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The Forgotten Democratic Tradition of Revolutionary France

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This article offers an interpretation of a key moment in the long history of democracy. Its hypothesis may be simply stated in the following terms: key political theorists and administrators in eighteenth- and early nineteenth-century France defined democracy as a means for solving public problems by the public itself. This conception of democracy focused on inventing effective practices of government, administrative intervention and regulatory police and differed fundamentally from our contemporary understandings that privilege the vote, popular sovereignty and parliamentary representation. Moreover, this conception of modern democracy overlapped and in some cases complemented, but—more importantly for this article—remained in significant ways distinct from, other early modern political traditions, in particular liberalism and classical republicanism. What follows therefore uncovers a largely forgotten, but widespread, conception of democracy in the crucial revolutionary age from the mid-eighteenth century to the mid-nineteenth by asking the question, was there a modern democratic tradition?

While I do not think that democracy is the most practicable or stable form of government; and while I remain persuaded that it is disadvantageous for large states, I believe it nonetheless to be one of the oldest among those nations that have pursued equity in this maxim: “That which is of interest to the members of society, must be administered by everyone in common.”

Jaucourt, “Démocratie,” *L’Encyclopédie*

This article seeks to make two main interventions into the history and historiography of revolutionary France. First, historiographically it attempts to counter the two reigning “liberal” and “republican” interpretations of the Age of Revolutions by reestablishing the centrality of democracy and the democratic to the French revolutionary tradition. Second, historically it locates the substance of that democratic tradition not in conventional accounts of either sovereignty or suffrage, but rather in the original French attempt to democratize executive power from top to bottom. As this article demonstrates, democratic administration—the democratization of internal police and public regulation—was a virtual obsession of the French revolutionary project from high political theory to the most mundane and exceptional acts of everyday governance.

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While few would contest that the political transformations in the Atlantic world from the late eighteenth century through the nineteenth were in some broad sense “democratic,” political historiography on the foundations of modern politics in France has overwhelmingly focused on other—perhaps less murky—terms to structure their analyses. Principal among the preferred frames of political history have been liberalism and classical or civic republicanism. As Larry Siedentop argued in his foundational 1979 essay, liberalism never was the sole purview of Anglo-American politics.¹ France too, he argued, enjoyed a distinct liberal tradition, which was at once more sociological and more statist than its neighbors’. Since then, thanks to a range of accomplished scholars—Louis Girard, André Jardin, Pierre Manent, Françoise Melonio, Melvin Richter, Stephen Holmes, Annelien de Dijn, Steven K. Vincent, Lucien Jaume, Cheryl Welch, Aurelian Craiutu, Alan Kahan, Andrew Jainchill, Raf Geenens, to name but a few—we now have a highly sophisticated understanding of this liberal tradition. Helena Rosenblatt has even gone so far as to chart a “lost history of liberalism” that takes its roots in Roman antiquity.² Together these histories have furthered exacting interpretations of modern French politics and its contribution to modern political history more generally.³

While classical republicanism came to French historiography later than to the British and American, it has opened similarly pathbreaking perspectives. No doubt, one of the most important historians in opening this line of inquiry in France has been Keith Michael Baker. In a programmatic essay on “Transformations of Classical Republicanism in Eighteenth-Century France,” Baker provided the outlines for bringing the powerful paradigm of classical republicanism into eighteenth-century French politics,⁴ establishing a set of arguments that have been particularly generative for reinterpreting modern French politics before and after the Revolution.⁵

¹Larry Siedentop, “Two Liberal Traditions,” in Raf Geenens and Helena Rosenblatt, eds., *French Liberalism from Montesquieu to the Present Day* (Cambridge, 2012), 15–35.

²Helena Rosenblatt, *The Lost History of Liberalism: From Ancient Rome to the Twenty-First Century* (Princeton, 2018).

³For just a glimpse into how generative this scholarship has been since the 1970s see Louis Girard, *Les libéraux français, 1814–1875* (Paris, 1985); André Jardin, *Histoire du libéralisme politique: De la crise de l’absolutisme à la constitution de 1875* (Paris, 1985); Pierre Manent, *Histoire intellectuelle du libéralisme: dix leçons* (Paris, 1997); Annelien de Dijn, *French Political Thought from Montesquieu to Tocqueville: Liberty in a Levelled Society?* (Cambridge, 2008); Lucien Jaume, *L’individu effacé ou le paradoxe du libéralisme français* (Paris, 1997); Geenens and Rosenblatt, *French Liberalism from Montesquieu to the Present Day*; Aurelian Craiutu, *Liberalism under Siege: The Political Thought of the French Doctrinaires* (Lanham, 2003); Alan S. Kahan, *Aristocratic Liberalism: The Social and Political Thought of Jacob Burckhardt, John Stuart Mill, and Alexis de Tocqueville* (New York, 1992); Cheryl Welch, *Liberty and Utility: The French Ideologues and the Transformation of Liberalism* (New York, 1984); K. Steven Vincent, *Benjamin Constant and the Birth of French Liberalism* (New York, 2011); Stephen Holmes, *Benjamin Constant and the Making of Modern Liberalism* (New Haven, 1984). For a summary of some of this important work see Michael Behrent, “Liberal Dispositions: Recent Scholarship on French Liberalism,” *Modern Intellectual History* 13/2 (2016), 447–77.

⁴Keith Michael Baker, “Transformations of Classical Republicanism in Eighteenth-Century France,” *Journal of Modern History* 73/1 (2001), 32–53.

⁵Since the groundbreaking works of Bernard Bailyn, Gordon Wood and J. G. A. Pocock, classical or civic republicanism has played an outsized role in political historiography of the Renaissance, Britain and the Americas. In French historiography, it has opened the path toward equally important studies, especially

None of this is to say that a history of democracy has been absent. The great dean of French revolutionary studies, Alphonse Aulard, famously presented his political history of the French Revolution as a history of the origins and development of democracy.⁶ More than a half-century later, Robert Palmer announced his ambition to uncover an “Age of Democratic Revolution” across the Atlantic world, confidently stating that it was “no anachronism to apply the word ‘democratic’ to the eighteenth-century revolution.”⁷ In the same years, Marcel Reinhard taught a course at the Sorbonne entitled “La révolution démocratique.”⁸ Certainly, the importance of the notion of democracy did not disappear in the years that followed. Lynn Hunt argued that the “origin of democracy was the ‘central mystery’ of the French Revolution” as presented by François Furet.⁹ And in recent years the work of leading scholars, including John Dunn, James Kloppenberg, Pierre Rosanvallon, Marcel Gauchet, Joanna Innes, Mark Philp, Sophia Rosenfeld, and James Livesey, among others, has pushed democracy front and center within modern political history in France and beyond.¹⁰ The verdict would seem unanimous: democracy too was a central feature of the birth of political modernity.

And yet, in spite of such pervasiveness, a clear definition of exactly what “democracy” meant on either side of the Revolution has remained elusive. Even as he championed its importance, Robert Palmer suggested that any well-defined sense of the term in the eighteenth century was almost impossible to discern, settling on a very general notion that “at the most, democracy was a principle, or element, which might profitably enter into a ‘mixed constitution.’”¹¹ This idea remained

for the final years of the Old Regime and the French Revolution. See in particular Keith Baker, “A Classical Republican in Eighteenth-Century Bordeaux: Guillaume-Joseph Saige,” in Baker, *Inventing the French Revolution* (Cambridge, 1990), 128–52; and Baker, “Transformations of Classical Republicanism”; Dan Edelstein, *The Terror of Natural Right: Republicanism, the Cult of Nature, and the French Revolution* (Chicago, 2009); Andrew Jainchill, *Reimagining Politics after the Terror: The Republican Origins of French Liberalism* (Ithaca, 2008); John Kent Wright, *A Classical Republican in Eighteenth-Century France: The Political Thought of Mably* (Palo Alto, 1997). See also Dan Edelstein, Andrew Jainchill, Frédéric Régent, Pierre Serna and Anne Simonin, “Si l’on parlait de la république?” *Annales historiques de la Révolution française* 364 (2011), 211–38.

⁶Alphonse Aulard, *Histoire politique de la Révolution française: Origines et développement de la démocratie et de la république (1789–1804)* (Paris, 1901).

⁷R. R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, 1760–1800* (Princeton, 1959), 18.

⁸Published in three volumes as Marcel Reinhard, *La révolution démocratique* (Paris, 1959).

⁹Lynn Hunt, “Penser la révolution française by François Furet,” *History and Theory* 20/3 (1981), 313–23, at 321.

¹⁰These authors have all contributed impressive and some cases multiple volumes to exploring a history of democracy: John Dunn, *Democracy: A History* (New York, 2005); Dunn, *Setting the People Free: The Story of Democracy* (New York, 2005); Dunn, *Democracy: The Unfinished Journey, 508 BC to AD 1993* (Oxford, 1993); and Dunn, *Breaking Democracy’s Spell* (New Haven, 2014); James T. Kloppenberg, *Toward Democracy: The Struggle for Self-Rule in Europe and American Thought* (New York, 2016); Marcel Gauchet, *L’avènement de la démocratie*, vols. 1–4 (Paris, 2007–16); Joanna Innes and Mark Philp, *Re-imagining Democracy in the Age of Revolutions: America, France, Britain and Ireland, 1750–1850* (Oxford, 2013); Innes and Philp, *Re-imagining Democracy in the Mediterranean, 1780–1860* (Oxford, 2018); Sophia Rosenfeld, *Democracy and Truth: A Short History* (Philadelphia, 2018); James Livesey, *Making Democracy in the French Revolution* (Cambridge, 2001).

¹¹R. R. Palmer, “Notes on the Use of the Word ‘Democracy’ 1789–1799,” *Political Science Quarterly* 68/2 (1953), 203–26, at 204–5.

little changed some sixty years later in the introduction to a volume on the conceptual history of democracy: “In the classical tradition of political thought, ‘democracy’ was evaluated positively as a useful element only in a mixed constitution.”¹² Pierre Rosanvallon’s own genealogy of the term insisted on its “semantic variety,” arguing that the word was used in the eighteenth century “only to designate an obsolete type of political system.”¹³ Other accomplished specialists of the history of democracy have similarly confirmed that prior to 1789 it “became common to characterize it [democracy] as a primitive form.”¹⁴ A more recent history of democracy has used the term’s supposed imprecision as the basis of its analysis, arguing that “no unequivocal definition is possible,”¹⁵ while one of the most ambitious histories of democracy has concisely stated, “disagreements about democracy constitute its history.”¹⁶

Given the overwhelming consensus on the centrality of republicanism, liberalism, and democracy in the birth of political modernity, the glaring contrast between the sophistication of the liberal and classical republican traditions on the one hand and the woolliness of democracy on the other is arresting, and, *in fine*, this article argues, unwarranted. Indeed, what follows unearths a forgotten, but widespread, conception of democracy in the crucial revolutionary age from the mid-eighteenth century to the mid-nineteenth in France. In this tradition, democracy was defined as a means for solving public problems by the public itself. This democracy focused on inventing effective, popular and participatory practices of government, administration and regulatory police to ensure freedom and equality by acting for the public good. As such it differed deeply from contemporary conceptions that emphasized popular sovereignty and parliamentary systems. Moreover, this conception of modern democracy overlapped and in some cases complemented, but—more importantly for this article—remained in significant ways distinct from, other early modern political traditions, in particular liberalism and classical republicanism.

To be clear, by referring to this approach to democracy as a tradition, I am not suggesting—any more than those who have traced the history of liberalism or the paradigm of classical republicanism—that it was necessarily the dominant conception, that it was the only possible understanding of democracy, that it was shared by all, or that it was always expressed in crystalline form. It may be found alongside, and intermingled, in pieces, and fused in a variety of ways with, other contemporary political theories just as it can be found in a variety of hues among different authors. Unquestionably, no small amount of work remains before we may grasp the complexities of this tradition in France and internationally with the same subtlety and complexity with which we have come to comprehend liberalism

¹²Jussi Kurunmäki, Jeppe Nevers and Henk te Velde, “Introduction,” in Kurunmäki, Nevers and Te Velde, *Democracy in Modern Europe: A Conceptual History* (New York, 2018), 16–41, at 41.

¹³Pierre Rosanvallon, “The History of the Word ‘Democracy’ in France,” *Journal of Democracy* 6/4 (1995), 140–54, at 140.

¹⁴Joanna Innes and Mark Philp, “‘Democracy’ from Book to Life,” in Innes and Philp, *Democracy in Modern Europe: A Conceptual History* (New York, 2018), 16–41, at 18.

¹⁵Oliver Hidalgo, “Conceptual History and Politics: Is the Concept of Democracy Essentially Contested?,” *Contributions to the History of Concepts* 4 (2008), 176–201, at 176.

¹⁶Kloppenber, *Toward Democracy*, 5.

or republicanism. We may, however, begin such an investigation by exploring the work of a core group of individuals before, during and after the French Revolution.

To begin charting this tradition, I would like to turn to the figure whom those interested in the history of democracy have widely cited for his precocious insights, the Marquis d'Argenson. Palmer noted that "it is rare, even among the *philosophes* of the Revolution, to find anyone using the word in a favorable sense in any practical connection. Such a man can, however, be found. He is a French nobleman and sometime minister of the state, the Marquis d'Argenson."¹⁷ Pierre Rosanvallon similarly highlighted d'Argenson's insights into democracy: "The Marquis d'Argenson was quite alone among eighteenth-century writers," Rosanvallon argues. "D'Argenson was the first to strip the word 'democracy' of its ancient and archaic referents."¹⁸ Joanna Innes and Mark Philp have similarly heralded d'Argenson's original and annunciatory ideas, which "adumbrat[ed] a scheme that had more obvious potential."¹⁹ And Andrew Jainchill has firmly established that d'Argenson's theory of democracy had a powerful influence over key figures of the French Revolution.²⁰

Though d'Argenson's contributions have been documented by some, the precise nature of his influence on the development of a modern notion of democracy requires further investigation. Councilor in the Paris Parlement, then councilor of state, followed by intendant, and finally minister of foreign affairs under Louis XV, d'Argenson came to the democratic question through his employ as an administrator.²¹ He consciously rooted his writings in the line of administrative reforms that occupied politically minded *philosophes* and *parlements* of the eighteenth century, following on the projects of the Duke of Burgundy.²² Eschewing abstract questions of right, d'Argenson outlined a novel "art of government" to justly ensure the wealth and strength of the kingdom.²³ And even as he proved unable to realize his reforms as minister to Louis XV, d'Argenson consistently homed in on the practical questions of government: "Within vast political operations, ordinarily the means seem to be born from execution and practice itself,"²⁴ he observed.

Penned as a response to Boulainvillier's *Histoire de l'Ancien Gouvernement de la France* (1727), d'Argenson's *Considérations* proposed a fresh interpretation of democracy, not in the abstract contractual terms offered by Hobbes's *De Cive* or the

¹⁷Palmer, "Notes on the Use of the Word 'Democracy,'" 205.

¹⁸Rosanvallon, "History of the Word 'Democracy,'" 141–2.

¹⁹Innes and Philp, "'Democracy' from Book to Life," 18.

²⁰Andrew Jainchill, "Introduction," in *D'Argenson, Considérations sur le gouvernement* (Oxford, 2019), 1–66.

²¹On d'Argenson's contributions to the history of public administration see Guy Thuillier, "La réforme de l'administration selon le marquis d'Argenson," *La revue administrative* 44/261 (1991), 213–23.

²²On this tradition of reform see Nannerl O. Keohane, *Philosophy and the State in France: The Renaissance to the Enlightenment* (Princeton, 1980), in particular chap. 12, "The Conduct of a Prince and a Program for Reform"; and James B. Collins, *The State in Early Modern France* (Cambridge, 1995), chap. 6, "Reform, Renewal, Collapse.

²³"Tout l'art du gouvernement ne consista jamais qu'en cette parfait imitation de Dieu" (84). And later, "Et c'est peut-être dans l'étude de ce juste mélange d'attention et d'abandon que consiste tout l'art du gouvernement." *D'Argenson, Considérations*, 85.

²⁴*Ibid.*, 141.

antiquated affirmations of Furetière's *Dictionnaire universel*,²⁵ but in the concrete form of a history and proposal for administrative reorganization. Challenging administrative despotism since Richelieu, his proposal culminated in a reform that would at once increase liberty *and* public power. "The author [d'Argenson] appears more inclined toward democracy than monarchy, and he may be right," noted Saint Pierre in a letter to d'Argenson. This preference may explain why the text, which d'Argenson referred to as "my manuscript on democratic monarchy,"²⁶ circulated clandestinely until 1764 following his death.

The first title of the manuscript, probably written in 1737—*Jusqu'où la démocratie peut être admise dans le gouvernement monarchique*—circulated privately, finding its way into the hands of his mentor, Saint-Pierre, as well as Rousseau and Voltaire, whom he had known since adolescence. Together the title's emphasis on pushing "democracy" into "monarchy" and the work's underground distribution suggest that d'Argenson was entirely aware of, and even sought to mobilize, the redolent overtones of the term *democracy*. Considering his reputation within aristocratic circles as a provocateur (he was famously nicknamed "*la bête*" ...), the word *democracy* under his pen carried a stirring reflexive force. Democracy provided an original framework for d'Argenson's politics because of both its conceptual robustness *and* rebellious connotations.²⁷

A proper understanding of democracy, d'Argenson argued, required a distinction between its "false" and "legitimate" or "true" forms. Fake democracy erupts out of a violent multitude against an established legal order, while "true" democracy "stipulates the interest of the greatest number of citizens," so that they may "avoid injury" and "procure the greatest good."²⁸ No mere assembly of individuals, a democracy required "constituting public power" in order to "increase the role of the public in public government,"²⁹ or what d'Argenson refers to as a "popular administration." The primary ambition of this "police attributed to popular magistrates,"³⁰ as he also refers to it, was to secure public welfare: a "thousand new commercial and police regulations [would be] established by the democracy I have in mind,"³¹ he writes. Of course, in Old Regime France, "police" stood for something much grander than a municipal security force or an obligation to simply maintain order. Rather, "the power of police," as Martin Loughlin observes, "was conceived as an all-encompassing power of regulation vested in the ruler for the

²⁵"La démocratie n'a été florissante que dans les Républiques de Rome, et d'Athènes. On y consultait le peuple assemblé par Comices, ou par Tribus, il n'y a presque aucune Démocratie aujourd'hui." Antoine Furetière, *Dictionnaire universel, contenant généralement tous les mots François*, vol. 1, A–D (The Hague, 1727).

²⁶D'Argenson, *Considérations*, 264.

²⁷A first version of the manuscript was only published posthumously in Amsterdam in 1764. A second version was later published by his son in 1784, supposedly with the help of the integration of original manuscripts. This version was popular enough that the Assembly of Notables asked that it be reprinted in 1787, and it clearly influenced a number of figures of the Revolution. On this influence, see Jainchill, "Introduction"; D'Argenson, *Considérations*; and Thuillier, "La réforme de l'administration."

²⁸D'Argenson, *Considérations*, 78.

²⁹"Il faudrait donc essayer, comme je le propose, d'admettre davantage le public dans le gouvernement public." *Ibid.*, 178.

³⁰*Ibid.*, 165.

³¹*Ibid.*, 160.

purpose of promoting peace, order, and good government.”³² Regulatory police was therefore both a mode of governmental practice and a form of judicial power; that is, a means of regulatory policy making and execution which also provided essential tools for judging failures to comply with such regulations.³³ When d’Argenson asked in his *Considérations* “what is this police of which I speak so frequently?” he simply responded, “Police includes everything.”³⁴ This emphasis on popular participation in public regulation, administration and execution provided the groundwork for d’Argenson’s contribution to a modern democratic tradition.

D’Argenson attempted to elaborate a specifically modern democratic ideal by settling a tension at the heart of the administrative state, built on the destruction of deconcentrated aristocratic feudal governance. D’Argenson rejected the ideal of ancient Greece in which monarchy, aristocracy and democracy combined to form the best government. “It is humanly impossible,” he argued, “to prevent one of these three forms of government from dominating the other.”³⁵ The danger lay in the constant threat of aristocratic domination. D’Argenson therefore presented a history in which the rise of the monarchy had challenged the aristocratic dominance over administration under feudalism. “The concept of ‘police,’” Gerhard Oestreich writes of the early modern period, “covers the authority which the ruler arrogated to himself to issue commands and prohibitions [which] ... contributed to a further break-up of feudal society.”³⁶ D’Argenson’s own history portends Oestreich’s observation. He too argued that the accumulation of royal power contributed to the slow destruction of aristocratic feudal rights by centralizing law-making within the modern state. Moreover, in d’Argenson’s account, the aristocratic hold over feudal society was further destroyed by the sprouting of self-governing bourgeois administrative councils. Undermining feudal aristocracy, the legislative power of the king therefore combined with urban self-administration to erode aristocratic inequality,³⁷ in turn providing the social foundation of the modern democratic state. The king’s acts “ensured that sooner or later, the progress of human reason would tend toward making citizens equal.”³⁸ Opening a line of

³²Martin Loughlin, *Foundations of Public Law* (Oxford, 2012), 422.

³³Paolo Napoli, *Naissance de la police moderne: Pouvoir, normes, société* (Paris, 2003), 3. Vincent Denis refers to this dual function as a “technique de gouvernement et comme institution.” See Vincent Denis, “Police et société en France, de l’ancien régime à la révolution”, *Annales historiques de la Révolution française* 393/3 (2018), 207–15, at 209.

³⁴D’Argenson, *Considérations*, 119.

³⁵*Ibid.*, 76.

³⁶Gerhard Oestreich, “‘Police’ and Prudentia Civilis in the Seventeenth Century,” in Oestreich, *Neostoicism and the Early Modern State* (Cambridge, 1982), 155–65, at 157.

³⁷As forceful as d’Argenson’s language on equality was, it consistently traffics in relative terms. D’Argenson does argue for a redistribution of land among peasants according to this principle, though. J. Lough, “D’Argenson and Socialist Thought in Eighteenth Century France,” *Modern Language Review* 37/4 (1942), 455–65. His treatise is filled with emphases on “maintain[ing] equality among citizens as much as possible.” D’Argenson, *Considérations*, 124–5. There is the problem of “citizens who are too rich,” and the idea that “reasonable people are drawn to democracy which tends toward equality of fortunes.” And finally he states in no uncertain terms, “Are we attempting to establish an absolute platonic equality?” “Certainly not,” he responds, insisting on the importance of “efforts towards equality.” D’Argenson, *Considérations*, 196.

³⁸D’Argenson, *Considérations*, 130.

argument that Tocqueville would develop to great effect a century later, d'Argenson argued that a relative social equality—compared to the uncompromising inequalities of aristocratic feudalism—was therefore politically constituted by the levelling authority of absolutism and the rise of nonaristocratic authority in local urban assemblies. Left on its own, this alliance of sovereign monarchy and urban administrative democracy would have inevitably destroyed aristocracy. The aristocracy had preserved its position, however, through the purchase of offices. Venal offices in effect conserved a historical anachronism, maintaining inequality and preventing sound administration against the democratic alliance between the king and local administrations. The result was particularly dangerous for regulatory police. Where “it is most urgent to purge the kingdom,” wrote d'Argenson against venal officers, “is everything relating to general and particular police.”³⁹ Venal offices provoked the “alienation of public power” in which “few faults are punished,” thereby “destroying any idea of Government in France.”⁴⁰ For d'Argenson the problem with administration was therefore not what or how much it managed but rather how it had come to be corrupted by a venal, unequal, and corrupt nobility.

A democratic police, on the other hand, would augment the kingdom's administrative capacities, forcing it to operate with more uniformity at a greater scale toward a more diverse set of ends. The public would encourage—and be encouraged by—more administration and better execution of the law. “The more the people feel in these regulations a direct and immediate interest, the less they will stray from them, and the more they will themselves ask for more laws,”⁴¹ d'Argenson argued. Moreover, a democratic police would increase obeisance because it would be more transparent: “if the public interest is heeded, if one lets it act without confusion, it will produce a movement of continuity and renewal.”⁴² The originality of d'Argenson's *democratized police* requires pause. “Police, for many philosophes, epitomized what was wrong with government in the old regime,” Steven Kaplan notes. “They saw police not as a general method of governing or as a loosely-defined commitment to the public good but as an elaborate defense of and apology for a specific and pernicious system of rule.”⁴³ It was precisely this problem that d'Argenson tackled: reinforcing police to ensure the public good while combatting its perniciousness through democratization.

D'Argenson's democratic administration was notably compatible with royal sovereignty. Michael Sonenscher has characterized this aspect of d'Argenson's project as “reforming the monarchy but retaining its sovereignty [which] amounted to having the best of both worlds.”⁴⁴ D'Argenson made this dual argument forcefully throughout his *Considérations*: “We shall never again say that royal authority is opposed to democracy, when democracy is subordinate to it.”⁴⁵ The king remained

³⁹Ibid., 153.

⁴⁰Ibid., 135–8.

⁴¹Ibid., 87.

⁴²Ibid., 88.

⁴³Steven L. Kaplan, *Bread, Politics and Political Economy in the Reign of Louis XV* (The Hague, 1976.), 13.

⁴⁴Michael Sonenscher, “The Nation's Debt and the Birth of the Modern Republic: The French Fiscal Deficit and the Politics of the Revolution of 1789, Part 1,” *History of Political Thought* 18/1 (1997), 64–103, at 78.

⁴⁵D'Argenson, *Considérations*, 136.

the sole holder of sovereignty. Thus “royal authority should increase in force and solidity instead of suffer any diminishing through the establishment of this democracy.”⁴⁶ Monarchical power could be augmented through democracy because these two arms of state occupied complementary roles.⁴⁷ The king expressed his sovereignty as lawgiver: “the essential right of the monarch’s public power resides in his legislative authority.”⁴⁸ The people exercised their *democratic* power as executing magistrates. “Royal authority judges whether law is necessary and acts accordingly,” he argued, “public interest oversees and executes it with intelligence.”⁴⁹ Separating democratic administration from sovereign legislative power, d’Argenson claimed that “popular administration under the authority of the sovereign hardly diminishes public power [*puissance*], rather it augments it.”⁵⁰ Paolo Napoli has underscored this gap between monarchical sovereignty and regulatory police in the Old Regime: “the governmental network organized by the police favors a kind of convergence between political authority and subjects,” while “the theory of sovereignty postulates their irremediable heterogeneity.”⁵¹ D’Argenson’s notion of democracy mobilized this distinction in a deeply innovative way. The democratization of regulatory police achieved a radical convergence between governmental authority and subjects, while royalty maintained the symbolic and heteronymous function of sovereignty.

Though democratic, d’Argenson’s administration was not performed directly by the entire population. Rather, magistrates would be elected. “In a true democracy, one acts through deputies who are authorized through election.”⁵² In describing Holland, the quintessentially democratic state, in his view, d’Argenson argued, “This association is equally democratic, it is led by those deputies of the people who have a momentary role. They return to private life as soon as their term as magistrate comes to an end.”⁵³ Importantly, when d’Argenson writes of electing deputies in a “true” democracy, he does not have in mind a representative legislative body—he is not referring to late eighteenth-century “representative government”—but administrative delegates with executive power for a limited time.

Democracy in d’Argenson’s work may then be characterized as a popular, institutionalized and distributed practice of regulation born of relative equality to ensure

⁴⁶Ibid., 162.

⁴⁷This conception revises the distinction proposed by Richard Tuck as the foundation for modern democracy, in which the people are sovereign and figuratively “sleep” while a government acts on their behalf. See Richard Tuck, *The Sleeping Sovereign: The Invention of Modern Democracy* (Cambridge, 2016). While d’Argenson does elaborate a distinction between a metaphorically “sleeping sovereign” and an active government, it is the sovereign monarch who should “sleep” while democracy resides in a popular administration, government and magistrature. In many ways this confirms the importance of Tuck’s distinction, while at the same time qualifying his subtitle “The Invention of Modern Democracy.” To be a democracy in this tradition, it was not sufficient to have a sleeping sovereign, popular or otherwise. Instead, in order to be a democracy, it was necessary to govern oneself democratically.

⁴⁸D’Argenson, *Considérations*, 193.

⁴⁹Ibid., 87.

⁵⁰Ibid., 73.

⁵¹Napoli, *Naissance de la police moderne*, 62. Napoli does not make reference to d’Argenson’s notion of “democratic police” in his work.

⁵²D’Argenson, *Considérations*, 78.

⁵³Ibid., 99.

the public welfare. In this account, a representative legislative power does not jealously fight with kingship over sovereignty. Instead, the democratic and the sovereign occupy distinct spheres, working separately in a shared process of state construction. Consequently, in this conception of democracy, magistrature shuns any residue of lordship: *arcana imperii* gives way to public administration by the public itself. In sum, this political theory rigorously separates “the rightful power of rule” from the “government’s actual ability to control the disposition of things”:⁵⁴ the former remains a question of sovereignty and kingship; the latter constitutes the realm of democracy. *The sovereign exerts right; democracy is a practice of popular administration.*

This analysis of d’Argenson allows us to identify the contours of a modern democratic tradition. Four themes are especially salient: first, an appreciation of the necessity of administrative power to regulate for the public good. A modern state required administration and regulation since no legislation, no matter how essential, overcame the complexities of its own execution. Second, popular participation in administrative power was both historically produced by and helped preserve relative social equality. Third, the historical and administrative production of relative equality laid the ground for a critique of aristocracy as an anachronistic mode of corrupt ministerial despotism in contradiction to just administration. Fourth, the shelving of hereditary privilege and aristocratic lordship as ideal modes of administration opened the door to a modern “democratic” administration. The distinctiveness—when compared to liberalism or classical republicanism—and, as we shall see, wide reception of the democratic tradition merit elucidation. To the extent that authors developed these themes in their elaborations of modern politics, they participated in this tradition. Its relative coherence reveals that “democracy” was hardly mired in inimitable polysemy. Rather, this conception of modern democracy left room for a heteronymous and unified sovereignty while providing the ground for France’s paradigmatic mix of critique of aristocratic privilege, emphasis on relative social equality and expansive public administration in the service of the public good, which would have an oversized impact in the modern era.

To understand how these themes amounted to a modern democratic tradition, I wish now to highlight three distinct moments in its elaboration: the first in the mid-eighteenth century, when Jean-Jacques Rousseau confronted the problem of democratically ensuring the public good when the people replaced the king as sovereign lawgiver; the second during the Revolution itself, when representative legislature—or “representative government”—was invented, posing the problem of a democratized executive anew; and the third in the work of Tocqueville, who redeployed the history and practice of democratic administration on the other side of the revolutionary divide.

Rousseau’s complex relationship with his contemporaries has been well established.⁵⁵ It is of no small consequence then that, as Andrew Jainchill points out, d’Argenson is the most cited author in *The Social Contract*.⁵⁶ But no doubt of equal significance is *how* Rousseau notes his debt to d’Argenson. Rousseau chooses

⁵⁴Martin Loughlin, *Foundations of Public Law* (Oxford, 2012), 408.

⁵⁵The classic text here is Jean Starobinski, *Jean-Jacques Rousseau: La transparence et l’obstacle* (Paris, 1957).

⁵⁶See Andrew Jainchill’s Introduction to *D’Argenson, Considérations*, 1–56, at 1. Jainchill further notes, “M.L.M.D.A. dont vous me demandez le nom,” Rousseau wrote the next year to Leonhard Usteri, “est feu

the penultimate chapter of *The Social Contract* on civil religion for his final, most personal, reference to his predecessor. Reflecting back, he notes, “I could not deny myself the pleasure of sometimes quoting this ms. although it is not known to the public, that I might do honor to the memory of an honorable and illustrious man, who even in the [royal] Ministry retained the heart of a true citizen, and upright and sane views about the government of his country.”⁵⁷ This note is laden with the characteristically Rousseauian confessional rhetoric of self-reflexive justification, delighting in the forbidden *jouissance*—“I could not deny myself the pleasure”—of a text that remains “not known to the public.” D’Argenson was one influence Rousseau could accept; an authority in keeping with his authentic vision of self and his critique of the eighteenth-century public.⁵⁸

The influence of d’Argenson on the Genevan’s work is perhaps most obvious in Rousseau’s deep interest in administration. Rousseau opens *The Social Contract* stating his ambition to provide a new foundation for *administration*. “I want to inquire whether in the civil order there can be some legitimate and sure rule of administration,”⁵⁹ he begins. Understanding exactly what Rousseau means by “administration” is challenging since he never provides a straightforward definition of the term.⁶⁰ One may start, however, with a key passage when democracy and administration are first mentioned together in Book II, chapter 6, on the law:

I therefore call Republic any State ruled by laws, whatever may be the form of administration: for then the public interest alone governs, and the public thing counts for something. Every legitimate Government is republican.* [*By this word I understand not only an Aristocracy or a Democracy, but in general any government guided by the general will, which is the law. To be legitimate, the Government must not be confused with the Sovereignty, but be its minister ...]⁶¹

M. le marquis d’Argenson, qui avait été ministre des Affaires étrangères, et qui, quoique ministre, ne laissait pas d’être honnête homme et bien intentionné.”

⁵⁷Jean-Jacques Rousseau, *The Social Contract*, in Rousseau, *The Social Contract and Other Later Political Writings*, trans. Victor Gourevitch (Cambridge, 1997), 150. When the French quotations are provided they are from Rousseau, *Du contrat social, ou principes du droit politique*, in Rousseau, *Collection complète des oeuvres* (Geneva, 1780–89), vol. 1.

⁵⁸On the tension between Rousseau’s image of himself and the public image he portrayed see Antoine Lilti, “The Writing of Paranoia: Jean-Jacques Rousseau and the Paradoxes of Celebrity,” *Representations* 103 (2008), 53–83, at 54–5.

⁵⁹Rousseau, *The Social Contract*, 41.

⁶⁰Rousseau seems to use administration and government interchangeably in this passage. In another section of *The Social Contract*, Rousseau also uses them as synonyms: “J’appelle donc Gouvernement ou suprême administration l’exercice légitime de la puissance exécutive et prince ou magistrat l’homme ou le Corps chargé de cette administration.” *Ibid.*, 254. Victor Gourevitch, translator of the Cambridge edition, concurs: “At times it suits him to use ‘government’ to refer to what most of us would most of the time call either ‘government’ or ‘the state’—as he does in the title of his work on Poland—although for precise, technical purposes, he restricts ‘government’ to strictly subordinate administrative and executive functions ... ‘Government,’ as he defines it, is not sovereign, the people is.” *Ibid.*, note on the translations, L. Finally, it is worth noting that I have been unable to locate any article focused specifically on Rousseau and administration to help clarify this distinction. So in what follows, I will use both terms “government” and “administration” interchangeably in my analysis, except those places where Rousseau is explicitly speaking of one or the other.

⁶¹Rousseau, *Du contrat social*, 230.

In a Republic, Rousseau explains, the state must be governed by laws which express the sovereign general will. Different types of administration—either democratic, aristocratic or monarchical—may then execute this legislation. Whichever form is chosen, however, this administration or government must never be confused with the sovereign. Rousseau makes this point repeatedly. For example, in his *Discourse on Political Economy* he writes, “the first rule of public economy is that the administration conform to the laws.”⁶² Elsewhere, Rousseau metaphorically asserts administration or government to be the “minister” of the general will; that is, the executor of the law, not its maker. Rousseau also states this fundamental distinction with specific mention of democracy: “Above all in democracies,” writes Rousseau in his *Letters from the Mountain*, “the Government is in this case the executive power and is absolutely distinct from sovereignty.”⁶³ So no form of administration or government may be sovereign.⁶⁴ And since democracy is a form of government it cannot be a principle of sovereignty.⁶⁵

It is not until Book III, chapter 3, on the “Division of Governments,” that Rousseau explicitly defines democracy as *a form of government*. This definition of democracy builds on d’Argenson’s democratic administration, but breaks from Hobbes’s understanding of democracy in his *De Cive*, where he argues that government is born of the sovereign assembly of people gathered to decide their government, who then go to “sleep” until they are called to create the next government. In Book III, chapter 17, on “The Institution of Government,” Rousseau agrees with Hobbes that government is instituted in two distinct moments: “the establishment

⁶²Jean-Jacques Rousseau, *Discourse on Political Economy*, in Rousseau, *The Social Contract*, in Rousseau, *The Social Contract and Other Later Political Writings*, 3–153, at 11.

⁶³Rousseau, *Lettres de la montagne*, in *Collection complète des oeuvres* (Geneva, 1780–89), 6: 239. “Surtout dans les démocraties, où le Souverain, n’agit jamais immédiatement par lui-même ... le Gouvernement n’est alors que la puissance executive, et il est absolument distinct de la souveraineté.”

⁶⁴Considering this statement in the *Letters from the Mountain*, it is difficult to confirm James Miller’s claim that democracy is considered a form of government in *The Social Contract* and a form of sovereignty elsewhere in his writings. Miller cites, for example, Rousseau’s *Letter to d’Alembert* as proof that democracy is a form of sovereignty: “in a democracy ... the subjects and the sovereign are only the same men considered in different relations.” The French reads, “Mais dans une Démocratie où les sujets et le souverain ne sont que les mêmes hommes considérés sous différentes rapports.” Jean-Jacques Rousseau, “Lettre d’Alembert,” in *Oeuvres de J. J. Rousseau*, vol. 11 (Paris, 1822), 155. This statement does not show that Rousseau understood democracy to be a form of sovereignty. Rather, he is arguing that in a democracy, when sovereign power is exercised by citizen-magistrates, those who are subject to the sovereign will executed by these magistrates and the sovereign itself are one and the same people. No more conclusive is Miller’s other quotation, which he suggests confirms that democracy is a form of sovereignty, from *Letters from the Mountain*: “Now in a Democracy where the People is Sovereign’.” This passage must be read in light of d’Argenson’s understanding of democracy previously discussed—which Rousseau knew very well—that argues for a democracy in which the king is sovereign. Rousseau is therefore discussing the particular case in which there is “a democracy where the people are sovereign” as opposed to a democracy in which the people are not sovereign, which was a possibility for one of his most important influences, d’Argenson. It is precisely because both are possible that he must be explicit. For Miller’s argument see James Miller, *Rousseau: Dreamer of Democracy* (New Haven, 1984), chap. 5, “The Idea of Democracy.”

⁶⁵For a further discussion of this point see Pedro Abellan Artacho, “Rousseau, democracia y sus intenciones ideológicas: arreglos conceptuales como instrumentos políticos,” *Revista de Estudios Políticos* 186 (2019), 45–71.

of law and the execution of law.”⁶⁶ He too insists that the people are acting as sovereign when they join to form a common state. But he disagrees that creating government is a continuation of this initial sovereign act. Rousseau breaks with Hobbes’s conception of democracy by arguing that what has actually happened is “a sudden conversion of sovereignty into democracy.”⁶⁷ Rousseau clearly distinguishes between popular sovereignty and the creation of a democracy.⁶⁸ He clarifies this position, arguing that “without any perceptible change, and simply by a new relation of all to all, the Citizens having become Magistrates pass from general to particular acts, from the law to its execution.”⁶⁹ In other words, the shift away from an act of sovereignty and toward democracy takes place along three lines: from sovereign citizens to practicing magistrates, from general to particular acts, from the creation of law to its execution. In Rousseau’s account, founding a democracy is *not* a sovereign act; it is a form of *magistrature*, a way of performing particular acts and a means of *execution*.

Of course, democracy is only one among three possible modes of government. Describing the distinctive trait of democracy, he insists that it requires “much equality in rank and in fortune, without which equality of rights and authority could not long subsist.”⁷⁰ This equality is necessary, Rousseau explains, because “the Sovereign can, in the first place, entrust the charge of Government to the whole people or to the majority of the people so that there be more citizens who are magistrates than citizens who are simple particulars. This form of Government is given the name *Democracy*.”⁷¹ Democracy is thus defined as a type of administration in which all citizens are relatively equal and hence a majority of the citizens are magistrates.⁷² In this conception, democracy has at least one clear advantage over the other two forms of government since, as Rousseau explains in the chapter “On Democracy” in Book III, in principle the best person to execute and interpret the law is the person who made it.

Democratic administration does, however, pose significant problems. First, democracy in its purest form would mean that all citizens were also magistrates. And yet Rousseau has clearly established that the sovereign and the government must be distinct; making all members of the body politic magistrates would tend to confuse the two. He also establishes in chapter 1 of Book III that the more people are involved in government, the less force it has. Moreover, he asserts that a democratic form of magistrature will lead to “intestine turmoil.”⁷³ And finally, while he clearly

⁶⁶Rousseau, *Social Contract*, 117.

⁶⁷*Ibid.*, 117–18.

⁶⁸Again, this claim does not challenge Richard Tuck’s general claim that Rousseau inherits the notion of a sleeping sovereign and the distinction between sovereignty and government from Hobbes. What it does qualify is that Rousseau understands this distinction as the operative principle for a modern democracy. In fact, Rousseau places democracy entirely on the side of government. The term that would seem to encapsulate the entire distinction between sovereignty and government in Rousseau is not “democracy” but rather “republic.”

⁶⁹Rousseau, *The Social Contract*, 118.

⁷⁰*Ibid.*, 91.

⁷¹*Ibid.*, 89.

⁷²The actual size of that majority is flexible since it “can encompass the whole people or restrict itself to as few as half.” *Ibid.*, 89–90.

⁷³*Ibid.*, 92.

establishes that too frequent meetings of the sovereign lead to corruption, in a pure democracy everyone must gather regularly as magistrates to execute the law, which would lead to the same confusion, inefficacy and corruption that would occur if the sovereign gathered too regularly. He therefore offers his famous statement that such a regime would only be fit for gods.⁷⁴

Democracy appears to be at once the best and the worst form of government. How, then, might a democracy—that is, a democratic administration—effectively function? Rousseau responds in a number of places within *The Social Contract* and the *Letters from the Mountain*, arguing that citizen-magistrates may delegate their administrative powers into “councils” “commissions” or “tribunals” that manage specific cases and maintain the force of government: “the functions of Government are divided among several tribunals,”⁷⁵ he writes in his chapter “On Democracy”; or “when the Government is too slack, Tribunals can be set up to give it concentration. This is the practice of all Democracies.”⁷⁶ Furthermore, Rousseau clearly states the difference between this *administrative delegation* and *legislative representation*: “Since law is nothing but the declaration of the general will, it is clear that the People cannot be represented in its Legislative power; but it can and must be represented in its executive power, which is nothing but force applied to Law.”⁷⁷ General will may never be represented, but a democratic administration *requires* deputization.

Rousseau and d’Argenson’s arguments on democracy formed the core of a modern democratic tradition in France. Together, they offered a central contribution to a democratic conception of public power: in it, sovereign lawmaking was distinct from democracy, which was grounded in a relative equality that provided for popular participation in administration. This vision effectively pushed questions of formal political right outside the gambit of the democratic. Nannerl Keohane has presented the essential problem of eighteenth-century French political thought as a question of “how a sovereign could reserve full unitary authority to himself and yet ensure that a large commonwealth could be effectively administered by his agents.”⁷⁸ For d’Argenson and Rousseau, democracy offered one means of performing the administrative functions of the state while maintaining sovereign unity. Nonetheless, their responses differed in one fundamental way: Rousseau’s social contract replaced the king with the people as the sovereign lawgiver. Importantly, Rousseau did *not* characterize this transfer of power as democratic: popular legislative sovereignty was a republican notion in his vocabulary while democracy remained a form of administration/government. The transfer of sovereignty from the monarch to the people did, however, profoundly impact Rousseau’s conception

⁷⁴To be clear, the question discussed here is not so much whether or not Rousseau was ultimately an elitist, aristocratic republican or a democratic republican, but rather how he defines democracy and how he suggests it might work if it were successfully implemented. On Rousseau’s antidemocratic tendencies see, for example, John P. McCormick, “Rousseau’s Repudiation of Machiavelli’s Democratic Roman Republic,” in McCormick, *Reading Machiavelli: Scandalous Books, Suspect Engagements, and the Virtue of Populist Politics* (Princeton, 2018), 109–43.

⁷⁵Rousseau, *The Social Contract*, 91.

⁷⁶Ibid., 100.

⁷⁷Ibid., 115.

⁷⁸Keohane, *Philosophy and the State in France*, 76.

of democracy since the people would be acting both as sovereign lawgivers and as magistrates to execute such law. Therefore the creation of a sovereign general will raised the stakes of administrative politics. Summarizing the relationship between sovereign legislative power and government in Rousseau, Florent Guénard notes that they are less *separate powers* than *conflicting powers*. “It is less a problem of political right, than of practical politics,” Guénard argues.⁷⁹ At moments, Rousseau seemed to favor an aristocratic administration since it reduced the political and practical conflicts which would emerge between those designated to execute the general will. But he also took pains to describe how a democratic administration might function through deputization, delegation and commission. So even amidst his sometimes tepid support of democracy, Rousseau provided a major contribution to the democratic tradition by showing how a democratic administration in a sovereign state could function and highlighting its profoundly *political* character.⁸⁰

It might reasonably be surmised that Rousseau preferred aristocratic government in his *Social Contract* because relatively equal citizens had become sovereign legislators: if the people made law for and by themselves—and not through representatives—then popular execution of the law became secondary since magistrates needed only to adhere as closely as possible to the sovereign general will expressed in law. The challenge for this understanding of democracy was—as the Revolution would soon reveal—that Rousseau’s idea for a nonrepresentative legislative body was rejected. With the creation of a representative legislature—coined “representative government”—a properly democratic government or administration needed to be reconsidered.

Historians have noted the enigma that during the American and French Revolutions the word “democracy” was considered incompatible with the new system of “representative government.” Bernard Manin has further shown that representative government was devised to avoid the perceived dangers of ancient democracy, revealing the paradox that “modern democracies are the product of a form of government that its founders opposed to democracy.”⁸¹

In his participation in the debates on the new Parisian municipality in 1789, the theorist and administrator of the revolutionary era, Jacques Peuchet, provided a paradigmatic example of Manin’s assessment. “The legislators,” Peuchet wrote about the Parisian administration, “hardly intended to make the capital an Athenian democracy; they intended to give it a representative government like the rest of the empire.”⁸² Opposing Athenian democracy to the new system of

⁷⁹Florent Guénard, “Puissance législative et puissance exécutive: la marche vers le despotisme: Lettres de la montagne, VII,” in Florent Guénard and Gabriella Silvestrini, eds., *La Religion, la liberté, la justice: Un commentaire des Lettres écrites de la montagne de Jean-Jacques Rousseau* (Paris, 2005), 127–45, at 129.

⁸⁰On this question see Stephen W. Sawyer, William J. Novak and James T. Sparrow, “Beyond Stateless Democracy,” *Tocqueville Review/La revue Tocqueville* 36/1 (2015), 21–41.

⁸¹“Les démocraties contemporaines sont issues d’une forme de gouvernement que ses fondateurs opposaient à la démocratie.” Bernard Manin, *Principes du gouvernement représentatif* (Paris, 1995), 11.

⁸²*Moniteur universel*, 14 Dec. 1790. On this tension between the municipality and the sovereignty of the Parisian people in moments of revolution see Stephen W. Sawyer, “The Revolutionary Municipality,” in Sawyer, “Locating Paris: The Parisian Municipality in Revolutionary France, 1789–1852” (Ph.D. dissertation, University of Chicago, 2008).

“representative government,” Peuchet recognized the practical importance of legislative representation and the impracticality of ancient democracy. This acceptance, however, *did not* lead to a blanket dismissal of democracy *tout court*. To the contrary, Peuchet redefined a specifically modern democracy as a form of administration, abundantly citing d’Argenson and praising Rousseau as “the most prodigious writer the nation had ever produced.”⁸³

Peuchet incarnated the methods and ideals of the late political Enlightenment: polymath, early statistician and theorist of regulatory police,⁸⁴ he trained as a lawyer, spending the four years preceding the Revolution working under Morellet on the *Dictionnaire du commerce*.⁸⁵ Peuchet penned volumes 9 and 10 of the *Encyclopédie méthodique* on the police and municipalities, which appeared in 1789 and 1791 respectively, while serving in the Parisian municipal administration and earning the reputation of an institutional “pragmatist.”⁸⁶ Peuchet opened his volume 9 of the *Encyclopédie méthodique* with a protracted “preliminary discourse,” in the form of a history reaching back to antiquity.⁸⁷ This narrative was designed to illustrate the “general principles” of regulatory police, which he defined as “nothing less than the executive portion of government.”⁸⁸ His sprawling historical account drew heavily from “one of the first to treat this subject with some depth, the famous M. d’Argenson.”⁸⁹ Peuchet claimed to borrow from the “famous minister” the idea of “popular magistrates” deputized by the people to improve the kingdom’s administration. Peuchet further insisted that d’Argenson had rightly placed “the exercise of police powers within the hands of popular magistrates.”⁹⁰ Moreover, following d’Argenson, Peuchet did not place his insights on democracy under the letter

⁸³*Encyclopédie méthodique*, vol. 9, *Jurisprudence* (Paris, 1789), 63.

⁸⁴On the profound importance of Peuchet for regulatory police and the invention of a modern notion of administration during the Revolution see Paolo Napoli, *Naissance de la police*, 174–82.

⁸⁵On Peuchet’s relation to key figures of the political Enlightenment and the originality of his conception of administration see Fanny Siam, “Le dictionnaire de Police et Municipalités (1789–1791): la philosophie politico-juridique de Jacques Peuchet au service de l’administration,” in Claude Blanckaert et Michel Porret, eds. *L’Encyclopédie méthodique (1782–1832): Des lumières au positivisme* (Geneva, 2006), 341–60.

⁸⁶“Il est avant tout pragmatique.” Groffier Ethel, *Un encyclopédiste réformateur: Jacques Peuchet (1758–1830)* (Quebec, 2009), 12. For a brief introduction to Peuchet’s career and a discussion of his works on administration and regulatory police under the Restoration see Pierre Karila-Cohen, “Du maintien de l’ordre à l’expertise du social: Jacques Peuchet et la crise de la police à l’âge libéral,” in Vincent Milliot, ed., *Les mémoires policiers 1750–1850: Écritures et pratiques policières du siècle des lumières au Second empire* (Rennes, 2006), 251–68.

⁸⁷Peuchet’s historical presentation is exceedingly similar to the historical developments in d’Argenson’s *Considerations*. It is, however, much longer and more detailed, which suggests that he was also influenced by one of the most important authors on regulatory police, Nicolas Delamare, who also illustrated the foundational principles of police powers through a protracted history. See Nicole Diyonet, *Nicolas Delamare, théoricien de la police* (Paris, 2018).

⁸⁸Jacques Peuchet, *Jurisprudence: La police et les municipalités, Encyclopédie méthodique*, vol. 10 (Paris, 1789), 637. On Jacques Peuchet’s conception of police and civilization in the Enlightenment see Nicolas Vidoni, “Une ‘police des lumières?’,” *Rives méditerranéennes* 40 (2011), 43–65, at 43, who writes, “À la fin du XVIIIe siècle, une idée diffusée en Europe veut que vivre à Paris constitue le summum de la douceur de vivre, parce qu’on y trouve la plus grande tranquillité. Cette idée est défendue par Hume, Gibbon, et par Jacques Peuchet, qui fait paraître, en 1789, le tome IX de la série ‘Jurisprudence’ de l’Encyclopédie méthodique de Panckoucke; opus intitulé La Police et les Municipalités.”

⁸⁹*Encyclopédie méthodique*, vol. 9, 58.

⁹⁰*Ibid.*, 59.

“D” of his *Encyclopédie méthodique*, but rather recounted its history in his article on “Administration.” He details the democratization of administration during the Middle Ages, its de-democratization under absolutism, and then its re-democratization in the years leading up to the Revolution.⁹¹ Peuchet’s updated account of d’Argenson’s history of democratic administration leads to his incontrovertible conclusion that under a just regime, the king should do very little and administrative decisions should be executed by the many who are most familiar with the issues at hand.

Nor is Rousseau ever far from his reflections. Peuchet offers a faithful rendering of Rousseau’s distinction between the sovereign general will, which makes law, and the administration that executes said law. “It is necessary, as Rousseau argued, that the first duty of the legislator be to make laws that conform to the general will.” Peuchet further channels Rousseau when he argues, “the administration must conform to these laws. This is a fundamental maxim of any nation that has not been reduced to the furthest degree of servitude, and administrators must never stray from it.”⁹² Peuchet then summarizes Rousseau’s claim that the law expresses the general will while the administration is its executor.

In spite of his admiration for Rousseau, however, Peuchet defended the representative legislature that his Genevan idol had so adamantly refused. The representative legislature remained legitimate as long as its power was “founded on the primary characteristics of the people: on the laws of the social contract, on the principles of positive and natural law received from the nation as a whole.” Accepting the legitimacy of representative legislative power, however, raised a new problem for conceiving a democratic administration: if the sovereign legislative power was now also delegated—and referred to as a “representative government”—how was its power distinct from a deputized democratic administration? Insisting on a fundamental distinction between the two, Peuchet redefined democratic administration, which “is, to the contrary, arbitrary and momentary. It can be changed or modified, expanded and diminished in its functions, and even delegate [specific tasks] without ever having an impact on the constitutional form.” In so doing, he added an important distinction, which Rousseau had considered unimportant, between administration and government, arguing that “administration is so distinct from government that the people may directly share in the functions of public administration without accumulating any further political power, that is without the essence or the form of government actually changing.”⁹³ Unlike the kingdom’s general laws, democratic administration was variable, dependent on the intensity of the problem to be solved. “Hence when one says that the administration is changeable or malleable,” Peuchet writes, it is because the “means designed to ensure the functioning of daily affairs change often.” Summarizing his position in 1789 in a pamphlet entitled *De l’appel au peuple*, Peuchet stated, “we propose the

⁹¹“The natural form of administration would appear to have been democratic under Charlemagne.” *Encyclopédie méthodique*, 9: 201. “Saint Louis followed the system of his predecessors and favored democracy.” *Encyclopédie méthodique*, 9: 205.

⁹²*Encyclopédie méthodique*, 9: 153.

⁹³*Encyclopédie méthodique*, 9: 201.

involvement of the people [*l'appel au peuple*] to be less a means of political legislation and instead a principle for order, police and public liberty.”⁹⁴

By elaborating the ideal of a democratic administration, Peuchet carried the democratic tradition into the revolutionary era. While openly displaying the influence of d'Argenson and Rousseau, the novel creation of a represented legislative power—an idea ignored by d'Argenson and categorically refused by Rousseau—pushed Peuchet to elaborate a tripartite distinction between an outmoded Athenian democracy, which he rejected; a novel form of “representative” legislature, which he accepted but did not consider democratic; and a *democratic* administration, which he celebrated. He therefore maintained a positive conception of democracy as a popular administrative power, opening the possibility that even if the tempered politics of 1789 did not survive the declaration of the republic, the idea of a deputized democratic administration necessary for defending the public welfare would.

It should be of little surprise, then—even though it has been met regularly with bewilderment by historians—that discussions of democracy in the early years of the Revolution disregarded the novel creation of a representative legislature and targeted instead administrative and executive power. In just such an effort to feature the strange confines of revolutionary reflections on democracy, Pierre Rosanvallon expressed the ostensible peculiarity of Abbé Fauchet's understanding that “the proper place of the term ‘democracy’ was in the executive sphere.”⁹⁵ In fact, there should be little surprise in this: administration and executive power were precisely where the democratic tradition had situated popular rule. In his extended commentary on Rousseau's *Social Contract*, the Abbé Fauchet repeated the radical distinction between sovereignty and government that characterized this tradition, contending that the former made law while deeply subordinating the power of the latter, which could be delegated: “The Prince and the public civil servants, instituted to execute the law, do not act in any way as sovereign; they enter only as members of the association. In their quality as delegates, charged with executive power, they are ... strictly subordinate to the general will.”⁹⁶ He further elaborated this point, practically quoting Rousseau word for word: “I cannot say it often enough, if you would like to be free, love the law,” he argued; “submit yourselves to the magistrate who is the law's minister and executor.”⁹⁷ For Fauchet, this delegated executive power was above all “a monarchy without a monarch,” in which “every citizen could become king,” “random choice [*sort*] alone should bring one to the throne, a first among equals.”⁹⁸

And Fauchet was not alone. Brissot similarly discussed the problem of democracy in terms of a popular executive.⁹⁹ In July 1791, Brissot insisted, like Peuchet, that he too “did not want the pure democracy of Athens, the Spartan democracy of

⁹⁴J. Peuchet, *De l'appel au peuple*, 1789.

⁹⁵Rosanvallon, “History of the Word Democracy” (online, unpaginated version).

⁹⁶*La bouche de fer*, 5 Nov. 1790.

⁹⁷*La bouche de fer*, 11 June 1791, 5.

⁹⁸*La bouche de fer*, 2 July 1791, 3–5.

⁹⁹J. P. Brissot, *Recueil de quelques écrits principalement extraits du Patriote François, Relatifs à la discussion du parti à prendre pour le Roi, et de la question sur le Republicanisme et la Monarchie* (Paris, 1791).

two kings, or the aristocratic democracy of Rome.”¹⁰⁰ Recognizing the value of what he called “the modern system” or a “representative constitution,” he observed that the three branches of government—the legislative, executive and judiciary—were all elected within the new constitution. “All patriots are in agreement,” he explained, “except on one point”:¹⁰¹ the executive power. For, while “half the executive power is elected”—that is, the departmental administrations—the king remained hereditary. In such a system, Brissot argued, “if the laws are executed by a distrusted king or by ministers chosen by the king ... suspicion will spread and there will be perpetual disobedience.”¹⁰² Brissot offered a solution to such rebellion: “it is necessary to surround the king with an independent and removable council, elected by the people and their representatives.”¹⁰³ Putting a name to this system, Brissot wrote, “Such is my democracy.”¹⁰⁴ For Brissot, like Peuchet and the Abbé Fauchet, a refusal of ancient democracy hardly meant a refusal of democracy as a whole; it meant, above all, democratizing executive power.

While Peuchet, Fauchet and Brissot redefined democratic administrative and executive power under representative government in the first years of the Revolution, no doubt the most legendary invocation of democratic administration during the revolutionary era came after the execution of the king when representative government was all but suspended in 1794. The significance of Maximilien Robespierre’s speech on 18 pluviôse, an II (5 February 1794) for understanding democracy during the Revolution has been established.¹⁰⁵ Robert Palmer referred to it as the *locus classicus* for the word “democracy” during the Revolution.¹⁰⁶ For François Furet, Robespierre’s speech incarnated the illiberalism of the Terror since it evacuated “the formalities of law leaving only principles and men on their own.”¹⁰⁷ And historians of classical republicanism have highlighted how Robespierre’s invocations of virtue were foundational for the political logic of the Terror.¹⁰⁸ But considering the centrality of democracy in this discourse, the speech must also be read within the tradition exhumed in this article.

By February of 1794 what William Finley Shepard referred to as the “regulatory machine” of the Revolution had been largely established under the Committee of Public Safety.¹⁰⁹ This institutional mechanism, Shepard insisted, was made of delegated administrative bodies, decrees, ordinances and statutes that radically increased the government’s ability to intervene in public life. In short, as

¹⁰⁰Ibid., 7.

¹⁰¹Ibid., 7.

¹⁰²Ibid., 12.

¹⁰³Ibid., 13.

¹⁰⁴J. P. Brissot, “Réponse à P. Choderlos, rédacteur du Journal intitulé: Des amis de la constitution,” *Le patriote français* 609 (9 April 1791).

¹⁰⁵Maximilien Robespierre, *Rapport sur les principes de morale politique qui doivent guider la Convention nationale dans l’administration intérieure de la République, fait au nom du Comité de salut public, le 18 pluviôse, l’an 2e de la République*, imprimé par ordre de la Convention nationale (18 pluviôse an II [5 Feb. 1794]).

¹⁰⁶Palmer, “Notes on the Use of the Word ‘Democracy,’” 216.

¹⁰⁷François Furet, *Revolutionary France, 1770–1880*, trans. Antonia Nevill (Cambridge, 1992), 146.

¹⁰⁸Keith Baker, “Transformations of Classical Republicanism,” 50–51, has most notably argued that this speech completes a final “mutation within Robespierre’s classical republicanism.” Ibid., 51.

¹⁰⁹William Finley Shepard, *Price Control and the Reign of Terror: France, 1793–1795* (Berkeley, 1953), 29.

Albert Soboul noted long ago, the Terror required above all the formation of a revolutionary government, which Robespierre had taken a predominant place in establishing.¹¹⁰ It is thus significant that Robespierre's speech was entitled "Report on the principles of political morality that must guide the National Convention in the interior administration of the republic." The speech, in which Robespierre offers his most elaborate analysis of democracy, is about "administration"—though in the actual text, like Rousseau, he more commonly uses the word "government." Indeed, as opposed to Peuchet, Robespierre was able to maintain Rousseau's conflation of government and administration because he rejected the basic tenets of a representative legislature. "The word representative cannot be applied to any mandatary [*mandataire*] of the people, because the will cannot be represented. Members of the legislature are the mandataries [*mandataires*] to whom the people have given the primacy and the power; but in the true sense, they cannot be considered representatives."¹¹¹ Indeed, Robespierre insists that instead of "representative government" he is the head of a "democratic government" with its own set of principles. This discussion of democratic administration or government was steeped in regulatory language: the revolutionary government must "regulate conduct" in the troubled moments of the republic;¹¹² it must "guide political conduct" in order to "deal with the circumstances, seize the moment and choose the means"; and in so doing, it must establish "a plan for your administration which is the result of the spirit of the revolutionary government, combined with the general principles of democracy."¹¹³ So to the question "what kind of government may realize the prodigious goals" of the Revolution,¹¹⁴ Robespierre plainly replied, "only a democratic or republican government," insisting that "these two words are synonyms."¹¹⁵ Equating the two further, he states, "the essence of the republic and of democracy is equality."¹¹⁶

Robespierre rejected an ancient Greek system just as he rejected "representative government"; channeling the ideas of Rousseau, Robespierre declared the birth of what he titled the first "true" democracy of the revolutionary age grounded in government and the faithful execution of law. "The French are the first people in the world to have established a true democracy," he argued. Robespierre is exceedingly clear on what this democracy entails. First, it was *not* the "pure democracy" of ancient Athens. Robespierre had already patently refused "the excesses of a democracy that would overthrow national sovereignty" held by the sovereign people. To the contrary, his was a "democracy that, for the general good, was tempered by law."¹¹⁷ Furthermore, in his democracy, "all of your operations are motivated to maintain equality."¹¹⁸ This democratic ambition fed his critique of monarchical

¹¹⁰See Albert Soboul, "Robespierre et la formation du gouvernement révolutionnaire (27 juillet–10 octobre 1793)," *Revue d'histoire moderne et contemporaine* 5/4 (1958), 283–94.

¹¹¹*Archives parlementaires*, vol. LXVI, 578.

¹¹²Robespierre, *Rapport*, 5.

¹¹³*Ibid.*, 5.

¹¹⁴*Ibid.*, 4.

¹¹⁵*Ibid.*, 4.

¹¹⁶*Ibid.*, 5.

¹¹⁷14 June 1793, *Archives parlementaires*, vol. LXVI, 530.

¹¹⁸Robespierre, *Rapport*, 6.

government. Throughout the speech Robespierre hammered his critique of monarchy and ministerial aristocracy, which necessarily weakened the force of government by its corrupting influence, anachronistic preservation of inequality and perverting privilege. For Robespierre, aristocracy and monarchy robbed the people by claiming a share of sovereignty when a legitimate government in a republic should have none. "Is he not sovereign, at least in practice?"¹¹⁹ Robespierre asked of the king, similarly critiquing aristocratic government, in which "patrician families have invaded sovereignty."¹²⁰ The ambition instead must be to "realize the sovereignty of the people."¹²¹ Robespierre had already asserted this point in no uncertain terms in May 1793, mirroring Rousseau almost word for word: "The people are sovereign; the government is their tool and their property, civil servants are their clerks."¹²²

What ensured the democratic character of government, for Robespierre? Neither elections nor direct response to public opinion. Rather, Robespierrian democracy was entirely determined by the pragmatic principle of regulatory police: a democratic administration was defined by the basic fact that it preserved equality by "giving preference to the public interest above all particular interests,"¹²³ an ideal perhaps best captured by the extensive regulatory measures of price controls which were implemented just a few days later in February 1794 by the Committee on Public Safety. Robespierre further captured the "democratic" nature of his administration, arguing that it was a question of "realizing the sovereignty of the people and concentrating its force in a firm and respected government."¹²⁴ For, as Rousseau had argued, the force of government was proportionate to its concentration.¹²⁵ Following Rousseau, Robespierre highlighted that a forceful democratic government needed deputization: "Democracy is not a state where the people are continually assembled, regulating by themselves all public affairs. Such a government has never existed and never could."¹²⁶ Instead, democracy was a system in which deputized magistrates adhered to will of the sovereign people. "Democracy is a state in which the sovereign people, guided by the laws they have made, do whatever they may do well, and through delegates whatever they cannot do themselves."¹²⁷ This observation fully captures Robespierrian democracy and its inscription within the democratic tradition: democracy, Robespierre argues, is a form of political organization in which the people do what they can do themselves and choose delegates to do the rest, adhering as closely as possible to the law. Democratic magistrates were therefore subject to laws made by the sovereign people and given full power to execute it toward the citizens' well-being either themselves or through their delegates. It was this vision which animated the administrative

¹¹⁹Ibid., 5.

¹²⁰Ibid., 5.

¹²¹Ibid., 17.

¹²²*Archives parlementaires*, vol. LXIII, 199.

¹²³Robespierre, *Rapport*, 5.

¹²⁴Ibid., 17.

¹²⁵Rousseau writes in Book III, chap. 2, *Du principe qui constitue les diverses formes de gouvernement*: "le gouvernement se relâche à mesure que les magistrats se multiplient."

¹²⁶Robespierre, *Rapport*, 4.

¹²⁷Ibid., 4.

delegates in the twelve commissions, established just two months after Robespierre's speech in April 1794 to replace the former ministries of the Executive Council, whose tendency toward independence from the Committee of Public Safety reignited claims "that ministers were a tyrannical invention of kings."¹²⁸ As Palmer notes, the creation of these commissions put an end to any remaining separation between the executive and the legislative powers, granting the Committee on Public Safety the capacity to direct administration, implement policy and serve as executive to the assembly. It was therefore in this spirit that Robespierre concluded, summarizing the essential ambition of his speech, "the plan for your administration must result from the spirit of the revolutionary government, combined with the general principles of democracy."¹²⁹ Like d'Argenson and Rousseau before him, the principles of Robespierre's democracy were to be applied to effective administration and execution in the service of the sovereign people.

So while Manin correctly asserts that "representative government was not a form of democracy" during the French Revolution,¹³⁰ it does not follow that democracy in the French Revolution was considered entirely antiquated and rejected. Robespierre proposed a particularly modern form of democracy, hugging tightly to the democratic tradition articulated by d'Argenson and Rousseau, just as he adopted some of Peuchet's ideas on the "expansion" of administrative power "without ever having an impact on the constitutional form." Establishing a clear distinction between democracy as a form of administration on the one hand and popular sovereignty through legislative power on the other, Robespierre insisted that democratic administration should be concentrated in the hands of delegates, under the surveillance of the sovereign people, so that it contained enough force to ensure equality and the public good, or safety, even in exceptional times. There was no sustained or essential connection between revolution, democracy and Terror: "The Terror," Robespierre argued, "was not a particular principle but rather a consequence of the general principle of democracy applied to the most pressing needs of the *patrie*."¹³¹ If, then, as Furet argued, Robespierre's democracy did not concern itself with "the formalities of law," this was not because Robespierre rejected the law. Indeed, he clung to it staunchly. What appears to be Robespierre's Promethean drive to "embody the people" and usurp all sovereignty was precisely the reverse:¹³² He was a deputized administrator who attempted to erase even the slightest separation between his executive power and the sovereign legislation because his democratic government needed to be the most faithful minister of sovereign law and never its originator.

The dominant thread of the democratic tradition—that democracy was a form of neither sovereignty nor lawmaking, but a means to ensure the popular foundations

¹²⁸Robert R. Palmer, *Twelve Who Ruled: The Year of Terror in the French Revolution* (Princeton, 2005; first published 1969), 307.

¹²⁹Robespierre, *Rapport*, 5.

¹³⁰Manin, *Principes du gouvernement représentatif*, 14.

¹³¹Robespierre, *Rapport*, 10.

¹³²The term is used by François Furet in *Interpreting the French Revolution*, trans. Elborg Forster (Cambridge, 1981), 57.

of administrative action, regulation and execution toward equality and the public welfare—was woven into the fabric of post-revolutionary French politics by Pierre-Paul Royer-Collard when he delivered his speech on the freedom of the press in the Chamber of Deputies on 22 January 1822.¹³³ Initiating a profound revision of the uses of democracy during the Terror, he argued that even in the heart of the Bourbon Restoration “democracy is everywhere”; one could find it “in industry, in property, in laws, in memories, in things, in men.” Royer-Collard thus drew the conclusion that democracy “dominates our society. It must now find its way into our politics.”¹³⁴ Royer-Collard’s distinction between democracy as a social form and as a political regime offered him a subtle means of reframing the relationship between democratic government and popular sovereignty. With it, he could now critique the Bourbon regime for not being democratic without calling for a republic of popular sovereignty, which remained too closely associated with the tumultuous years 1792–4. Royer-Collard sidestepped the question of the republic and posed a novel question: how to give a new democratic society a democratic government? His response? Democratize the administration in ways that were surprisingly reminiscent of d’Argenson: “Does democracy have any custodial institutions, any magistrature in its own hands? No.” He succinctly answered, further arguing that “the society was formerly so rich in popular magistrature” whereas now “local police escapes it.” The problem with the local administration of the Restoration, Royer-Collard argued, was that it was not made popular through elections. Instead, “delegates of sovereign power clean our streets and light our streetlamps.” He then concluded, “Democracy has disappeared.”¹³⁵ Rereading the democratic tradition on the other side of the Revolution, Royer-Collard argued for reestablishing the radical distinction between sovereignty and democracy. It was the police, administration and provision that needed to be democratized through the creation of locally elected magistrates.

No one did more to elaborate Royer-Collard’s initial insights into a full post-revolutionary articulation of the democratic tradition than Alexis de Tocqueville. Though one simply cannot provide any simple definition of democracy in Tocqueville’s work, he did offer some relatively concise descriptions of the democracy he had in mind in Part 1 of his *Democracy in America*. Here, Tocqueville passes from a discussion of the general territorial and historical considerations of the United States in chapters 1 and 2 to the heart of his discussion on American democracy in the following three chapters. The original manuscript therefore opened Chapter 3 with a definition of democracy:

Democracy constitutes the social state; the dogma of the sovereignty of the people, the political law. These two things are not analogous. Democracy is society’s way of being. Sovereignty of the people, a form of [v. the essence of] government. Nor are they inseparable, because democracy is even more compatible with despotism than with liberty. But they are correlative. Sovereignty of the people is always more or less a fiction wherever democracy is not established.¹³⁶

¹³³Pierre-Paul Royer-Collard, *De la liberté de la presse: Discours* (Paris, 1949).

¹³⁴*Ibid.*, 47.

¹³⁵*Ibid.*, 49.

¹³⁶All quotations from *Democracy in America* are from Alexis de Tocqueville, *Democracy in America*, ed. Eduardo Nolla, trans. James T. Schleifer (Indianapolis, 2010), vol. 1, 75–6.

A few pages later, in his notes to the manuscript, he clarifies this definition further: “sovereignty of the people and democracy are two perfectly correlative words; the one represents the theoretical idea, the other its practical realization.”¹³⁷ These passages reveal a constellation within which Tocqueville was thinking about the democratic. First, he unquestionably makes a distinction between democracy and sovereignty: democracy is “a social state,” a “way of being,” and a “practical realization,” while popular sovereignty is “political law,” “a theoretical idea” and “a form” or “essence” of government. Democracy is therefore a concrete practice of social being while popular sovereignty is presented as an abstract theoretical political form expressed in law. In turn, their relationship is defined as “not analogous,” separable (“not inseparable”) and “correlative”—that is, they are clearly distinct and are not reducible to one another but have reciprocal relations. Tocqueville’s preferred terms for these reciprocal concepts in his *Democracy* are “sovereignty of the people,” which, he says, is the starting point for any discussion of “the political laws of the United States,”¹³⁸ and “democratic government,” adding that the “United States alone presents this new spectacle.”¹³⁹

Tocqueville elaborates a historical analysis of the “correlation” between them in the following chapter 4 on sovereignty. He argues that “the principle of the sovereignty of the people had been the generative principle of most of the English colonies of America,” suggesting in the original manuscript that the Puritans established “the social contract in proper form that Rousseau dreamed of in the following century.”¹⁴⁰ He then notes that this popular sovereignty “fell far short, however, of dominating the government.”¹⁴¹ So while popular sovereignty permeated colonial life, the government remained undemocratic because the colonies “were still forced to obey the home country” and there remained “a sort of aristocratic influence that tended to confine the exercise of social powers to a few hands.”¹⁴² It was then only with the Revolution, according to Tocqueville, that “the dogma of the sovereignty of the people emerged from the town and took over the government.”¹⁴³ Or in the terms he used in his initial definition above: by establishing a democracy, popular sovereignty went from being a “fiction” to the “essence” of government. Tocqueville provides further explanation of this process in the notes to his manuscript: “I draw a great difference between the right of a people to choose its government, and the right that each individual among this people would have to take part in the government.”¹⁴⁴ He makes this same point more emphatically further on. “Everything is reduced to this: to choose a government and to take part in government, these are two analogous products of human judgment.”¹⁴⁵ There was, then, for Tocqueville, two distinct, though “analogous,” issues: the right of a people to choose its government, which he presents in the wake of the American

¹³⁷Ibid., 91 n.

¹³⁸Ibid., 91.

¹³⁹Ibid., 360.

¹⁴⁰Ibid., 58.

¹⁴¹Ibid., 92.

¹⁴²Ibid., 92.

¹⁴³Ibid., 92.

¹⁴⁴Ibid., 93.

¹⁴⁵Ibid., 93.

Revolution as a product of the expression of popular sovereignty, and the right to actually participate in making and executing governmental decisions, which is what he understands to be “democratic government.” In a statement startlingly close to Rousseau’s definition of democracy, Tocqueville clearly defines the latter: “Show me a people in which all the citizens may be involved in the government and, in my eyes, this people will have the right to govern itself democratically.”¹⁴⁶

In the next chapter, on government and administration (chapter 5), Tocqueville depicts what governing democratically entails, highlighting once again the relationship between equality, the principle of sovereign power and democratic government: “each individual forms an equal portion of the sovereign power, and participates equally in the government of the state.”¹⁴⁷ What makes the towns of New England particularly democratic, then, is that “the law of representation is not accepted.” Instead, “the body of voters, after naming their magistrates, directs them in everything that is not the pure and simple execution of the laws of the state.” As the notes to the Nolla edition point out, Tocqueville here “gives the town a role similar to that of the small republic in the thought of Rousseau.”¹⁴⁸ Tocqueville’s analysis of democratic administration in New England remains in sustained dialogue with Rousseau throughout.¹⁴⁹ Responding to Rousseau’s essential critique of democratic administration that it will be too weak and prevent the effective execution of the sovereign will, Tocqueville shows in very concrete terms that this is not the case in New England, where each citizen “knows that this union cannot exist without a regulatory power.”¹⁵⁰ Tocqueville highlights the extraordinary number of magistrates in the smallest New England town designed to regulate the most mundane activities. Alongside the selectmen, he notes, “the town meeting chooses a host of other town magistrates, appointed for certain important administrative tasks,” including “assessors,” “collectors,” “the constable,” “the town clerk,” “a treasurer,” “an overseer of the poor,” “school commissioners,” and “road surveyors.” “But the division of offices does not stop there,” he continues, listing “parish commissioners,” and a veritable army of “inspectors” for fire, the harvest, fencing and wood allotments. Through this extraordinary distribution of administrative tasks, “law descends into the minutest details” animating regulation of the public welfare. Not only does the extraordinary distribution of tasks ensure their efficacy; these magistrates are also under the strict control of popular sovereignty through law, which “prescribes the principles and the means to apply them; thus it encloses the secondary bodies and their administrators within a multitude of strict and rigorously defined obligations.”¹⁵¹ Thus the New England administration was democratic precisely because a majority of people could be magistrates and because it adhered tightly to the sovereignty of the people since it was widely distributed and tightly bound by law. As Tocqueville stated himself, his voyage to the

¹⁴⁶Ibid., 93.

¹⁴⁷Ibid., 108.

¹⁴⁸Ibid., 104 n.

¹⁴⁹Tocqueville clearly considered that he was in dialogue with Rousseau. In a letter to Kergorlay he wrote, “There are three men with whom I live a bit every day, Pascal, Montesquieu and Rousseau.” Letter of 10 Nov. 1836, in Alexis de Tocqueville, *Oeuvres complètes*, vol. 13 (Paris, 1977), 1, 418.

¹⁵⁰Tocqueville, *Democracy*, 108.

¹⁵¹Ibid., 120.

United States was a search for “more than America; I sought the image of democracy itself.”¹⁵² In short, Tocqueville crossed the Atlantic to elaborate the democratic tradition on the other side of the revolutionary divide.

For virtually every historian and political theorist of modern France, Tocqueville’s argument in *The Old Regime and the French Revolution* on the democratic consequences of a centralized administration is second nature. Tocqueville’s masterpiece consists of three books, with the central Book II consisting of twelve chapters, which one may divide into two parts of six chapters each: chapters 1–6 recount the administrative transformation achieved by centralization from above, and chapters 7–12 explore the social consequences of these transformations below that culminated in the Revolution. Tocqueville opens the middle, transitional chapter of the central book—chapter 6 of Book II—by summarizing how the transformation of administration in the Old Regime generated an extraordinary uniformization of French “minds.” The intendants and post-revolutionary administrators “seem to shake hands across the abyss of the Revolution which separates them. I would say the same for those who were administered.”¹⁵³ With this statement, Tocqueville synthesized an essential claim of his entire *oeuvre*: shifts in institutional organization provoked deep sociological change toward equality and in so doing constructed a democratic modernity. Unsurprisingly, Tocqueville’s interpretation of a modern democracy did not emerge fully formed from his own head in the mid-nineteenth century. He knew this. And it was sufficiently important to him to inform his reader as well. So in the next paragraph, Tocqueville signaled the influence of his intellectual forebear: “As early as the middle of the century (1733), M. d’Argenson wrote: ‘The details conferred to ministers are immense.’”¹⁵⁴ Tocqueville too—like Rousseau and Peuchet—reached back to d’Argenson to understand the democratic effects of administrative centralization.

While Tocqueville’s debt to d’Argenson has long been recognized,¹⁵⁵ what has only been intimated is how his socio-institutional history builds out of the rich democratic tradition that preceded him. When researching the *Old Regime*, Tocqueville admitted,

When I began researching for the first time in the archives of the intendance to find out exactly what a parish of the old regime looked like, I was surprised to discover in this community that was so poor and so enslaved, many of the traits that struck me in the rural communes of America, that I had previously, and wrongly, judged to be exclusive to the new world.

Medieval French parishes and the New England townships had at least two characteristics in common, he argued: “Both were administrated by civil servants that

¹⁵²Ibid., 13.

¹⁵³Alexis de Tocqueville, *Old Regime and the French Revolution*, trans. Alan S. Kahan (Chicago, 1998), 138. Kahan translates *administrés* as “governed.” I have restored Tocqueville’s original term.

¹⁵⁴Ibid., 138.

¹⁵⁵See, for example, Robert T. Gannett Jr, *Tocqueville Unveiled: The Historian and His Sources for The Old Regime and the French Revolution* (Chicago, 2003); Keith Michael Baker, “The Problem of the Ideological Origins of the French Revolution,” in Baker, *Inventing the French Revolution* (Cambridge, 1990), 12–30, at 21–2.

acted on their own” and “under the direction of the entire community.” He then concluded, “The rural parish of the middle ages became the township of New England.” Tocqueville therefore set out to understand what had happened in France that had prevented the development of a democratic administration along the lines of New England. His answer: absolutism. “Under the old monarchy,” Tocqueville argued in words that are strikingly similar to those of d’Argenson, Rousseau and Peuchet, “there were only ever two ways of administrating,” pointing toward administration through assemblies or by a single appointed official.¹⁵⁶ Tocqueville discusses these two kinds of administration and their histories throughout the old regime: one may refer to these two modes of administrative power under the titles of local police regulation and central state administration. Local police regulation was the earlier form of governing power, which d’Argenson and Peuchet also described as emerging out of the medieval period and Rousseau had discussed in his *Letters from the Mountain*. As d’Argenson and Peuchet argued, this administrative power was slowly displaced by the new absolutist administrative apparatus that prepared the revolution designed to “abolish the political institutions that had, for many centuries, reigned without rival.” Local police regulation did not entirely disappear, however: “In France, even in the eighteenth century, there are still a few vestiges,” he wrote.¹⁵⁷

Tocqueville’s narrative clings closely to the latent potentialities of democratic administration previously described by d’Argenson and Peuchet. “Louis XI restrained municipal liberties,” Tocqueville argued, “because their democratic nature frightened him; Louis XIV destroyed them without fear.”¹⁵⁸ Tocqueville speaks of this “democratic” administrative principle on a number of occasions: “During the middle ages,” he explains, “inhabitants administered themselves democratically ... even in eighteenth-century France one could still find traces.”¹⁵⁹ Hints of this previous democratic administration could be found everywhere: “Up until around the end of the seventeenth century, we find them [cities] continuing to form small democratic republics.”¹⁶⁰ And in some cases, it continued even up to 1789: “Until the Revolution, the government of the rural parish in France retained something of that democratic aspect.”¹⁶¹ While it was largely dismantled by the new centralized state, there remained a local democratic administration, which was not a counterpower to sovereignty, but subordinate to it. As such, recounting the history of this democratic administration and its replacement under absolutism provided an essential resource for achieving the process of social equality long underway and promoting regulatory governance in the service of public welfare.

So when Tocqueville posed the question “What is democracy?” during the debates on the social question in 1848, he made no mention of popular sovereignty, responding instead that it meant “giving the greatest share possible of liberty, enlightenment and power to each individual.” Two lines later, he specified his question, asking, “What is a democratic government?” To this second question he

¹⁵⁶Alexis de Tocqueville, *L’Ancien Régime*, Pléiade edn (Paris, 2004), 218.

¹⁵⁷*Ibid.*, 93.

¹⁵⁸Tocqueville, *L’Ancien Régime*, 88.

¹⁵⁹*Ibid.*, 93.

¹⁶⁰Tocqueville, *The Old Regime and the French Revolution*, 124.

¹⁶¹*Ibid.*, 130.

responded that it was a government that “instead of restricting liberty offered a thousand ways of rescuing it ... opening all kinds of new perspectives.”¹⁶² In his own response to the social question, Proudhon struck out at this conception, damning democracy: “Such is the pretention of Democracy,” he exclaimed, “that it presents itself as the form of government which most accurately translates the sovereignty of the people.” Proudhon condemned democracy because it was a form of government, and as such it confiscated the direct expression of popular sovereignty guaranteed by the republic. “Democracy,” Proudhon insisted, “was no more than the *symbolic* [*symbolique*] of sovereignty which responded to none of the questions raised by the idea.”¹⁶³ In this discussion of how to constitute the social in the mid-nineteenth century, the battle between Tocqueville and Proudhon was less over liberalism or republicanism. Their stated disagreement focused on democracy; that is, democratic government.

Writing in the mid-twentieth century, Robert Palmer noted the surprising similarities between Tocqueville’s writings on democracy and his eighteenth-century predecessor, the Marquis d’Argenson.¹⁶⁴ This article has suggested that Palmer’s discovery may not be so unexpected after all. Indeed, in spite of the extraordinary waves of stunning progress in our understanding of the political history of modern Europe since, a precise and more textured history of the arc of democracy between these two authors and administrators from the 1730s through the wake of the Revolution of 1848 may become yet clearer if we distance ourselves from some of our contemporary assumptions about democracy. In this spirit, I have attempted to flesh out a distinct set of reflections on democracy in France during the critical century surrounding the French Revolution by suggesting that d’Argenson, Rousseau, Peuchet, Fauchet, Brissot, Robespierre, Royer-Collard and Tocqueville—and many others not discussed here—formed the spine of a coherent democratic tradition in revolutionary France. At the heart of this tradition sat a specific interest in the governmental, regulatory and executive capacities of democracy in service of a relatively egalitarian society for the public welfare.

The originality of this democratic tradition could be found in the ways it considered the ends of regulatory police fundamental to a just modern polity, while at the same time redefining the means through which it was accomplished. This tradition refused to understand police and executive powers through the lens of sovereign prerogative. It also sought to overcome the widely accepted difficulties of what was perceived as a democracy of the ancients at the same time that it diverged entirely from representative legislature, understanding democracy instead as a response to a profoundly novel set of problems tied to the necessity of administrative power in modern society. Moreover, democracy in this tradition was not overwhelmingly concerned with rights, since the primary ambition of democratic administration was to augment the effectiveness and reach of regulatory power into the daily lives of subjects and citizens. And though deputizing governmental and administrative power to commissions and tribunals was fundamental to its

¹⁶²Alexis de Tocqueville, “Définition de la démocratie,” in Tocqueville, *Œuvres complètes*, vol. 3 (Paris, 1990), 196.

¹⁶³Pierre-Joseph Proudhon, *Solution du problème social* (Paris, 1848), 54.

¹⁶⁴Palmer, “Notes on the Use of the Word ‘Democracy,’” 205.

effectiveness, none of these presentations of democracy overwhelmingly focused on representation or the vote as *the* central source of legitimacy for a modern democracy. So democracy in this tradition had little to offer in the realms of formal constitutionalism, separation of powers, checks and balances, suffrage and popular sovereignty: these were all areas where the liberal tradition, classical republicanism and theories of monarchy had provided more abundant insights, in some cases for centuries. Instead, this democratic tradition sought to expand the means through which administration could equitably and effectively pursue social welfare. So while it may challenge some of our reigning assumptions about democracy, recovering this modern democratic tradition may also provide important insights into the democracies of tomorrow, especially as we seek to combat inequality and privilege through the construction of a popular and accountable regulatory power designed to ensure the public good.

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