

THE AMERICAN COMMONWEALTH



James Bryce

— JAMES BRYCE —

THE AMERICAN COMMONWEALTH

With an Introduction by Gary L. McDowell

V O L U M E I



Liberty Fund
Indianapolis

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Frontispiece: James Bryce, Regius Professor of Civil Law, Oxford University, 1870–93. From H. A. L. Fisher, *James Bryce: Viscount Bryce of Dechmont, O.M.*, vol. 1 (London: Macmillan, 1927).

Front cover: *Declaration of Independence in Congress, at the Independence Hall, Philadelphia, July 4th, 1776* (detail) by John Trumbull, 1786–1819. United States Capitol Art Collection. Photograph courtesy Architect of the Capitol.

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Liberty Fund, Inc.
8335 Allison Pointe Trail, Suite 300
Indianapolis, Indiana 46250-1684

Library of Congress Cataloging-in-Publication Data

Bryce, James Bryce, Viscount, 1838–1922.

The American commonwealth / James Bryce.

p. cm.

Includes bibliographical references and index.

ISBN 0-86597-116-1 (set : hardcover : alk. paper).—ISBN

0-86597-117-X (set : pbk. : alk. paper).—ISBN 0-86597-118-8 (vol.

1 : hardcover : acid-free paper).—ISBN 0-86597-119-6 (vol. 1 :

paperback : acid-free paper).—ISBN 0-86597-120-X (vol. 2 :

hardcover : acid-free paper).—ISBN 0-86597-121-8 (vol. 2 :

paperback : acid-free paper).

1. United States—Politics and government. 2. State governments—

United States. 3. United States—Social conditions. I. Title.

JK246.B9 1995

320.473—dc20

95-11187

02 15 16 17 18 C 6 5 4 3 2
15 16 17 18 19 P 7 6 5 4 3

To my friends and colleagues

Albert Venn Dicey

Thomas Erskine Holland

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Introduction

He knew us better than we know ourselves, and he went about and among us and gave us the boon of his illuminating wisdom derived from the lessons of the past.

Chief Justice William Howard Taft
October 12, 1922

James Bryce's *The American Commonwealth* is a classic work, not only of American politics but of political science. Eschewing the theoretical depths of democracy that Alexis de Tocqueville had plumbed, and lacking the partisan purposes for which Alexander Hamilton and his colleagues had penned *The Federalist*, Bryce sought to capture the America of his time, to present "within reasonable compass, a full and clear view of the facts of today."¹ As Bryce's biographer would later put it, *The American Commonwealth* "was a photograph taken and exhibited by a political philosopher, not a history, not a picture of what was, not an account of how it had come to be."² But, as with photographs that aspire to art, the more one studies Bryce's snapshot of a long-vanished America, the more one sees.

Bryce's fascination with America began in earnest on his first visit to the United States in 1870. It is worth remembering that the country he first saw was only five years past the assassination of Abraham Lincoln and but a year after the first transcontinental railway had been completed; it would be another seven years before the last of the federal troops of Reconstruction

¹ James Bryce, *The American Commonwealth*, 1:4.

² H. A. L. Fisher, *James Bryce: Viscount Bryce of Dechmont, O.M.*, 2 vols. (London: Macmillan, 1927), 1:234–35. In addition to Fisher's biographical narrative, this work contains a selection of letters to and from Bryce.

Two excellent critical accounts of Bryce are Edmund Ions, *James Bryce and American Democracy, 1870–1922* (London: Macmillan, 1968), and Hugh Tulloch, *James Bryce's "American Commonwealth": The Anglo-American Background* (London: Royal Historical Society, 1988).

were finally withdrawn from the South in 1877. The America of which Bryce first took note was a geographically sprawling society kept only loosely in touch by telegraph and newspapers—telephones and radios being still decades away.

When *The American Commonwealth* appeared in 1888, America was the youngest nation in a world still defined by ancient orders. The British Empire bustled beneath Victoria's scepter and Russia creaked beneath the feudal splendor of Tsar Alexander III. The devastation of the Great War and the loss of innocence it would bring was more than a quarter of a century away; Lenin was but a schoolboy of eighteen, and Hitler would not be born until 1889.

The America of Bryce's observations has long since passed; indeed, it was already gone by the time of his death in 1922. When he first published *The American Commonwealth*, the population of the entire country, then only thirty-eight states strong, was a mere sixty million; New York took the lead with 5,082,871, while California boasted a meager 864,694 spread across its 155,980 square miles. Nevada peaked at 62,266 isolated souls. Dakota (which would be divided the next year into North Dakota and South Dakota), Wyoming, Montana, Idaho, Washington, Utah, New Mexico, and Arizona were all still territories; and Oklahoma was Indian Territory, not to become a state until 1907.

By the end of Bryce's life, the 1920 census had sketched a nation with a population of 105,710,620 (not including the territories of Alaska and Hawaii) divided among forty-eight states. New York's population had nearly doubled to 10,385,000; California's had quadrupled to 3,427,000. Even Nevada had grown to 77,000. By 1920, America was an increasingly urban nation with problems Bryce could not have envisioned when he began writing *The American Commonwealth* in 1884.³

Demographic changes were not all; nor were they the most important changes. Constitutionally and politically, the American commonwealth of 1922 was much changed from that of the 1880s. Between the publication of the first edition of *The American Commonwealth* and Bryce's death there had been four constitutional amendments, three serious and one frivolous. In addition to the ill-fated 18th Amendment prohibiting intoxicating liquors (repealed by the 21st Amendment in 1933), the fundamental structure of the Constitution was altered by allowing the income tax (16th Amendment

³ By way of comparison, in 1992 the population of the United States had reached 255,082,000; New York, 18,119,000; California had far outstripped the Empire State, reaching 30,867,000. Nevada had exploded to 1,327,000.

in 1913), by providing for the direct election of Senators (17th Amendment, also in 1913), and by giving women the right to vote (19th Amendment in 1920). The politics of the Gilded Age that Bryce first chronicled had passed into the Progressive Era, and with that passage had come a plethora of social reform legislation. The creation of the Interstate Commerce Commission in 1887 had been but a foreshadowing of the coming age of national regulation: the Sherman Anti-Trust Act (1890); the Pure Food and Drug Act (1906); and the Child Labor Act (1916), among many others, quickly followed.

The America that Bryce first saw was also a nation of buoyant optimism, a country fairly bursting with the democratic zeal and commercial impatience Tocqueville had celebrated half a century earlier. Like Tocqueville before him, but for different reasons, Bryce saw in America more than America. “The institutions of the United States,” he wrote, “are something more than an experiment, for they are believed to disclose and display the type of institutions towards which, as if by a law of fate, the rest of civilized mankind are forced to move, some with swifter, others with slower, but all with unrelenting feet.” The United States was a nation of “enormous and daily increasing influence.”⁴ It was essential, Bryce believed, that the world be given a clear account of what made up this robust and rambunctious republic. For good or ill, America was simply the most exceptional nation in the history of the world. And James Bryce was just the man to capture that exceptionalism in all its glory.

I

James Bryce was a Scotsman of sturdy Presbyterian stock, born on May 10, 1838, in Belfast, Ireland. In 1846 the family moved from its beloved Ulster when Bryce’s father took up duties back in Scotland at the High School in Glasgow. From his earliest days, young James was consumed by his curiosity about natural history, geography, and politics. When he turned sixteen, after his high school studies in Glasgow and, for a period, back in Belfast, Bryce matriculated at Glasgow University, where he spent three years steeped in the study of the classics, logic, and mathematics. Glasgow was “deficient” when it came to offering the atmosphere of intellectual camaraderie students would enjoy in Oxford or Cambridge; yet Bryce would later recall “not a few long arguments over the freedom of the will and other metaphysical topics to which the Scottish mind was prone.” Moreover,

⁴ Bryce, *The American Commonwealth*, I:1.

there were occasions aplenty for “an incessant sharpening of wits upon one another’s whetstones.”⁵ When he left Glasgow in 1857, Bryce was more than ready for the illustrious academic career that awaited him at Oxford.

When Bryce went up to Oxford to stand for a scholarship at Trinity College in May 1857, he found himself confronted by the demands of the Church of England. The young Scots Presbyterian could not bring himself to sign the Thirty-nine Articles of the Established Church, as was required of all Trinity scholars. Better to forego an Oxford education and all the advantages it would bring, Bryce believed, than to turn his back on the faith of his fathers and submit to the Anglican sacrament; to have done so would have been “dishonourable.” Bryce persevered “in the cause of liberty and dissent” with an eye toward breaking up the “obnoxious statute altogether.” When he finally succeeded in winning the scholarship without agreeing to the Thirty-nine Articles, Bryce’s stance won praise as nothing less than “the triumph of liberalism in Oxford.” Even so, Bryce was never awarded his M.A. because of his refusal; he did, however, earn his B.A. and a D.C.L.⁶

At Oxford, Bryce distinguished himself as an extraordinary student, sweeping up first-class degrees and an assortment of scholarly honors in his academic wake. Having taken his degree from Trinity in 1862, Bryce won a fellowship in Oriel College, a position that would allow him the flexibility of pursuing an Oxford academic career or being called to the bar in London. Soon after beginning to teach in Oxford, Bryce despaired that the place was “dolorous,” lacking any semblance of “motion and progress.” In time, Oxford would prove too stultifying a place for the young scholar, once described by his friend and colleague Albert V. Dicey as “the life of our party.”⁷

London beckoned. By 1864, Bryce would insist that the capital was “the best place in the world for anyone to learn his own insignificance.”⁸ With its sheer drudgery, the legal training to which he had turned in Lincoln’s Inn bored Bryce.

Streaming down Oxford Street, about 11 every morning to the Inn; then books, very dreary books it must be said, most of them interminable records of minute facts through which it is not easy to trace the course of a consistent and clarifying principle till 1:30; then lunch often in some man’s company and dropping about a little, then more books till 5:30; then dinner in the hall of Lincoln’s Inn,

⁵ Fisher, *James Bryce*, I:22; 25.

⁶ *Ibid.*, 42; 40; 43; 38.

⁷ *Ibid.*, 55; 58; 59.

⁸ *Ibid.*, 63.

disagreeable in this that one rises from table to walk two miles through narrow dirty streets homeward.⁹

It did not take long, however, for Bryce to look up from his legal studies and discover the great and vibrant intellectual universe that was London. His key to this world came with the publication of his first book, the revision of his essay for which he had been awarded the Arnold Prize at Oxford in 1862. When it appeared in 1864 as *The Holy Roman Empire*, it was quickly praised as having placed Bryce—then but twenty-six years old—“on a level with men who have given their lives to historical study.”¹⁰ James Bryce, the public scholar, had begun his ascent.

In 1870 Bryce’s labors in Roman history, as well as the law, paid a substantial dividend. On April 11, William Gladstone wrote to him offering him the Regius Chair of Civil Law in the University of Oxford. Founded by King Henry VIII, the Regius Professorship had once been filled by the great civilian Alberic Gentile.¹¹ Bryce would serve as Regius Professor of Civil Law until 1893, and from that illustrious post he contributed greatly to the revival of scholarly interest in Roman law and the civilian tradition in the British universities. The same year that Bryce assumed his professorship was the year that he and Dicey set off for the United States.

Bryce’s introduction to the nation he would come to know so well was enhanced through the efforts of Leslie Stephen, who kindly opened the very best doors for the two young Englishmen. Through Stephen, Bryce and Dicey met Charles Eliot, Ralph Waldo Emerson, Henry Wadsworth Longfellow, James Russell Lowell, and both the senior and the junior Oliver Wendell Holmes. The young English legal scholars were especially interested in conversations they had with the leading lights of the Harvard Law School, Christopher Columbus Langdell, James Barr Ames, and James Bradley Thayer.¹² America was an intellectually vibrant place, and Bryce was smitten: “It was almost a case of love at first sight.”¹³ Upon his return to England, Bryce committed his enthusiasm to print, publishing several articles on American society in English periodicals.¹⁴

Neither the practice of law nor the scholarly pursuits of Oxford was

⁹ Ibid.

¹⁰ Ibid., 65.

¹¹ Ibid., 130.

¹² Tulloch, *James Bryce’s “American Commonwealth,”* 125.

¹³ Fisher, *James Bryce*, I:137.

¹⁴ For a superb bibliography of works by and about Bryce, see Tulloch, *James Bryce’s “American Commonwealth,”* 244–65.

sufficient to satisfy Bryce's restless and robust nature. In 1880 he stood for Parliament and was elected as a member of the Liberal Party to represent Tower Hamlets in London's East End. It was a poor and working-class constituency and gave Bryce the opportunity to learn a great deal about the social structures of Britain.¹⁵ But for all his gifts, he was not at the start a very distinguished legislator.

A certain lack of pliability, an insistent voice, a temperament somewhat deficient in the good-humoured composure which is one of the most valuable of Parliamentary gifts, a turn of phrase incisive rather than humorous, a prevailingly serious outlook coupled with the defect . . . of excessive indulgence in historical disquisitions and analogies, these little blemishes of manner and method concealed from his fellow Members of Parliament the remarkable qualities which belonged to him.¹⁶

Years of public service would wear away those rough edges until, in the end, Bryce was deemed "one of the best and more graceful public speakers in the country."¹⁷ Yet in his early political career, he was often seen, as his more radical parliamentary critic Joseph Chamberlain disparagingly dubbed him, as the "professor."

It was during these busy years as lawyer, scholar, and Member of Parliament that Bryce began to focus in a serious way on what would become his greatest legacy. He returned to the United States for his second visit in 1881, during which he crossed the continent and swept through the South. In the decade since his first visit, James Bryce had become a man of some renown in both the scholarly and the political worlds.¹⁸ In 1883 he returned for his third tour, and it was at that point that he began assiduously to collect material for *The American Commonwealth*, to sort through the mass of details he assembled, and to draw conclusions worth reporting. The more he learned, the more selective he became. "When I first visited America eighteen years ago," he warned his readers in the introduction to *The American Commonwealth*, "I brought home a swarm of bold generalizations. Half of them were thrown overboard after a second visit in 1881. Of the half that remained, some were dropped into the Atlantic when I returned across it after a third visit in 1883–84: and although the two later journeys gave birth to some new views, these views are fewer and more

¹⁵ Fisher, *James Bryce*, I:173–74.

¹⁶ *Ibid.*, 176.

¹⁷ *Ibid.*, 178.

¹⁸ Ions, *James Bryce and American Democracy*, 90.

discreetly cautious than their departed sisters of 1870.” That caution manifested itself in an approach that was coolly analytical. “I have striven,” Bryce insisted, “to avoid the temptations of the deductive method, and to present simply the facts of the case, arranging and connecting them as best I can, but letting them speak for themselves rather than pressing upon the reader my own conclusions.” Bryce saw himself as a chronicler, a reporter, not as a political philosopher; it would be far better if his readers created grand theories from the facts he presented than if he presented them with “theories ready made.”¹⁹ It was precisely such “elevated thinking” and grand “speculative views of democracy” which, in Bryce’s view, had rendered Tocqueville’s *Democracy in America* something less than a practical treatise for men of the real world. It was for this reason that Bryce endeavored to shun the abstract in favor of the concrete.²⁰

The differences between *Democracy in America* and *The American Commonwealth* are immediately seen. Whereas Tocqueville saw fit to spend but a single chapter on state and municipal governments, a mere 38 pages, Bryce devoted seventeen chapters, 255 densely packed pages, to the same topic. Similarly, on political parties, Tocqueville provided yet another single chapter, and this no more than 6 pages. Bryce, on the other hand, offered twenty-three chapters totalling 243 pages. And when it came to the structure and functions of the national government, Bryce produced a staggering 392 pages in thirty-four chapters; Tocqueville mustered only 75 pages in four chapters.

II

One cannot fully appreciate either Bryce’s scholarly objective or his literary achievement without first understanding his rejection of Tocqueville. The greatest weakness of *Democracy in America*, in Bryce’s judgment, was that it was decidedly unscientific, filled as it was with the Frenchman’s moral musings about democracy generally. Tocqueville himself had confessed as

¹⁹ Bryce, *The American Commonwealth*, I:4.

²⁰ Bryce’s judgment about *Democracy in America* is “far more important for what it discloses about Bryce and his time than for what it says about Tocqueville. It enunciated two basic points about *The American Commonwealth* and its author. Bryce’s model of social science prescribed his method. His Anglo-American outlook prescribed his substance. Each was of course a function of the other. Together . . . they gave Bryce the grounds for his case against Tocqueville.” Abraham S. Eisenstadt, “Bryce’s America and Tocqueville’s,” in Abraham S. Eisenstadt, ed., *Reconsidering Tocqueville’s “Democracy in America”* (New Brunswick: Rutgers University Press, 1988), 269.

much: "I admit that I saw in America more than America; it was the shape of democracy itself which I sought, its inclinations, character, prejudices, and passions; I wanted to understand it so as at least to know what we have to fear or hope therefrom."²¹ Such a venture as that undertaken by Tocqueville led inevitably to "fanciful" pictures being drawn, "plausible in the abstract . . . [but] unlike the facts which contemporary America sets before us." Bryce's alternative was to "bid farewell to fancy" and endeavor to see things as they actually were in nineteenth-century America.²² Specificity, not generalization, was what was demanded; empiricism was the essence of Bryce's science of politics.²³

When and where Bryce first came across the works of Tocqueville is not clear. However, by the time of his third trip to the United States in 1883, he was sufficiently familiar with *Democracy in America* to conduct a seminar at Johns Hopkins University under the direction of Professor Herbert Baxter Adams. Adams's graduate history seminar was a preeminent academic gathering, and among the students in Bryce's class were John Dewey, John Franklin Jameson, and Woodrow Wilson.²⁴ The seminar focused on *Democracy in America*; the concern was Tocqueville's interpretation of America and his predictions about democratic government. Bryce pushed his students to question the assumptions that lay at the foundation of Tocqueville's monumental and influential work.²⁵ The fruit of the seminar was the publication in 1887 of "The Predictions of Hamilton and de Tocqueville" in the *Johns Hopkins Studies in Historical and Political Science*.²⁶

In this important study, Bryce praised Tocqueville and his work. The author was "a singularly fair and penetrating European philosopher" whose work was one of "rare literary merit." *Democracy in America*, observed Bryce, is "one of the few treatises on the philosophy of politics which has risen to the rank of a classic." The great work was nothing less than "a model of art and a storehouse of ethical maxims."²⁷

²¹ Alexis de Tocqueville, *Democracy in America*, J. P. Mayer and Max Lerner, eds., trans. George Lawrence (New York: Harper & Row, 1966), 12. For a thorough treatment of Bryce's reaction to Tocqueville, see Tulloch, *James Bryce's "American Commonwealth"*, 62–70.

²² Bryce, *The American Commonwealth*, II:1426.

²³ "In emphasizing the particularity and distinctiveness of the United States he not only provided a more authentic picture of America, but also suggested that 'democratic' evils were neither inevitable nor ineradicable; specific American evils could be remedied by applying specifically American antidotes." Tulloch, *James Bryce's "American Commonwealth"*, 63–64.

²⁴ For a detailed account of the seminar, see Ions, *James Bryce and American Democracy*, 118.

²⁵ *Ibid.*, 118–19.

²⁶ The article is in Volume II of this Liberty Fund edition, pp. 1530–70.

²⁷ *Ibid.*, 1531; 1543; 1543.

Niceties aside, Bryce plunged his critical dagger: "The first observation [about *Democracy in America*] is that not only are its descriptions of democracy as displayed in America no longer true in many points, but that in certain points they were never true. That is to say, some were true of America, but not of democracy in general, while others were true of democracy in general but not true of America." The weaknesses of Tocqueville were three. First, he had opted for the deductive method Bryce deplored: Tocqueville's "power of observation, quick and active as it was, did not lead but followed the march of his reasonings . . . [so that] the facts he cites are rather illustrations than the sources of his conclusions."²⁸

The second defect of Tocqueville's study is that while he wrote about America "his heart was in France, and the thought of France, never absent from him, unconsciously colored every picture that he drew." The result of this narrow view is that he "failed to grasp the substantial identity of the American people with the English." Bryce was blunt: "he has not grasped, as perhaps no one but an Englishman or an American can grasp, the truth that the American people is an English people, modified in some directions by the circumstances of its colonial life and its more popular government, but in essentials the same." Coupled with his deductive bent, this focus on France led Tocqueville into simple errors: "Much that he remarks in the mental habits of the ordinary American, his latent conservatism, for instance, his indifference to amusement as compared with material comfort, his commercial eagerness and tendency to take a commercial view of all things, might have been just as well remarked of the ordinary middle-class Englishman, and has nothing to do with a Democratic government."²⁹

The third problem with Tocqueville's work is the result of the first two: "*Democracy in America* is not so much a political study as a work of edification." As such, it is simply not an accurate "picture and criticism of the government and people of the United States." In Bryce's steely scientific view, *Democracy in America* failed the test of objectivity. "Let it be remembered that in spite of its scientific form, it is really a work of art rather than a work of science, and a work suffused with strong, though carefully repressed emotion." The most damning deficiency, Bryce argued, is that Tocqueville "soars far from the ground and is often lost in the clouds of his own sombre

²⁸ Ibid., 1544; 1544.

²⁹ Ibid., 1544; 1546; 1546. Bryce went so far as to refer to the Americans as "the English of America." *The American Commonwealth*, I:317.

meditations.”³⁰ As a result, his treatise offered more a colorful “landscape” than an accurate “map” of America. And whatever its great artistic and philosophic achievement, there was still the need for a map. It was precisely Bryce’s desire “to try and give [his] countrymen some juster views than they have had about the United States” that led him to craft *The American Commonwealth* as a grand atlas of American politics and society.³¹

The deficiencies Bryce found in *Democracy in America* spawned in him a sense of caution and modesty. Lest he fall into the same trap as Tocqueville, he was determined never to mistake “transitory for permanent causes.” While there was nothing in Tocqueville’s account that was “simply erroneous,” there was much distortion. Tocqueville tended to build too great a “superstructure of inference, speculation and prediction” on too slight a foundation: “The fact is there, but it is perhaps a smaller fact than he thinks, or a transient fact, or a fact whose importance is, or shortly will be, diminished by other facts which he has not adequately recognized.”³² In Bryce’s estimation, the real world was far too untidy for such lofty generalizations as those Tocqueville offered. This was especially true when it came to his understanding of democracy itself.

For Bryce, the issue was simple: “Democracy really means nothing more or less than the rule of the whole people expressing their sovereign will by their votes.”³³ In his view, Tocqueville had painted with too broad a brush. Rather than speak of democracy as a form of government, he was wont to speak of democracy as a spirit of the age, something as irresistible as it was intangible. This Bryce rejected:

Democratic government seems to me, with all deference to his high authority, a cause not so potent in the moral and social sphere as he deemed it; and my object has been less to discuss its merits than to paint the institutions and the people of America as they are, tracing what is peculiar to them not merely to the sovereignty of the masses, but also to the history and traditions of the race, to its fundamental ideas, to its material environment.³⁴

Bryce was only incidentally concerned with what Tocqueville had called the *mores* of the people; the Englishman cared more about institutions than ideology, more about the mechanics of politics than the manners of society.

³⁰ Bryce, “The Predictions of Hamilton and de Tocqueville,” Volume II of this edition, 1547; 1543; 1547; 1548.

³¹ As quoted in Ions, *James Bryce and American Democracy*, 121.

³² *Ibid.*, 447; 447; 447.

³³ James Bryce, *Modern Democracies*, 2 vols. (London: Macmillan, 1921), I:viii.

³⁴ Bryce, *The American Commonwealth*, I:3–4.

Bryce conceded that part of Tocqueville's problem—but only a part—was the time in which he wrote. The sober republicanism of Founders such as Alexander Hamilton had given way to the democratic intoxication of the Jacksonians. “The anarchic teachings of Jefferson had borne fruit,” Bryce explained. “Administration and legislation, hitherto left to the educated classes, had been seized by the rude hands of men of low social position and scanty knowledge.”³⁵ Thus, what Tocqueville took to be the inherent characteristics of the democratic spirit of the modern age were, in fact, merely the manifestations of a peculiarly perverted exercise of democratic governance during a particularly vulgar and raucous period of American history. The “brutality and violence” of those days had skewed Tocqueville's account of his grand theory of the tyranny of the majority.³⁶

Tocqueville's study was influential and generated in his followers the belief that “democracy is the child of ignorance, the parent of dullness and conceit. The opinion of the greatest number being the universal standard, everything is reduced to the level of vulgar minds. Originality is stunted, variety disappears, no man thinks for himself, or, if he does, fears to express what he thinks.” This unhealthy view had been spawned by Tocqueville's exaggeration of the effect forms of government actually have on society; such an exaggeration ignored the complexity of the relationship between “the political and the intellectual life of a country.” All this Bryce denied: “It is not democracy that had paid off a gigantic debt and raised Chicago out of a swamp. Neither is it democracy that had hitherto denied the United States philosophers like Burke and poets like Wordsworth.”³⁷

The “narcotic power of democracy” of which Tocqueville warned was, in fact, the result not merely of the form of government in the United States, but of “a mixed and curiously intertwined variety of other causes which have moulded the American mind during the past two centuries.” Many of the attributes of the Americans “must be mainly ascribed to the vast size of the country, the vast numbers and intellectual homogeneity of its native white population, the prevalence of social equality, a busy industrialism, a restless changefulness of occupation, and the absence of a leisured class dominant in matters of taste—conditions that have little or nothing to do with political institutions.”³⁸

Tocqueville's *Democracy in America* had to be taken with great caution

³⁵ Ibid., II:992.

³⁶ Ibid.

³⁷ Ibid., 1423; 1424; 1425.

³⁸ Ibid., 1428; 1429; 1427.