibid.*, p. 279: 'l'accord des esprits sur toute chose qui intéresse les hommes'.

⁸⁹ See above, chapter 5.

'Either liberty has that basis among us, or it has none', Dupont-White emphasized.⁹⁰ Or as he wrote elsewhere:

Thus the particular forces which composed ancient society or rather which guarded the privileges of old have perished everywhere; they have perished more completely in France, more visibly than anywhere else: there is all the difference; even the debris has disappeared among us. To replace these forces and the work they did, public opinion appeared, substituting for the *esprit de corps* in the same way that public law replaced privilege, and that public services succeeded castes.⁹¹

According to Dupont-White, the power of this counter-force had been increased rather than otherwise, by the growth of the modern, centralized state. Developing a theory that anticipated in many respects Jürgen Habermas' views on the rise of the public sphere,⁹² he argued that the intellectual and social activity taking place in the capital of a centralized country created an authority distinct from the government (and therefore private), which had, at the same time, an important impact on the public domain: 'Here the private shows itself, under the form of the capital, as an authority which is not public, which has no official right to govern ideas, taste, fashion, politics, but which governs all that, imperious and obeyed.'⁹³ In this sense, by contributing to the concentration of the force of public opinion, centralization created its own counter-forces that were capable of keeping the central government in check.

In sum, Dupont-White's *De la liberté politique* provided a comprehensive and intellectually ambitious attack on the aristocratic liberalism inspired by Montesquieu. In his view, the critique by aristocratic liberals of the levelled condition of French society was wrong-headed. Modern, atomized society was no more prone to the danger of despotism than a society in which corporations and privileged bodies had posed barriers against government. On the contrary, while those bodies had often limited the freedom of

⁹⁰ *Ibid.*, p. 298: 'à telle force particulière et physique . . . une force générale et morale . . . Ou la liberté a cette base parmi nous, ou elle n'en a aucune.'

⁹¹ *Ibid.*, p. 301: 'Ainsi les forces particulières qui composaient l'ancienne société ou plutôt qui gardaient les privilèges d'autrefois ont péri partout; elles ont péri en France plus expressément, plus visiblement que partout ailleurs: voilà toute la différence; les débris mêmes en ont disparu parmi nous. A la place de ces forces et pour l'oeuvre qu'elles faisaient a paru l'opinion publique, remplaçant l'esprit de corps au même titre que le droit commun remplaçait le privilège, et que les services publics succédaient aux castes.'

⁹² Jürgen Habermas, *The structural transformation of the public sphere. An inquiry into a category of bourgeois society*, trans. Thomas Burger with the assistance of Frederick Lawrence (Cambridge, MA: The MIT Press, 1991).

⁹³ Dupont-White, *De la liberté politique*, pp. 252–253: 'Ici le privé se montre, sous forme de capitale, une autorité qui n'est pas publique, qui n'a pas titre d'office pour gouverner les idées, le goût, la mode, le sens politique, mais qui gouverne tout cela, impérieuse et obéie.'

individuals, modern states guaranteed the rights of all. The centralized state was undoubtedly more powerful than its predecessor from the Old Regime, but this did not mean that it lacked barriers. Modern bureaucratic states were limited by the power of public opinion, a force that sprang from individuals themselves: 'Just as the individual is the social substance, the beneficiary of all advantages and of all honour which a progressive society reaps, the inheritor or the judge of all powers which belonged to ancient forces, . . . he is the guardian and the champion of these novelties'.⁹⁴

Dupont-White's book shows that it was possible for liberals to adopt a critical attitude towards Montesquieu's legacy. But in a sense, his position, and in particular the lack of resonance which his arguments had, highlight the predominance of aristocratic liberalism in the Second Empire even more markedly than the intellectual ingenuity of its propagators did. Although his writings achieved considerable recognition for their originality during his lifetime, Dupont-White essentially remained an isolated thinker within the liberal movement. While his writings can be seen, in Hazareesingh's words, as 'a gentle warning against the dilapidation of the existing intellectual heritage of Jacobinism',⁹⁵ he did not succeed in convincing many of his contemporaries of the value of that legacy. In retrospect, his books seemed to many an anticipation of socialism and its positive evaluation of the state, rather than being representative of the liberalism of the 1850s and 1860s.⁹⁶

⁹⁴ *Ibid.*, pp. 336–354, quote p. 351: 'De même que l'individu est la substance sociale, le bénéficiaire de tous les avantages et de tout l'honneur que récolte une société progressive, l'héritier où le juge de tous les pouvoirs qui appartenaient aux anciennes forces, . . . il est le gardien et le champion de ces nouveautés'.

⁹⁵ Hazareesingh, 'Dupont-White', p. 163. ⁹⁶ *Ibid.*, p. 145.

Epilogue

In 1870, the armies of the Second Empire were defeated by the Prussian military at Sedan. While Napoleon III was held captive by the Prussians, a provisional government was appointed. In 1871, with Paris still under siege by the Prussians, a civil war broke out – the Paris Commune – which was struck down with violence by the new government. In this atmosphere of emergency and crisis, a National Assembly was elected to frame a new constitution, which would replace the defunct imperial institutions. The choice between monarchy and republic was the first problem with which the Assembly was confronted. At first, it seemed as if a restoration of the monarchy was unavoidable. Loyalists to the Count de Chambord, pretender to the throne of France since 1830, had the upper hand in parliament. But Chambord's intransigence concerning the tricolour gave the advantage to the republicans, who were also gaining electorally in the by-elections. As a result, the restoration of the monarchy failed, and the constitution of 1875 instituted the Third Republic, which would continue to exist until 1940.¹

The constitution of the Third Republic clearly showed the distrust of its framers *vis-à-vis* popular democracy. Although the Chamber of Deputies was chosen by universal suffrage, it was checked by a strong executive and a conservative Senate. The president of the Third Republic was appointed by both chambers for seven years, so as to represent the continuity and stability of the executive power as compared to the four-year tenure of the Chamber. So, too, the Senate was intended to guarantee both continuity of tenure and constitutional security for the conservative forces. It was to represent the 'notables' of the provinces, chosen through indirect election by electoral colleges in which each local community was equally represented regardless of its population. This device placed, as it was meant to do, preponderant

¹ The following is based on David Thomson, *Democracy in France. The Third Republic* (Oxford: Oxford University Press, 1946), pp. 75–115. A more detailed account of the deliberations of the National Assembly is to be found in Daniel Halévy's *La fin des notables* (Paris, 1937, 2 vols.), in particular in the second volume *La république des ducs*.

power in the hands of the small villages, and over-represented rural France as against the big towns. Moreover, the conservative role of the Senate was emphasized by the fact that each senator was to sit for nine years.

Under the influence of the growing republican majority, however, the Third Republic soon became a far more popular regime than the framers of the constitution of 1875 had bargained for. In 1884, the electoral basis of the Senate was overhauled by the republicans. The balance between rural and urban power was changed by giving larger communes much greater weight in the electoral colleges than small communes. If the Senate remained an obstacle to many measures passed by the more radical Chamber, it failed to act as the powerful check which the founding fathers of the Third Republic had hoped it would be. At the same time, the executive showed itself increasingly powerless in the face of the Chamber of Deputies, as it came to depend on parliamentary majorities which were usually formed of unstable coalitions. Between 1875 and 1879, the Third Republic became a parliamentary republic, with the centre of gravity of power lying inside the elected assemblies, rather than in the executive. In turn, popular control over the legislative was quite considerable, as deputies came to act more and more as the representatives of their constituency and specific interest groups rather than as defenders of the national interest.

As the Third Republic was transformed into the 'apogee of political democracy'² in political and institutional terms, a similar development took place in the ideological outlook of the ruling classes in France. In 1875, the founding fathers of the Third Republic had been ideologically committed to representative government as a model different from real democracy. They distinguished the sovereignty of the nation from that of the people, and started from an elitist conception of parliamentary rule.³ But with the democratization of the regime, a new generation of political leaders came to power, which was committed to republican ideals in their purest form. The republican doctrine of civil and political equality became the dominant view on French citizenship after 1884. The doctrine of national sovereignty was replaced with a more straightforward adherence to popular sovereignty. Although the new republican political culture retained some elements of the elitist model defended by the founding fathers of the Third Republic, it was nevertheless far more democratic than the constitutional monarchies of 1814 and 1830, or the Second Empire, had been.⁴

² Steven Englund, 'Le théâtre de la Démocratie française' in *Une histoire de la démocratie en Europe*, ed. Antoine de Baecque (Paris: Le Monde, 1991), p. 125.

³ Pierre Rosanvallon, *La démocratie inachevée: histoire de la souveraineté du peuple en France* (Paris: Gallimard, 2000), pp. 243–270.

⁴ Serge Berstein, 'Le modèle républicain: une culture politique syncrétique' in *Les cultures politiques en France*, ed. Serge Berstein (Paris: Seuil, 1999), pp. 113–143.

It might seem plausible to surmise that the political and ideological victory of democracy spelled the end of aristocratic liberalism in France, and that this intellectual tradition lost its relevance in the context of the Third Republic. Compared to the central place which the tropes of aristocratic liberalism occupied in the political debate of the Second Empire, when they were used to support many of the criticisms levelled against the imperial regime, it is certainly true that this mode of thinking became more marginalized after 1875. Nevertheless, aristocratic liberalism did not wholly disappear in the context of the Third Republic. The dictatorship of the Second Empire, which was still a vibrant memory during the last decades of the nineteenth century, as well as the upheaval of the Paris Commune, were attributed by many to the evils of 'democracy' both social and political. At the same time, the humiliating defeat at Sedan, by the hands of an army that was still largely under the control of the Prussian nobility, encouraged a deep pessimism over the future of the French state, which likewise contributed to a critical judgment on democracy.

This is noticeable in particular in the writings of Hippolyte Taine, one of the most influential French intellectuals of the late nineteenth century. His experience of Napoleon's populist dictatorship (he was dismissed from his job as a university professor after refusing to express public gratitude to the emperor) and the defeat of the French armies in 1870 had made Taine into a committed opponent of democracy. In 1872, he expressed his admiration for aristocratic English society in his *Notes sur l'Angleterre*.⁵ But it was, in particular, in his monumental achievement *Origines de la France contemporaine*, which appeared between 1875 and 1893, that the themes of aristocratic liberalism were explored.⁶ In this book, he explained the existing constitution of France by studying the more immediate causes of the present state of affairs, starting from the last years of the Old Regime. Although the *Origines* has been described as 'the great book of the French reaction',⁷ and although it had a considerable influence on right-wing thinkers such as Barrès and Maurras, Taine's essentially liberal inspiration remains undeniable.

More specifically, Taine's book was deeply influenced by Alexis de Tocqueville's *L'Ancien Régime et la Révolution*. Like Tocqueville's book, the *Origines* developed a powerful critique of a centralized political system which left the individual alone facing the omnipotent state.⁸ As Louis Fayolle has argued, Taine was convinced that society should not be a simple aggregate of isolated individuals, but 'a superposition of intermediary

⁵ Hippolyte Taine, *Notes sur l'Angleterre* (Paris, 1923).

⁶ Hippolyte Taine, *Les origines de la France contemporaine* (Paris, 1876–1893, 6 vols.).

⁷ Albert Thibaudet, *Histoire de la littérature française de 1789 à nos jours* (Paris: Stock, 1936), p. 374.

⁸ On Tocqueville's influence on Taine, see Mélonio, *Tocqueville et les Français*, pp. 215ff.

bodies'. In this sense, the *Origines* can be read as a political manifesto pleading for a reform of the levelled French society.⁹ However, the pessimism of aristocratic liberalism was more pronounced in Taine's book than its implicit reformist message. Taine depicted the history of France as one in which the levelling of society had gone hand in hand with the growth of central power, in which the love of equality had led the French to 'prefer servitude and privation for all, rather than liberties and advantages for a few'.¹⁰

In short, Taine's book illustrates again that Montesquieu's aristocratic liberalism had an important progeny in post-revolutionary France. It also indicates that, despite the political victory of republicanism embodied in the advent of mass democracy at the end of the nineteenth century, the history of aristocratic liberalism in France might be taken even further than it has been done here. Indeed, it seems possible that Montesquieu's political precepts continued to be adopted and adapted until deep into the twentieth century. Such an investigation would bring us too far, however, from the object of this study, which has aimed to throw a new light on nineteenth-century liberalism. It might therefore be an appropriate moment to conclude this investigation by recapitulating the most important insights gained, about the nature of aristocratic liberalism in particular, and about nineteenth-century French political thought in general.

Aristocratic liberalism was introduced into post-revolutionary France by the anti-revolutionary movement embodied in the royalist party. Royalists turned to Montesquieu's political precepts as an alternative to the republican conception of liberty that had been propagated by the revolutionaries. The royalists' invocation of Montesquieu's arguments was criticized as anachronistic by their liberal opponents, who were convinced that the socio-political model propagated by the royalists was no longer suitable for modern, democratic societies. Some Restoration liberals reached back to a revised form of republicanism (which I labelled neo-republicanism) as an alternative for the royalists' aristocratic liberalism, or propagated a *laissez-faire* liberalism. Others, such as Barante, remained closer to Montesquieu and his royalist followers, although they attempted to adapt his precepts to their new understanding of the modern world as essentially democratic. The revised form of aristocratic liberalism formulated by these Restoration

⁹ Louis Fayolle, 'L'aristocratie, le suffrage universel et la décentralisation dans l'oeuvre de Taine' in *Libéralisme, traditionalisme et décentralisation. Contribution à l'histoire des idées politiques*, ed. Robert Pelloux (Paris: Armand Colin, 1952), p. 48.

¹⁰ Hippolyte Taine, *Origins of contemporary France. The Modern Regime*, trans. John Durand (London, 1891, 2 vols.), I, p. 243.

liberals had an important impact on post-1830 liberalism. It deeply influenced Alexis de Tocqueville's *De la démocratie en Amérique*, as well as the liberal opposition to Napoleon III.

As appears from a study of these publicists and political thinkers, Montesquieu's precepts inspired a pluralist, liberal discourse in nineteenth-century France, which was highly critical of the levelling of modern societies. This process was held responsible for the centralization and bureaucratization of the post-revolutionary state. In answer to these problems, the publicists and political thinkers we have investigated here advocated a socio-political reorganization which aimed to recreate the intermediary powers capable of preventing the French state from degenerating into despotism. Aristocratic liberalism, thus defined, was not a minority tradition; rather, it constituted one of the most important ways of thinking about liberty in nineteenth-century France. It was propagated by a succession of talented publicists, among whom was France's most famous political theorist apart from Montesquieu, Alexis de Tocqueville. The necessity of intermediary bodies in the protection of liberty was emphasized over and over again in various political debates. Moreover, the prevalence of this mode of thinking was also recognized by critical contemporaries such as Dupont-White.

In this respect, the evidence presented in this study questions the traditional distinction between Anglo-American political thought, based on the principle that power must be checked and divided, and a French tradition supposedly propagating an *étatiste* view on politics, in which either king or popular will reigned absolutely.¹¹ Many French political thinkers, it has become clear, far from adhering to an absolutist conception of politics, were almost obsessed with the idea that power needed to be checked. The difference between Anglo-American and French political thought, one might argue, is rather that the French were more concerned with the creation of barriers within society itself than with the establishment of constitutional checks and balances, as embodied in the British or American constitutions. Political thinkers who argued for a political pluralism, for the division and fragmentation of political power within society, such as Tocqueville, were not isolated figures going against the grain of their national political culture, but drew from a well-established tradition within French political thought. Montesquieu's lessons were not ignored by his countrymen; on the contrary, French liberalism was to a large extent a liberalism *à la Montesquieu*.

¹¹ This distinction is often invoked by French scholars, e.g. Rosanvallon, *La monarchie impossible*, p. 10. See also Nannerl O'Keohane, *Philosophy and the State in France. The Renaissance to the Enlightenment* (Princeton: Princeton University Press, 1980), p. ix.

Nineteenth-century liberals, however, adapted Montesquieu's doctrine as well as adopting it. A key factor in that process of adaptation was their new understanding of modernity. To Montesquieu, aristocratic liberalism had been an attractive model because it was more suitable to modern societies – for which, read 'societies without public virtue' – than republicanism. In the nineteenth century, however, it became impossible to think in this way about aristocratic liberalism. Because of the specific way in which the debate in the Restoration period developed, democracy and equality came to be seen as the essential characteristics of modernity. In the process, aristocratic liberalism became an anti-modern ideology, which was more suitable for criticizing the new, democratic world than it was for suggesting how liberty was to be preserved in it. As we have seen, it became ever more difficult for nineteenth-century liberals to think of ways in which to overcome the despotic tendencies implied in the rise of modernity. The post-revolutionary world began to seem an inherently inhospitable environment for liberty – an idea which was also confirmed by the repeated failures to establish a liberal regime in France.

Underlying this critical view of democratic modernity was a specific conception of liberty which can best be understood by contrasting aristocratic liberalism to two other important intellectual traditions within nineteenth-century French liberalism: *laissez-faire* liberalism and the neo-republican paradigm. While these three variants of liberalism all started from the same question – how to preserve liberty in the modern, post-revolutionary world – they gave very different answers to this question; indeed, the differences are so great that the unifying notion of 'liberalism' seems to obscure the nature of nineteenth-century political thought more than it clarifies it.¹²

Laissez-faire and aristocratic liberals disagreed, in the first instance, on the role of the state in liberal societies. The former argued that freedom consisted essentially in the limitation of the state to its most basic functions (most often identified with the preservation of internal and external order). Any state interference beyond these functions was an encroachment on the private sphere and therefore an attack on liberty. Aristocratic liberals, on the contrary, did not believe that the mere limitation of state power sufficed to guarantee liberty. As governments had a natural tendency to expand their power, a state could only be free when it encompassed sufficient guarantees against such an expansion – guarantees that were to be sought

¹² For a similar argument, see Siep Stuurman, 'Le libéralisme comme invention historique' in *Les libéralismes, la théorie politique et l'histoire* (Amsterdam: Amsterdam University Press, 1994), pp. 17–32.

in the composition of society itself rather than in a constitutional division of powers.

This essential distinction between *laissez-faire* liberalism and aristocratic liberalism was based on different conceptions of liberty. To *laissez-faire* liberals such as Charles Dunoyer or Edouard Laboulaye, liberty consisted in the existence of a private (market) sphere, in which people could develop their capacities to the full. To be free was, in other words, to have no constraints on one's actions and possibilities. At the basis of aristocratic liberalism was a rejection of this type of liberty. In its Montesquieuan definition, liberty consisted in the certainty of the citizens that certain rules and laws would be followed. In other words, a free citizen was not primarily a citizen who could do what he wanted in as many instances as possible, but rather a citizen living in a state that guaranteed the rule of the law. To be free, in political terms, was not to be free from constraints, but to be protected against arbitrary government. This conception of liberty, as we have seen, was also shared by neo-republicans such as Benjamin Constant, who likewise identified liberty with security.

On how to safeguard the citizens' liberty, on how to guarantee that security, however, neo-republicans and aristocratic liberals disagreed in turn. From eighteenth-century republicanism, nineteenth-century political thinkers such as Constant inherited the idea that security was possible only with self-government. More specifically, he believed that representative government – understood as self-government by proxy – was the only alternative to the arbitrariness of despotism. Like the classical republicans, Constant was therefore convinced that a nation's moral disposition was of great importance for the preservation of liberty. Without public spiritedness – the willingness of citizens to occupy themselves with the public good rather than with their own private interests – durable liberty was impossible.

Montesquieu's *Esprit des lois* gave rise to a wholly different tradition within liberal thought. Advocates of aristocratic liberalism saw the key to the problem of how to preserve liberty in the modern world in Montesquieu's notion of intermediary powers, rather than in direct or indirect self-government. Central to the nineteenth-century interpretation of Montesquieu's model was the idea that a society should be organized in such a way as to allow the existence of barriers, such as a (natural) aristocracy, or more or less independent bodies such as local communities, against central government. Like Montesquieu, many post-revolutionary publicists believed that these intermediary bodies were necessary to provide a measure of non-institutionalized resistance to the encroachments of

power. Because they attached so much importance to the existence of intermediary powers, Montesquieu's nineteenth-century followers made a very different evaluation of the social and moral preconditions of liberty from the (neo-)republicans. They had qualms not so much about the moral condition of the nation, but about the social structure of society, the presence/absence of intermediary powers. In the view of the advocates of aristocratic liberalism, the greatest threat to liberty was not a lack of public spirit among the citizenry, but the levelled or atomized condition of society.

To a present-day observer, it might seem odd that Montesquieu's ideas, formulated as a critique of the absolutist monarchy of the first half of the eighteenth century, survived into the very different political circumstances of the nineteenth century. To a large extent, the survival of this eighteenth-century doctrine into the nineteenth century can be explained by the fact that the actual functioning of the post-revolutionary state showed many important similarities with that of its absolutist predecessor. Although the ideological foundation on the basis of which central power was legitimated might have changed drastically, this did not imply that the exercise of power had changed to a similar extent, and nineteenth-century publicists themselves were very much aware of that. As Tocqueville, among others, pointed out in his *L'Ancien Regime et la Révolution*, important continuities existed between the monarchy of the Old Regime and the post-revolutionary state.

However, yet another, and perhaps even more important reason can be given to explain why nineteenth-century liberals continued to think that Montesquieu's political precepts were relevant in the post-revolutionary world. As we have seen, Montesquieu formulated his aristocratic liberalism in the first instance in opposition to the eighteenth-century republican paradigm. Likewise, nineteenth-century liberals formulated their doctrines in opposition to the republican ideology on which the Revolution and in particular Jacobinism had been based. A rejection of popular sovereignty and the social and political equality propagated by the Jacobins remained a constant element in liberal thought (even though a neo-republican such as Constant attempted to smuggle political liberty back in with a remarkable sleight-of-hand). For this reason, it is hardly surprising that many French liberals reached back to aristocratic liberalism, which offered them a radically different way of thinking about liberty from the republican discourse.

In turn, this suggests that the transformation of French political culture into an essentially democratic one was less considerable than is claimed by historians such as François Furet and Pierre Rosanvallon. Montesquieu's

aristocratic liberalism did not become redundant because of the Revolution; indeed, it has become clear that it only gained more poignancy in the light of the failure of the republican experiment. Far from establishing a political model based on popular will, the Terror made the republican inheritance a highly suspect one until deep into the nineteenth century. To many nineteenth-century thinkers, the Revolution merely confirmed something their eighteenth-century predecessors had suspected all along: that the republican paradigm was anachronistic and dangerous. In this sense, the continuity between the political thought of the eighteenth century and that of the post-revolutionary period is much more striking than the discontinuity. Nineteenth-century French liberalism retained a flavour of the Old Regime.

To participants in present-day political debates, the identification of aristocracy and liberty propagated by aristocratic liberals might seem, if not absurd, at the least irrelevant, as is witnessed by the way in which this discourse is often dismissed as reactionary or traditionalist. In this sense, this study illustrates the capacity of a particular approach to intellectual history for excavating the convictions and views of political actors in the past, even though we no longer share these convictions and views today. By unearthing a particular discourse that has more or less disappeared from the present-day record, this study has aimed to enrich our understanding of the diversity and richness of modern political thought. While the political thought of the nineteenth century is in many ways more readily accessible to us than that of an earlier period, it was nevertheless often based on assumptions and ideas that have become alien to us.¹³

At the same time, however, it is possible to argue that the study of aristocratic liberalism does not just satisfy our historical curiosity, but that it also helps us to understand the pedigree of certain tropes used in present-day political debates. While key tenets such as the identification between aristocracy and liberty are no longer a part of our political culture, other themes propagated by aristocratic liberals have survived into present-day political debates. Thus, one might argue that the pessimistic equation of modern democracy and despotism characteristic of nineteenth-century aristocratic liberalism has made a remarkable come-back in France with the revisionist historiography of the 1980s.

Landmarked by the publication of François Furet's *Penser la Révolution Française* in 1978, the work of the revisionist school, as has become clear in retrospect, constituted a politically motivated intervention in public

¹³ On this goal, see Skinner, *Liberty before liberalism*, pp. 101–120.

debate as much as a historiographical revolution. Michael Christofferson's painstaking reconstruction of post-war political debate in France, and of Furet's place in it, has shown that the revisionist historians' view of the French Revolution was at least partly formulated to denounce the Union of the Left of 1972, which united the socialist and communist parties on a common platform. Worried by the French Left's susceptibility to the lure of communism, intellectuals such as Furet highlighted the totalitarian tendencies of the French Revolution, and, by implication, its twentieth-century progeny, the communist revolution in Russia.¹⁴

The political context of the early 1970s is therefore of crucial importance in understanding the revisionist school. However, it is possible to argue that, in order to make their case, historians such as Furet reached back to arguments which long predated the Union of the Left or indeed the rise of totalitarianism, and which were first formulated by nineteenth-century aristocratic liberals discussed in this study. Their view of the French Revolution as an essentially illiberal event clearly echoes not just Tocqueville or Taine but the views of royalist thinkers such as Chateaubriand as well. The connection between democracy and despotism, a fixed theme of nineteenth-century aristocratic liberalism, has made a remarkable reappearance in the revisionist historiography, for instance in the prestigious *Dictionnaire critique de la Révolution française*.¹⁵ Other key themes of aristocratic liberalism, such as a concern with individualism and the atomization of society, likewise return in the writings of the revisionist historians.¹⁶

In short, the historians and political thinkers who have followed in François Furet's wake can be seen as the heirs not merely of Tocqueville but of the moderate royalist writers of the Restoration and of their hero, Montesquieu. Montesquieu's shadow has been a very long one indeed.

¹⁴ Michael Scott Christofferson, *French intellectuals against the Left: the antitotalitarian moment of the 1970s* (New York: Berghahn Books, 2004). Isser Woloch provides a lucid critique of the revisionists' claims concerning the inherently illiberal tendencies of the French Revolution in his review of *A critical dictionary of the French Revolution* – edited by François Furet and Mona Ozouf, translated by Arthur Goldhammer (Cambridge, MA: The Belknap Press of Harvard University Press, 1989) – 'On the latent illiberalism of the French Revolution', *The American Historical Review* 95 (1990), 1452–1470. Andrew Jainchill and Samuel Moyn discuss the ideological implications of the revisionist historiography in their insightful paper 'French democracy between totalitarianism and solidarity: Pierre Rosanvallon and revisionist historiography', *The Journal of Modern History* 76 (2004), 107–154.

¹⁵ Furet and Ozouf, 'Preface' to *A critical dictionary*, p. xix.

¹⁶ Thus, Furet connects the rise of revolutionary Jacobinism with 'the breaking up of society into individuals, the end of what Louis Dumont has called "holistic" society, and the decline of corporate solidarity and traditional authority': *Interpreting the French Revolution*, trans. Elborg Forster (Cambridge: Cambridge University Press, 1981), p. 174.

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