

The only constitution of a member state of the European Union that explicitly calls its democracy “secular” is France. This definition stems from the hostile separation of church and state in 1905. French politics, for much of the nineteenth century, was embroiled in conflicts between the Jacobean, republican, anticlerical (at times even antireligious) tradition of the French Revolution, which strove for strict separation of church and state, and the anti-Jacobean, proclericalist, indeed ultramontane, Catholic traditions, which strove for an official, state supported church in which the state (democratic or not) was ready to cooperate with the church. The 1905 separation of church and state was a hostile separation that represented the triumph of the Jacobean tradition in that, among other things, religious orders were forbidden to teach, even in private schools. But by 1959, in the most secular country in Western Europe, the Debré Bill allowed state support for teachers in Catholic schools. Indeed, by 1961, 20 percent of the total educational budget in France was for private schools. France in the 1990’s still had a separation of church and state; but, in political terms, it had become a friendly separation.

- Alfred Stepan, in “Religion, democracy and the ‘Twin Tolerations’”

Chapter six: Democratic destruction in France: Tocqueville and the freedom of education, 1843-44

In this epigram Alfred Stepan is demonstrating an important failure of contemporary political science to make sense of how churches and states interact. Specifically, he observes that what many contemporary political scientists would think of as the strict separation of church and state is the exception in industrial democracies. Some actually existing democracies have established churches while still admitting a large amount of religious toleration; others give preference to almost any church, so long as it meets certain conditions. Because the language of “secularism” and “strict” separation of church and state fails to make sense of the myriad of ways in which religious and political institutions interact, Stepan argues, it should be replaced with what he calls the “democratic bargaining” approach to constructing the “twin tolerations.” What Alfred Stepan means by the “democratic bargaining” approach to constructing the “twin tolerations” is that democratic political institutions can be used to craft a kind of *mutual accommodation* between the church and the state.

In this chapter I link one particularly important application of Tocqueville’s sociology of religion to the arguments of Alfred Stepan in his article “Religion,

democracy and the ‘Twin Tolerations.’”¹ Alexis de Tocqueville looked at French conflicts over the role of the Catholic Church in society in roughly the same way as Alfred Stepan, and he participated intimately in an earlier iteration of democratic destruction in the 1840’s. In these debates, however, Tocqueville articulated a very interesting educational compromise between anti-clerical republicans and anti-republican Catholic Ultras. Tocqueville’s participation in these debates is a kind of case-study that both validates Stepan’s basic intuition and provides some powerful sociological reasons to think that states can make mutually beneficial accommodations to churches in matters of educational policy and method.²

Tocqueville was not only actively trying to craft the twin tolerations (in both the political sphere of parliament and the public sphere of newspapers), but the particular ‘path’ he envisioned for France is highly interesting. The unrealized compromise Tocqueville articulated in speeches to parliament and in public letters from 1843-44 has two parts. On the one hand, it is theoretically driven by the important role Tocqueville saw for religion in education, and the unique ways he saw education to be both moral and civic. On the other, he viewed a possible compromise on education as a democratic bargaining and a kind of power-sharing agreement that institutionalized the power of important political factions. Included at the end of this chapter is an extended literature review and appendix where I argue that the effects of this compromise might have gone further than just institutionalizing domestic balances of power. Through what I call the *domestic demonstration effect* the behavior of political elites can have an independent effect on the development political culture more generally, especially in the diffusion of basic democratic habits and values.

0.1 A very brief literature review: from Polyarchy to the ‘Twin Tolerations’

All literature reviews begin with Dahl’s eight criteria of democracy, with the usual caveat that democracy is to a certain extent a sliding scale.³ Dahl’s criteria help identify democracies that have obviously passed the tipping point. While there are many factors involved in democratic transition and consolidation, this paper restricts itself to

considerations of the relationship between states and churches.⁴ Stepan builds from and adds to Robert Dahl's definition of *Polyarchy*. He argues that:

Democracy is a system of conflict regulation that allows open competition over the values and goals that citizens want to advance. In the strict democratic sense, this means that as long as groups do not use violence, do not violate the rights of other citizens, and stay within the rules of the democratic game, all groups are granted the right to advance their interests, both in civil society and in political society. This is the minimal institutional statement of what democratic politics does and does not entail.

While Stepan's main target is seemingly Samuel Huntington's 'Clash of Civilizations' thesis, he is in actuality more concerned with the way in which cultural tropes of secularization and the separation of church and state have worked their ways into academic debates, and have caused many academics to look at the role of religion in democratic social life with kind of myopic forgetfulness of not only our own past, but of our own present as well. Thus, he moves from discussions of Max Weber's Protestant Ethic thesis, to Rostow's work on Turkey, and John Rawls's defense of political liberalism to explain how this blindness of western religious history has contributed to a wide spread double standard in political science to the prospects of democracy globally, especially for major world religions to accept mass political democracy at a state level.⁵

What, then, are the minimal institutional requirements of the 'twin tolerations' and "what are the necessary boundaries of freedom for elected governments from religious groups, and for religious individuals and groups from government?" For states the "key area of autonomy" is that "religious institutions should not have constitutionally privileged prerogatives which allow them authoritatively to mandate public policy to democratically elected governments." For churches, the "key area of autonomy" is not just restricted to the freedom for individuals and communities to worship privately. But it also contains the right to participate in civil and political activities so long as they do so on equal standing as other groups. As long as churches and individuals obey the rule of law and refrain from violence, they have the same rights as any group to "advance their values in civil society, and to sponsor organizations and movements in political society...[or form] a political party."

The bulk of Stepan's argument is found in his comparative study of how western democracies have fulfilled criteria of the separation of church and state, and he argues that his "democratic bargaining" approach better explains European history than liberal ideas of secularization. Stepan's approach can be summarized as seeking to use the

means of democratic institutions and democratic bargaining to achieve the *ends* of the twin tolerations. He demonstrates through a selection of western case studies that what is frequently termed the separation of church and state is something much more complex. Even from just a cursory analysis, several interesting patterns emerge. Five EU countries have established churches (plus Norway, a non-member); Germany recognizes three official religions, and in the realm of education the Netherlands, Austria, Germany and France all give state support to religious schools. Stepan argues that “hostile” or “rigid” separation of church and state is frequently associated with non-democratic regimes, while democratic regimes tend towards a “friendly” separation of church and state.⁶ Recent work has built from Stepan’s idea of the twin toleration to help make sense of how churches and states interact.⁷

To explain *how* and by what *means* “actual polities” crafted the “twin tolerations”, Alfred Stepan argues that western history demonstrates the efficacy of democratic bargaining. While there are many routes or “paths” to crafting the twin tolerations, they generally share the basic political attributes of strategic actors participating in processes of democratic contestation:

Politics is about conflict, and democratic politics involves the creation of procedures to manage major conflicts. In many countries that are now long-standing democracies, Western or not, the major conflict for a long period of time was precisely over the place of religion in the polis. In many of these cases the political containment, or neutralization, of religious conflict, was only constructed after long public arguments, and especially political negotiations, in which religion was the dominant item on the political and discursive agenda. In Holland, for example, we have shown how religious conflicts in 1917 were eventually taken off the political agenda of majority decision making only as a result of an extensive bargaining process that ended up on a *democratic-but not liberal-consociational agreement*.

The case of Holland, I think, is more instructive in what it shares with other states that give special support to education than in the strongly consociational nature of their particular education law.⁸

There are other consequences from this basic insight that need to be highlighted. First, this democratic bargaining approach frequently requires political elites to ‘sell’ compromises to their supporters. In this case, the democratic bargaining approach requires strategic political actors to defend compromises from within the terms of religious and cultural worldviews. A second consequence of the democratic bargaining approach is in cases where “a significant component of one of the world’s major religions may be under the sway of a nondemocratic doctrinally based religious discourse.” In this

case “one of the major tasks of political and spiritual leaders” would be “continually to mount theologically convincing public arguments about the legitimate multivocality of their religion.” Despite the somewhat heavy nature of Stepan’s prose here, his insight is that crafting the twin tolerations is a project that may need to go both ways. The crafting of the twin tolerations not only requires a vision of the state accommodating to religion, but also a vision of religion accommodated to the needs of democratic political institutions.

I have demonstrated elsewhere how Tocqueville sought to create the mutual accommodation at the heart of the twin tolerations from both ends. He not only sought out political actors who were interested in making friendly – but not too friendly – accommodations to the church but he also articulated a minimalist version of a kind of moral Catholicism in *Democracy in America*. Nor was he alone in this project of defending the “multivocality” of Catholicism.⁹ In the nineteenth century there were still Gallican Bishops in France (some of whom Tocqueville corresponded with) who not only looked at Rome with mistrust, but were very willing to recognize a secular vision of the state. In the debates over education I detail about in this paper, Tocqueville at times explicitly appeals to the history of the Gallican Church in his attempts to craft – from both ends – the twin tolerations. From the religious end, however, Tocqueville’s experience demonstrates that crafting the twin toleration means more than simply advocating for the “legitimate multivocality” of a religion. The demands of the democratic bargaining approach to the twin tolerations most likely go as far as personally cultivating and publicly avowing multivocal religious identities that are more prone to this mutual accommodation.

In debates over the freedom of education Tocqueville was trying to use the *means* of democratic bargaining to craft the *ends* of the twin tolerations. As a factual matter, he failed. The breakdown of democratic bargaining in this case was most certainly not his fault – it was a particularly ugly time in republican/Ultra disputes – but it does provide an interesting case study of Stepan’s theory. In these debates, Tocqueville envisioned a particular democratic ‘path’ for France. He argued that in educational policy a pact could be struck between Catholic Ultra’s and anti-clerical republicans that gave the state the

right to monitor and accredit educational institutions but that left a wide range of educational freedom for religious schools in matters of method and content.

Education policy was not only a legitimate complaint of many Catholics during the July Monarchy, but one which cut to the core of republican and Catholic worldviews. Tocqueville hoped that achieving this compromise would be an important step for France towards transitioning and consolidating democratic political institutions. The effects of this bargain, for Tocqueville, go beyond simply 'taking religion off the table'. Rather, he argued that the effect of this kind of symbolic elite behavior demonstrated in mutually accommodating democratic bargaining could itself be an independent factor in the development of legitimacy amongst the citizenry more broadly.

To give more analytic direction to the contextual reconstruction of the debates in this chapter, I have summed up my argument into two claims.

- 1) Alfred Stepan's democratic bargaining approach to crafting the twin tolerations is validated by Tocqueville's participation in French debates over the freedom of education.
- 2) Education is a realm of policy in which states and churches can make highly productive mutual accommodations to each other. Tocqueville provides some interesting sociological reasons for this.

And, in the appendix I extend this literature review to argue:

- 3) A secondary effect of a democratic bargain may be identified in what I call the *domestic demonstration effect*. In moments of political opportunity, effective democratic bargaining by political elites can lead to changes of expectations, values, and preferences on a mass level. This idea is analogous to the way in which elite expectations and preferences sometimes change rapidly in response to international factors such as the fall of the iron curtain.

0.2 A very brief introduction to Tocqueville's language

Alexis de Tocqueville is a political sociologist, and while he has a vocabulary that is all his own, the concepts and categories he used fit well within Stepan's general framework. Tocqueville used the term 'democratic revolution' purposefully to highlight the multiple causes at work in democracy building. There is a wide literature that has

looked at how Tocqueville viewed the economy, social reform, and even imperial expansion in relationship to democratic transitions.¹⁰ Many of Tocqueville's parliamentary projects were, directly or indirectly, geared towards the creation of French political democracy. "Far from wanting to stop the development of the new society," he wrote, "I seek to produce it."¹¹

For the purposes of this chapter, the 'democratic social state' is the main element of Tocqueville's vocabulary that needs to be understood.¹² The 'democratic social state' is analogous to a Weberian ideal-type. This ideal type – abstracted from the practices he saw in the New England states of America – is composed of an ensemble of legal and cultural relations. This 'table of thought' for Tocqueville acts as a template of comparison for thinking about how particular societies approximate and fall away from the ideal. From the patterns of legal and cultural interaction Tocqueville observed, he put together national and state-level explanations derived from 'general' and 'particular' causes: 'general' explanations approximate the ideal-type and 'particular' explanation that are a result of politics and history. His ideal-type is remarkably fecund, and volume two of *Democracy in America* is composed of four books, each of which considers one major element of the 'new' political culture 'born' of the 'democratic social state.' There are not only exceptions to this general tendency but counter-currents and unintended consequences in the way these 'general' and 'particular' causes interact.¹³

In Tocqueville's language, the twin tolerations has been crafted when the 'spirit of liberty' and the 'spirit of religion' have been reconciled in the moeurs of the political culture of a democratic state. What Tocqueville means by 'spirit' here is simply that the majority opinion current in political and religious society tend towards a mutual respect for the activity of the other.¹⁴ For example, Tocqueville notes how nearly all preachers in the United States support democratic institutions in general, even arguing that political freedom is a gift sanctioned by God. He also notes the respect with which most politicians speak of churches. The mutual recognition of these two currents of opinion is the defining feature of a 'friendly' separation of church and state and a central element of the 'democratic social state.'

In *Democracy in America* Tocqueville also described the case in which religious and political authorities were in a state of mutual hostility. This case he found in France,

and he attributed the mutual hostility between republicans and Catholics in France to the particular cause of the French Revolution. In fact, he attributes both republican anti-clericalism and Catholic ultramontanism to the same cause: the deeply intertwined nature of religious and political institutions of the *ancien regime*.¹⁵ In the nineteenth century the consequence was that both sides remembered and continued to fight over this history. Catholic Ultra's looked back fondly to the place of the Church during the *ancien regime*, and sought to reassert her power in the light of modern conditions. Republicans remembered the role of a Church in the *ancien regime* with resentment of the privilege that the Church helped to legitimate. "Our recollections, opinion, and habits" he wrote, "present powerful obstacles to the progress of democracy."¹⁶

Tocqueville's diagnosis of the hostile political culture of the July Monarchy is central to a contextually grounded understanding of his sociology of religion. To explain the threats to democracy from French political culture, Tocqueville highlights the cultural consequences of the French failure to complete the democratic revolution. First, Tocqueville speaks of the "singular concurrence of events" which "entangled religion in the institutions which democracy assails" and the particular French experience of the revolutionary excess which "abandoned to its lawless passions, has overthrown whatever crossed its path, and shaken all that is has not destroyed."¹⁷ The fact that the French Revolution had only progressed through so much "disorder" and "conflict" led to a radicalization of opinion in the "intellectual world" of the French:

In the heat of the struggle each partisan is hurried beyond the limits of his opinions by the opinions and the excesses of his opponents, until he loses sight of the end of his exertions, and holds a language which disguises his real sentiments or secret instincts. Hence arises the strange confusion we are witnessing.

The contentious nature of the cultural and material legacy of the French Revolution has caused the two types of men to claim more and to go further than even they originally intended.

Tocqueville's develops these 'two types of men' partially as an explanation of how the hostility between republicans and Ultra's was contributing to democratic breakdown in France. The particular circumstances of French history – the Revolution – means that the partisans of religion "praise that servility which they themselves have never known," and seek to restrain the progress of the democratic social state. While those who "speak for liberty...loudly claim for humanity rights that they themselves have

always disowned” and do “what is expedient without heeding what is just.” Tocqueville sums up his argument:

The religionists are the enemies of liberty, and the friends of liberty attack religions; the high-minded and the noble advocate subjections, and the meanest and most servile minds preach independence; honest and enlightened citizens are opposed to all progress, whilst men without patriotism and without principles are the apostles of civilization and of intelligence.¹⁸

This diagnosis of French political culture based on the ‘two types of men’ is one that Tocqueville returns to frequently through his life. His opinion on French political culture was not entirely static – in fact, up until about 1843, he thought France had a real chance to reconcile the spirit of religion and the spirit of freedom in her moeurs – but when he saw secular republicans and fundamentalist Catholics once again engaged in mutual hostility, this is the general template he used to make sense of the dangers of facing the French.

Tocqueville clearly views this project of reconciling liberty and religion as a necessary – but not sufficient – condition for considering a democracy consolidated.¹⁹ Underneath this ideal-type reconciliation is a view of human nature, and Tocqueville’s assumption that there is a kind of “hidden tie” anthropologically between the religious and the social natures of man.²⁰ In his notes and letters he frequently defends the ‘necessary’ relationship between political freedom and religious belief, even using examples like Athens and Florence to argue that all free states have citizens that, in at least the minimal sense similar to the mutual respect and accommodation he saw in America, were also believers. In addition he saw powerful reasons derived from the cultural consequences of his ideal-type social state that, for democratic republics in particular, there is an important role for religion to play in the life of individuals and groups. This conviction that religion and politics were – in a host of indirect and complex ways – “tied” together through necessity is one of the elements that makes his ideal-type of the ‘democratic social state’ so interesting. While acknowledging the profound differences between religion and politics, he frequently tries to take advantage of this ‘tie’ to identify parallel goals and motivations that enable religious and political institutions to creatively cooperate and compensate for each other. Finally, for Tocqueville education is an activity in which the hidden tie between two natures of man is especially strong, and he uses his sociology to explain how education can serve both civic and moral purposes.

1.0 The war between the University and the Church

After Tocqueville's election to the Chamber of Deputies, his political alliances – he was center-left in the chamber, a republican, and through Beaumont even connected to the Lafayettes – indicate that he was trying to exploit the shared ground between legitimists and republicans in his project to develop a moderate “constitutional left.”²¹ Up until 1843 and debates surrounding freedom of education, Tocqueville had been having moderate success in forming alliances in the center-left, and trying to pull the newer ‘liberal Ultras’ like Montalembert further left.²² As late as 1842, he wrote a series of public letters on an electoral platform developed around a ‘defensive strategy’ that would allow the diverse interests of the opposition parties to unite under certain common goals. The subject of education itself was a major focus of study for Tocqueville. From 1843-1844 Tocqueville kept an alphabetic notebook on “Education” in which he compiled notes, saved newspaper clippings he found representative, and gave several speeches in the Chamber of Deputies. The successes Tocqueville had in forming these alliances were almost entirely undone in 1843 and 1844.²³

The Charter of 1830 had created a formal separation of church and state but it did not settle many particular questions of the interrelation between the two. In fact, the Concordat of 1801 had been somewhat modified, but still governed most the practices of the July Monarchy ‘liberties’ in nominating Bishops and regulating the Church. The existence of many religious orders, chief amongst these the Jesuits, were neither permitted nor prohibited. Moreover, the governments of the July Monarchy de facto continued policies of nominating pro-government Bishops in hopes of securing political support. The formal structure of the University was Napoleonic, with the Royal Council as its main decision-making body. The Napoleonic structure of the Royal Council and the University meant that the state formally enjoyed a monopoly in the realm of education, as it does with other questions of political sovereignty like the use of force. The right to run religious secondary schools was promised by the Charter, but the actual law that was to govern the reform had not been passed. Many Catholic secondary

schools were packed with students who had no intention of entering the priesthood, and all kinds of irregularities, local concerns, and black markets dominated the French educational landscape.²⁴

The origin of this particular iteration of hostilities was in the publication of an open letter in the Catholic journal *l'Univers* demanding freedom of education for Catholics as promised under the Charter of 1830.²⁵ In these public letters, the first of which was written by Bonald, the son of the famous Restoration Ultramontane, demanded the freedom of education for Catholics as guaranteed by the Charter of 1830. In fact, he went much further than that and demanded nearly total independence from rules set by the state. In reaction to the attacks upon the French University, the Doctrinaires and most of the republican left made common cause against the Catholic Church. The Doctrinaires were something like the 'official' philosophers and ministers of the July Monarchy, and they were largely based in the University. The alliance between Doctrinaires and republicans was made public in 1843 when Michelet and Quinet gave a series of lectures at the Sorbonne on the history of the Jesuits in France. When a new education law was proposed by the Doctinaire Villemain, it favored the University so heavily that it seemed designed to further infuriate Catholics.²⁶

In 1843, Louis Veuillot was the director of the Ultra paper *l'Univers*; Montalembert was head of the political wing of the Catholic party. The fact that Montalembert chose to work with *l'Univers* was actually a something of a personal disappointment for Tocqueville.²⁷ Montalembert even published a letter in *l'Univers* that there could be no alliance between Catholics and constitutional legitimists.²⁸ Montalembert's alliance with *l'Univers* signaled one broken political alliance, the response of *le Siècle* to a series of letters written by Tocqueville in *le Commerce* signaled a second. Tocqueville's traveling companion and political ally Beaumont wrote a public, but very respectful, letter withdrawing his cooperation with *Le Siècle*.²⁹

The Doctinaire and republican reaction to the polemics of *l'Univers* was not only to make the church subject to the state in matters of education, but increasingly, in other matters as well. In short, their reaction to the claims made by Catholics for freedom of education was to further embrace the kind of Napoleonic and Bourbon strategies that sought to contain the influence of the Church by taking a larger role in Church affairs.

Nowhere was this was highlighted more than in an attempt by the upper Chamber to make a belief in the Four Articles of 1682 mandatory for the French clergy.³⁰

Tocqueville's response to these polemics left neither side free from blame. His analysis of the dangers of repeated attacks and counter-attacks demonstrates the important effects of the actions of democratic political elites. In regards the clergy, Tocqueville was particularly harsh:

The violent and provocative language of a part of the clergy in regards to the freedom of education has begun to have the effect that the sincere friends of religion feared it would. The type of peace that had reigned between philosophy and Catholicism is broken. War is reignited more lively than ever between our century and faith.³¹

But Tocqueville's criticism of the government focused on the ways in which they recreated Napoleonic and Bourbon strategies of using the clergy as a means of building support:

The July Revolution did a great service to religion; she completely separated it from politics, and she has enclosed it within the sacred sphere outside of which religion can have no force or greatness. After the July Revolution...religious belief seems to have been reawakened and reborn. The government didn't know to respect this source of social life which does things in its own manner.³² They didn't see in this happy return to religious belief anything more than a new political force to be brought to heed. It sought to attract the clergy to itself, it treated them, not as one of the great moral authorities in the country, but like an auxiliary soldier to be enlisted in battle. It sought in every manner to increase the power of the Church, it has sacrificed to her, against the advice of the majority of the clergy itself, one of the most precious freedoms won in 1789, religious freedom.³³

The actual politics of the July Monarchy in regards to the Church had been undermining the formal separation of church and state. Commenting on the attempt to impose belief in the Four Articles, Tocqueville wrote, "This seems to us an absurdity without equal. An order like this would be tyrannical if joined with a sanction. As there is none, it is ridiculous."³⁴ In a letter to Corcelle he wrote that this government strategy was more dangerous in the long-term than the overly polemical attacks coming from the Catholic journals, "I think that the faults of the clergy are infinitely less dangerous to liberty than its enslavement."³⁵ Tocqueville's personal experience and his sociological observations demonstrate how the mutual hostilities between republicans and Ultra's were contributing to democratic destruction in France.

The model of church-state relations used by Tocqueville in his writings on the freedom of education is connected a reformist Janseno-Gallican interpretation of the seventeenth and eighteenth century. Despite the illogical nature of the actual liberties of the Gallican Church in practice, Tocqueville uses the political history of Gallicanism

against the clergy. He argues directly with Ultra's, "You have in front of you're a wild century...you live amongst a skeptical nation...that has no respect for any power":

And amongst all the forms that one could consider Catholicism you choose the one where authority is the most absolute, the most arbitrary, and this is the belief you want to impose? When you have the good luck to find, already introduced into France, a type of representative doctrine in the matter of religion, one that respects certain constitutional limits, if one can say it, on Papal authority. And you renounce this form of French Catholicism so conforming to the actual spirit and institutions of France in order to throw yourself violently into doctrines and principals so foreign to our history and our mores that even the Ancien Regime itself didn't want them...Is Gallicanism the real sickness you suffer from?...The enemy at your door is unbelief, absolute unbelief, the complete negation not only of one form of Catholicism but all forms, not only Catholicism but Christianity, not only Christianity but spirituality itself.³⁶

The type of "representative doctrine" in matters of religion is the history of the Gallican Church in France. Tocqueville was not limited to this view of the Church, but he saw it as a set of native French religious resources more easily accommodating to the needs of democratic politics. This Jansenist and Gallican inspired vision was something of a starting point for him in articulating a vision of the Catholic faith more accommodated to democratic political institutions.³⁷

To Tocqueville, the mutual accommodation between states and churches was a matter of necessity, and he focuses on how much each side has to loose if it fails to accommodate to the other. Tocqueville asks what hope religion can have for success if it fails to accommodate itself to the democratic social state entirely. At the same time, he returns to his conviction that religion is in some sense a 'necessity' for free peoples:

What can the Church be if the spirit of the times passes her by? If her only power is old memories, if she is exclusively attached to the debris of a bygone age, if she doesn't mix at all with our moeurs, our ideas, our passions, our interests in this world, then what does she have? if she hangs like a cross in a forgotten cemetery, where the living no longer dare to set foot? Sooner or later she too will fall and turn to dust. And us? How can we live in a society without religious belief? Has such a thing ever been seen in history? Not a single example can be cited. In all of history, only skepticism and decadence have ever come close. If to some religion seems anathema to the spirit of the times, to others she is an excellent answer to many of the most pressing needs of our age.

Who doesn't see that amongst this multitude of small affairs and small interests, of puny ambitions which absorb us entirely, the horizon of our thoughts and sentiments threatens to close in more and more. It is more important today than ever to turn our hearts and minds towards objects larger than ourselves; it is good to open ourselves from time to time to the light of the other world. Only religion does this; only her. It is important to remember that she is able to exercise a permanent and efficacious influence on the regularity of private moeurs and through that, to powerfully assure (even if only in an indirect manner) the steady conduct of affairs. How can we have a regulated public life, if private life is disordered and troubled? This is what free peoples have always understood: that they cannot surpass the limits set by belief. Even if priests often show themselves to be hostile to liberty, we shouldn't forget that for free peoples religion is a necessity.

That the bonds of necessity hold religion and politics together does not mean there is one simple 'solution' to the relationship of the church and state.

The education law died when Villemain – the Minister of Education who had written the law – resigned for health reasons. Freedom of education remained one of the major elements of the Catholic platform through the 1840's. In several private letters, Tocqueville complained that the "reconciliation" of the "spirit of liberty" and the "spirit of religion" in France was no longer tenable.³⁸ He also repeatedly argued that these cycles of reaction on the part of the political elites of France was a distraction from the bigger issues of political and civil reform. He criticized the government for their lack of political vision in allowing these debates to get out of hand, and for writing such a bad law that it seemed intended to provoke a radical response. It in fact, may have been. Many of Tocqueville's letters and writings also contain explicit references to the policies that led to the fall of the Restoration Monarchy and his conviction that "it is inevitable that there will be a reaction sooner or later."³⁹

2.0 Two models of education: moral and civic

The language of reconciling the church and the new society was used by parties on all sides of this particular debate. Republicans and Ultra's disagreed not only on the terms of this 'reconciliation' but the two visions of education – one moral and religious, the other civic and secular – highlight how much public debate over education policy was tied to worldviews. The republican vision of civic education was tied to their worldview of the French state as universal and secular. The function of education for republicans is to create literate and critical citizens capable of using their reason to make decisions about the public good. The Ultra vision of moral and religious education looked at education as a kind of moral formation and was tied to their view of France as a Catholic nation.

Montalembert and Veillot had been influenced by de Maistre during the Restoration but represented a new 'liberal Ultra' approach to politics. They recognized representative institutions as a legitimate form of government, but tied this vision to a

complete rejection of any vestige of the Gallican Church, and the near total domination of the private life of the citizen by the church. Montalembert's speeches are particularly useful contrast because he argues directly with Tocqueville, even seeking to use Tocqueville's work on America as a defense of his own position. He complains that Bishops associated with *l'Univers* have been called "the accomplices of absolutism" and defends a vision of the priesthood that is not "a prefect in a frock" but instead has a power "independent of all human authority":

Bishops are commissioned by God for the government of the Church, they have receive this holy mission to guide our conscience and to disturb it as needed; they are the ambassadors of God amongst us. The king appoints them, but it is thanks to Him that they hold their power; the law recognizes their authority, but it is not the law that has created them; they hold their authority from God, not from any person.⁴⁰

This is, in fact, very much a debate over the proper relationship between church and state, "Princes, by becoming a child of the Church, should not become its master they should serve is and not dominate it, bow at its feet and not impose their yoke on it." Indeed, the sphere of authority given to the Church "Always and everywhere, whatever kind of authority of the state has always respected the special work given to the Church in education." Montalembert concludes that the new law "is a mandate that usurps, in the name of the state, the most delicate and sacred moral authority and takes for itself what had been the exclusive domain of religious obedience."⁴¹ One of the most interesting elements of Montalembert's political theory is how he uses liberal ideas of the separation of church and state to revalorize religion.

To argue with the Doctrinaires, Montalembert cites Royer-Collard that "the state has a monopoly over University teaching like that of military or judicial power." He argues that this vision of sovereignty "confounds the two orders that have been distinct and inviolable since the foundation of Christianity." He then immediately cites Alexis de Tocqueville himself, "The United States is at the same time profoundly moral and religious...M. de Tocqueville said that what prevents the republican society of America from falling into anarchy is religious sentiment, that this religious sentiment comes from education and, because education is totally free from government control, it is a gift of this freedom itself and is practiced by the clergy of all the different religions."⁴² Religion, then, defended with a liberal model of separation has for Montalembert an intrinsic value, and because of the tight connection between education and religious

formation, the sphere of religious authority defended by Montalembert entails the right for religious schools to run themselves how they see fit.

Montalembert does not at all reject the separation of church and state. Rather, he views the state itself as a believer, and thus wishes to use a religious model of obedience to think about the relationship between the church and state. “All states are secular” he argues but, “there are two ways of being secular for states as well as individuals: either secular but faithful and religious, or secular and an unbeliever. And today the state is an unbeliever, officially an unbeliever.” Finally, he argues that “there are two results to achieve, that liberal society should get used to religion, and that religion should get used to liberalism” but for it to be, “durable and sincere it must be founded on justice.”⁴³

In education policy, however, the Doctrinaires shared much more with French republicans because of their focus on the rational citizen and the need for civic education. To the Doctrinaires the meaning of citizenship is participating in the public sphere and political institutions through the use of reason. This focus on reason, in turn, necessitates a secular and philosophical method of teaching tied to the development of what the Doctrinaires called “capacity.”⁴⁴ This approach to civic education is also recognizable in dominant strands of French republicanism but it was stronger in Doctrinaire liberalism because they used the notion of capacity to justify the restriction of political rights. Thus, the included most certainly needed a high level of rationality.

The philosophical and political ideas of the Doctrinaires committed them to a vision of civic education, but they were also attentive to education as a matter of public policy. After the fall of the Restoration and the rise of the Orlean Monarchy – the so-called ‘liberal’ or bourgeois monarchy – Guizot’s first major law was a major reform of primary education. And Guizot had even conducted a kind of survey or census of French education. The question of secondary education was more important to them, and structurally they were not based in the University, but its Napoleonic heritage and its nearly exclusive monopoly on education. Giving up this monopoly was giving up a lot of power. They did not hesitate to view the states exclusive right in education similar to the exclusive right to use force. Taken far enough, this clearly meant that only the state should to run schools and even, in a way, it is a necessity for the state to educate in order for that education to be rational and civic. Indeed, moral education and moral formation

on the Catholic model is a genuine danger to the creation of this type of citizen: it not only habituates them away from the use of reason but it also creates sub-state identities that compete for the loyalty of citizens.

3.0 Tocqueville's compromise and democratic bargaining in the period of 1843-1850

The public letters Tocqueville published in *le Commerce* demonstrate the central elements of the democratic bargain he sought to create. Like most bargains, it gave some to each side. The political side of this compromise sought to retain the right for the state to regulate education, set policy and standards, the substance of the French equivalent of an American high school diploma. For Catholics it recognized the right to open and found schools with a wide range of latitude in method and curricular additions to the basic policies set by the state. It also required them to submit themselves to state inspection – something many of them did not wish to do – and gave them no preferable treatment from the state. This political compromise is also based on Tocqueville's theoretical conviction that republican and Ultra types of education could complement each other in important ways. Education, for Tocqueville, was one of those activities in which the "ties" of "necessity" between the religious and political natures of man were strongest.

Tocqueville draws a distinction between "education" and "instruction." Education, he argues, is a light version of Montalembert's moral formation and it is geared at the heart; instruction is the development of scientific judgment and reason. "But the respect and the consideration which I have to the University does not prevent me from saying there are things that can be improved. Certainly instruction has made progress, but education... But education, the instruction of hearts and moeurs, is it at the same level? I say no. This is not the interested criticism of someone who wants to see your ruin, it is the voice of a sincere friend of the institution, as I am on your side in opposition." In both the text and the notes of *Democracy in America*, Tocqueville used the same distinction between education and instruction. From his notes to a "Conversation with *M. Dwight*" Tocqueville writes, "I said to him that there are many

people in France who think it is enough to give a person education in order to make him a good citizen. Does this same error exist in America?" M. Dwigths response was "No...education should be moral and religious...All of our children learn to read from the Bible." In *Democracy in America* he sums up the "practical education of the Americans...contributes to the support of a democratic republic; and such must always be the case, I believe, where the instruction which awakens the understanding is not separated from the moral education which amends the heart."⁴⁵ This distinction between education and instruction corresponds to necessary tie Tocqueville saw between the religious and the political. It is because of the mixed nature of education itself that cooperation between states and churches can be so highly beneficial.

In 1843, Tocqueville used this typology of education to help envision how a compromise could be struck between Catholic Ultra's and republicans. In the particular compromise Tocqueville envisioned, he sought to give to Catholic schools the same rights that had already been given to Protestant schools. He criticized Guizot's plan for "completely sacrificing the liberty of method, and we oblige everybody to learn the same things and to learn them in exactly the same way; we therefore draw around the human spirit a fixed circle, and prevent it from leaving." Additionally, he argues that in effect this law would force the closure of almost all non-state schools:

what of the ability to teach and to found schools, a freedom promised by the Charter, what has become of it in the new law?... the existence of free schools will be so troubled and precarious that it would be preferable for the state to only allow authorized schools...none will be able to continue under these conditions. We say then that the commission, in spite of the respect we have for its members, to accomplish in this way the promise of the Charter of 1830 is to circumvent it.⁴⁶

Each citizen has the right to raise his child as he wants. If is from here that it is always necessary to begin: this is the origin of the right...M. de Tocqueville understands that the state, in giving rights, does not have the right to insist on matters of morality, of science, of aptitude...it is not necessary to give the University the ability to close free institutions or to prevent them from being founded. The University can be in sole charge of composing examination committees, but she cannot close an open school. It is the state, without a doubt, but represented by a disinterested administration, like ordinary trials.⁴⁷

Moreover, this wide freedom of education is at least partially derived from the right of "each citizen...to raise his children, if it pleases him, by clergy, and so long as the clergy fills the general conditions of the laws that regulate teaching was the intention of the Charter of 1830?" Indeed, Tocqueville saw in education a particularly important human activity in which the interests of states and churches generally coincided.

Tocqueville argues that cleverly mixing instruction and education is even in the “public interest” because there is not a zero-sum relationship between allowing the clergy to take a part in instruction and the quality of scientific education at school:

What we must avoid is purchasing social benefits at too high of a price. It is not true that in giving future generations more religious education, we necessarily give them a worse education in sciences, or contrary to the laws of the state. That is why it is necessary to impose on the clergy – like everybody else – the obligation of obtaining a certificate and of submitting to the inspection of the state. When these guarantees have been met, the incorporation of clergy into public instruction, the mixing of priest and layman in the same school is not to be feared. It is highly desirable even. Both science and morality can only hope to gain from this agreement; the University itself has always been of this opinion. She is always recruiting and retaining clergy and even today, many of its highest officers are priests.

Moreover, he worries that the Doctrinaire practice of excluding the Ultra’s is leading the clergy to isolate themselves further. Here Tocqueville is exploiting his distinction between education and instruction and seeking to demonstrate the ways in which they – like the state and churches – can be more downright complementary to one another.

Tocqueville was aware, I think, of the possibility of a smart democratic bargain to be an important step in democratic construction and the crafting of the twin tolerations. Tocqueville’s letters and speeches highlight both the value of his plan, and the destructive effects of a situation in which “the religious writers” he argues, demand an “absolute freedom which would be confusion and anarchy” while those who defend the role of the state give to government, “a general supremacy which would quickly turn into an official religion.”

In our opinion, the church should not be as free as the first ask, nor as regulated as the second demand. The state has the power to intervene in anything that touches on civil matters and to the church, to the conscience only is given the right decide matter of dogma. Outside of this there is only confusion between the two powers, as impious for the one as for the other...The best way to keep the clergy in their sphere, and to keep them there when they want to leave it, is to never leave our own. I mean to render visible and durable the line that separates these two powers...⁴⁸

Tocqueville’s conditional support for widening the freedom of education and ending the official government monopoly on the right to both teach and set standards of teaching is based on his vision of education as containing both an element of the moral formation pushed by the Catholic party and an element of the civic education of republicans. And crafting this compromise would be very helpful in creating the twin tolerations, “For our part,” he writes “we have never renounced the hope of seeing a rapprochement between the church and the new society, each to the other. We hope for it still and we arduously desire it. It seems to us that each of them would be able to draw from this union certain strengths that they lack.”

Tocqueville also sees democratic bargaining as a way to bring the clergy back into mainstream French social life. He argues that the clergy had been alienating itself from democratic political institutions and political ideals, and that incorporating them on equal footing as other groups into the regular processes of politics and enjoyment of rights would attach them more to democratic institutions:

The isolation in which a part of the clergy lives, surrounded by the rest of that nation, seems to us a great danger, as much for religion itself as for the country. We must try to incorporate them, not estrange them further. Far from wanting to more and more restrict the priest to a special status, sometimes better and sometimes worse than the status of other citizens, we should be wanting to find a way to attract them every day into the sphere of common action, and in doing to slowly make them aware of all the rights that our society confers, while at the same time it teaches them to submit to the obligations it imposes.

Again, it is important to remember that what Tocqueville means by the reconciliation of the spirit of religion and the spirit of liberty is simply that in public discourse, there is a general recognition or respect between religious and political authorities. Moreover, the failure of democratic bargaining in 1843 was a part of democratic destruction in France and helped to set the table for the Revolution of 1848.

Tocqueville identified a host of other reasons for making this particular compromise. The Catholic Church was one of the major educators in France, and many of their schools operated illicitly or in the grey. By recognizing and regulating these schools, the state could achieve several objectives at once. Tocqueville argued it would bring Catholic gray areas in education under state surveillance (thus taking a key religious matter off the table) and recognize the social power of important political factions. But he also saw religion itself as a powerful motivator for individuals to pursue education and understood well the institutional role of the Catholic Church in the provision of French education. Finally, he argued that a law respecting a wide tolerance from the state in matters of method and content would be more effective in achieving the republican goal of an educated and critical citizenry.

After the Revolution of 1848 Tocqueville did not stop thinking about education, and in 1850 when he was Minister of Foreign Affairs for Louis-Napoleon Bonaparte, he played a minor part in helping to pass the Falloux Law. The Falloux Law – aptly named after Tocqueville’s friend and colleague who was at the same time the Minister of Education – created an educational system in France along the lines of what Tocqueville envisioned in 1843-44 and what the Debre Bill re-accomplished in 1959. While

Tocqueville's participation in the passage of the Falloux Law was much lesser, some elements of that law are similar to Tocqueville's proposals from 1843-44.

Conclusion: Democratic bargaining and the crafting of the 'twin tolerations' in France, 1850-1905

The passage of the Falloux Law in 1850 – although it did not prevent the overthrow of the Second Republic a year later – was enacted through successful processes of democratic bargaining. Whereas in 1843 'liberal Ultra's' like Montalembert were radicalized, in 1850 there was a much stronger moderate element amongst the clergy. Part of this seems to have been a reaction on the part of the upper clergy to Louis Veillot's continued polemic in *l'Univers* and the desire of the Bishops to demonstrate that they – not layperson journals – determined Church policy. But Falloux and Dupanloup also went out and sold this compromise to important members of the upper clergy, even getting 36 of them to sign a petition in support of the new law. Dupanloup even uses a very similar distinction between education and instruction in many of his defenses of the Falloux Law. The effects of the Falloux Law, moreover, uphold Tocqueville's conviction that a wide sphere of freedom in the method and content of teaching – even for religious schools – can help push the republican agenda of universal education. The major jump to universal education in France took place in the second half of the nineteenth century.

The Falloux Law itself did not end hostilities between republicans and Ultra's in France, but it was a significant step for the French toward creating the twin tolerations. While freed from supervision by the University (but not the French state), a new body was composed of Catholics, Protestants, Jews and secular educators to set national standards. The Falloux Law enabled anyone with certification the right to open a school: as a result nearly any kind of Catholic organization that wanted to could, and did, open a school. Catholic schools were not just for elites, either: two areas in which Catholic

schools compared favorably through the 1880's with secular schools were in educating women and the poor. A recent article on the effect of the Falloux Law puts it this way:

Both church and state wanted schools to disseminate their ideals. Despite differences they had a common interest in developing a network of schooling throughout France. The period then can be recognized as one during which universal primary schooling was basically achieved by the joint efforts of church and state. The Ferry Laws, the legislation of 1886 affecting teachers, the Law of Associations in 1901, and ultimately the Law of 1904, excluding religious from teaching, laicized a preexisting educational system. This legislation, rather than the Falloux Law, divided France as Catholic schools became alternative ones within a secular system rather than supplementary ones. The Falloux Law, in fact, inaugurated a unique period of cooperation between the church and state in achieving the common goal of schooling French children and finding an accommodation between religion and secularism.

It is unclear if, given a democratic instead of authoritarian regime from 1852-1870, the Falloux Law would have had a stronger effect in helping to craft the twin tolerations and contributing to democratic consolidation. It does seem that the origin of hostility between Ultra's and republicans in the Third Republic was not from education, but from the fears of a monarchical plot, and resentment of the role of the Church during the Second Empire.⁴⁹

What evidence then, does this paper shine upon Alfred Stepan's "democratic bargaining" approach to crafting the twin tolerations? In the literature review, I identified two statements I wished to defend, and I now wish to briefly revisit them. First, this paper demonstrates that Stepan's basic intuition that democratic – but not necessarily liberal – bargains are generally the mechanism by which religious matters 'get taken off the table' is validated. In 1843-44 the failure of democratic bargaining contributed to democratic destruction and the coming of the Revolution of 1848; in 1850 successful democratic bargaining on education might not have saved the regime, but it did lay the foundation for universal education in France and take a very important religious concern off the table. Tocqueville's experience also demonstrates the importance of crafting the twin tolerations from both ends, and of constructing religious visions that are more accommodating to the needs of democratic politics.

Secondly, this paper suggests that in matters of educational policy states and churches can make smart accommodations to each other. The particular compromise Tocqueville envisioned in 1843-44 was meant to enshrine the domestic power of important political factions, but it was also theoretically laced by the fact that Tocqueville viewed education from both a moral and a civic standpoint. The ways in which religious and civic education can complement one another might mean that educational bargains

have a higher chance of success and higher social payoff than other mechanisms of institutionalizing power. For Tocqueville, education is an activity in which the hidden 'ties' between the religious and political parts of man is particularly strong. Indeed, reconciling education and instruction is a part of Tocqueville's general project to reconcile the 'spirit of religion' and the 'spirit of liberty'.

In doing research for this paper I was surprised at how little comparative information I was able to find about educational policy and systems.⁵⁰ There is a host of national literatures and educational historians, but virtually no cross cross-national studies. Tocqueville's sociological insights in education gives reason to think that education policy itself may be worth more study by political scientists, especially as a realm in which churches and states can make mutually beneficial accommodations to one another.

Appendix: Extended literature review and the *domestic demonstration effect*

0.1 *Extended literature review:*

While political scientists today think about democratic transition and consolidation from several methodological viewpoints, the conclusions they arrive at are highly complementary and can be thought of as boiling down to several basic statements about how, when, and why nations are able to successfully transition and consolidate democratic political institutions. In my judgment these basic statements can be reduced to four: it's not just the economy stupid; both elites and masses are important; there are a lot of ways to 'just do it'; and both the rules of the game and the development of democratic legitimacy count.

1) **It's not just the economy stupid.**

While economic development correlates in important ways with democratic transition and consolidation, it is also evident that there is not a strict causal relationship between economic development and democratic transition and consolidation. At a certain level of economic and political development it does seem that nations hit a relatively stable equilibrium in which there is a high level of differentiation, not just in the market but in religious, political, and civic spheres of social action. Most transitioning democracies are at middle levels of economic development, further reducing the positive effects of economic development on the development of political democracy.⁵¹

2) **Both elites and masses count.**

No matter what methodological foundation one works from, there is an awareness that one important political dynamic of democratic transition and consolidation is found in interactions between elites and masses. Sometimes elites move first, and seek to 'rile up the troops' in support of their issues, sometimes masses constrain elites in important ways. In democratic transitions, the game between elites and masses in non-democratic regimes often spins out of control before ending with revolution; to consolidate democracies 'grand bargains' are frequently cut amongst political elites that enshrine the social power of important groups. Arend Lijphart is famous for highlighting how certain consociational grand bargains were struck in Switzerland, the Netherlands, and Austria that were instrumental in helping to transition their democracies; Alfred Stepan uses the language of pacting and has applied it to religious conflicts to argue for the 'twin tolerations.'⁵²

3) **There are a lot of ways to 'just do it.'**

Giuseppe di Palma deserves attention for arguing that, in the end, there needs to be enough political will in a democracy to 'just do it.' The conditions that lead political actors recognizing their interest as democratic and acting on it, however, seem to be highly diverse. Alfred Stepan et al. speak of the different paths to democracy, and these paths are influenced by a host of other political factors including type of prior regime, type of provisional government, and whether or not old constitutions are rewritten wholly or partially to remove their antidemocratic elements.⁵³

4) **The rules of the game and development of democratic legitimacy are both important.**

Political sociologists focus on the development of legitimacy and basic norms of democratic values like the rule of law and respect for fair democratic competition. Game theorists focus on getting the 'rules of the game' right, and how the right set of institutions and incentives can structure conflict in a way that it doesn't require a strong set of democratic norms 'greasing the wheels' of politics. Much like with the other basic statements I have highlighted, the difference between political economists and political sociologists in this matter is more linguistic than substantive. No matter how much one focuses on the internal 'rule of the game' when democracy becomes the 'only game in town' the variable being appealed to is legitimacy. Equally, political sociologists who study legitimacy are aware it is created broadly amongst citizens when they see democratic government functioning well. When the rules of the game structure democratic

competition in a way that is recognized as relatively fair and efficient by the citizenry, then democratic political institutions have higher survival rates.⁵⁴

0.2 *What Tocqueville is doing*

Alexis de Tocqueville is a political sociologist, and the ultimate criterion of a consolidated democracy is legitimacy. While legitimacy is a loaded word in the democratic transitions and consolidation literature, Tocqueville's own take on legitimacy roots it dominantly in the use of political rights. To Tocqueville – a 'republican' in the terms of history of political thought – political experience was the key factor in producing legitimacy. Thus, the use of rights is the main factor leading to the development of legitimacy; Tocqueville describes this process as kind of learning by doing. A secondary factor in the development of legitimacy can be identified in what I call the domestic demonstration effect.

Demonstration effects have been prevalent in the democratic transitions literature for a long time. A classic example is how international shifts in power can lead to rapid changes in elite expectations and preferences at the national level. Another example is from contact and exposure neighboring democracies.

Before explaining textually how Tocqueville sees this working, I would just like explain by analogy the intuition the domestic demonstration effect. There is, of course, a long history of using sports as an analogy with politics. While not a perfect analogy, the analogy of sports and politics highlights this intuition in a very clear manner. This analogy is simple and useful: elites are team captains and coaches, masses are the teammates and spectators. And, just as coaches and team captains set the tone as far as attitude and commitment for the team, so too do political elites set the tone for citizens. This is not to say that virtuous elites could save a corrupted citizenry. Rather, Tocqueville posits the symbolic behavior of democratic political elites as a secondary causal factor in the diffusion of basic democratic norms and values. Where legitimacy, for Tocqueville, is based on learning by doing, the domestic demonstration effect is a leading by example that increases the pace of democratic learning.

0.3 *Tocqueville on legitimacy*

Tocqueville presents the importance of the use of political rights in several places, but it is easily seen in a discussion of the different views of respect for the rule of law in Europe and America. While couched in his own particular language, Tocqueville argues that legitimacy – what he calls political experience – is only developed through the use of political rights.

In America, rights like the freedom of association are used within the bounds of the law, that is, with respect for the rights of others, and are "managed with discretion." In France, Tocqueville argues this basic limit is rarely respected and rights are regarded "as a weapon which is to be hastily fashioned, and immediately tried in the conflict." Accordingly, "The first notion which presents itself to a party, as well as to an individual, when it has acquired a consciousness of its own strength, is that of violence: the notion of persuasion arises at a later period and is only derived from experience."⁵⁵ It is this experience that Tocqueville thinks is so lacking in France, and one of the major causes of the cycles of reaction and repression from the two types of men.

Perhaps most importantly democratic learning takes place through using the right to vote, "the most powerful of the causes which tend to mitigate the excesses of political association in the United States is universal suffrage." In France where suffrage is restricted, legitimacy has been slow to develop because its main mechanism – voting – was cut-off. In France Tocqueville argues, the "country is lost to their senses they can neither discover it under its own nor under borrowed features, and they entrench themselves within the dull precincts of a narrow egoism." He concludes that "At the present time civic zeal seems to me to be inseparable from the exercise of political rights; and I hold that the number of citizens will be found to augment or to decrease in Europe proportion as those rights are extended."⁵⁶

Much of the contemporary literature on transitions and consolidation has focused on how legitimacy can only be developed after a transition has taken place. Interestingly, Tocqueville's focus on learning by doing – not only in suffrage, but also through political association more broadly – confirms this basic insight while still suggesting legitimacy to be an important variable in democratic consolidation. This variable includes both political experience and the development of the harmony of the 'spirit of religion' and the 'spirit of liberty'.

0.4 The domestic demonstration effect

As a secondary variable in the development of democratic legitimacy, Alexis de Tocqueville posited that if political elites embody basic democratic virtues in political life, then demonstration of these virtues can help diffuse them in political culture more generally. Quite simply, Tocqueville's demonstration effect is nothing more than leading by example. For example, in the conclusion to a set of public letters in 1842, he wrote "The best way to fight these new dangers is to *demonstrate every day through our example*, the light and the honor of the true principles of the revolution. The opposition has never had more need to show the respect due to convictions that, even if it doesn't share them and dislikes how they are used, maintain all legitimate freedoms. (italics mine)." In this set of letters Tocqueville also describes how the poor choices of Guizot and the Doctrinaire government were leading to democratic breakdown and the loss of legitimacy.⁵⁷

In *Democracy in America II*, Tocqueville used this argument to consider a different question: "What means remain in the hands of constituted authorities to bring men back to spiritual opinions or to hold them fast to religion?"⁵⁸ He gives two pieces of advice: for democratic political elites to always act "as if they believed" in religion and to try to create great projects that "remove to a distance the object of human actions." To the contemporary political scientist, these pieces of advice might sound strange, but Tocqueville is taking advantage of the 'tie' in the nature of man between religion and politics. "My answer" he says "will do me harm in the eyes of politicians":

Most religions are only general, simple, and practical means of teaching men the doctrine of the immortality of the soul. That is the greatest benefit which a democratic people derives from its belief, and more necessary to them than any other....I believe that the sole effectual means which governments can employ in order to have the doctrine of the immortality of the soul duly respected, is ever to *act as if they believed* it themselves; and I think that it is only by scrupulous conformity to religious morality in great affairs that they can hope to teach the community at large to know, to love, and to observe it in the lesser concerns of life. (italics mine).

Tocqueville is here appealing to only the most basic precepts of morality that can be derived from religion, dominantly precepts of fairness. The 'doctrine of the immortality of the soul' is, for Tocqueville, one of the minimal elements of all religions that allow them to act as agents of moral education. The minimal criteria include imperatives to avoid outright hypocrisy, uphold the rule of law, and to conduct oneself responsibly. What Tocqueville means by 'great affairs' are moments of political opportunity. Moments of political opportunity are times when there are higher political stakes for winning and losing, and this kind of domestic demonstration effect can be hypothesized to have a stronger effect, possibly leading the rapid change of values and expectations on a mass level. Tocqueville's second piece of advice is to "remove to a distance the object of human actions." By acting with a "view to the future" political elites can have a downright positive role on the development of political culture, "By acting with a view to the future, the leading men of democracies not only make public affairs prosperous, but they also teach private individuals, *by their example*, the art of managing private concerns. (italics mine)"⁵⁹ While on the surface these pieces of advice might seem trite, his advice is applicable to the debates over the freedom of education looked at in this paper.

To conclude this appendix, I would like to return to my analogy with sports. The primary factor in legitimacy is the use of political rights that is, learning by doing. To follow the analogy, the democratic game is only learned by playing. As a secondary factor in the development of legitimacy, however, Tocqueville posted a demonstration effect from the behavior of political elites. When democratic political elites lead by example – especially in moments of political opportunity – the demonstration of these values can help diffuse them amongst the citizenry more broadly. In the sport analogy, this demonstration effect is analogous to the ways in which coaches and team captains set the tone for the culture of a team. As a secondary effect in the development of basic democratic norms of legitimacy, the domestic demonstration effect holds intuitive power, and may possibly be verified by the methods of social science.⁶⁰

¹ The ground for this connection has already been laid by the concluding essay to *World Religions and Democracy*. This collection has both a version of Stepan's article and a concluding piece on Tocqueville's sociology of religion that shares much with my own take on the subject. *World religions and democracy*, ed. Larry Diamond, Marc F. Plattner, and Philip J. Costopoulos (Baltimore, Md. : Johns Hopkins University Press, 2005). See the "Epilogue: does democracy need religion?" by Hillel Fradkin.

² This is a connection Stepan sees as well, but he admires it for the consociational nature of educational bargains. In this paper I highlight some of Tocqueville's sociological reasons for viewing education as a realm of policy in which churches and states could make mutually beneficial compromises.

³ Dahl's eight criteria, roughly: freedom of association and expression, suffrage, eligibility for public office, political competition, freedom of the press, free and fair elections, and institutions for ensuring that governmental policies depend on votes and voter preferences. Linz and Stepan add a robust civil society variable, and a stronger constitutional variable to Dahl's minimal institutional definition.

⁴ See the appendix on the domestic demonstration effect.

⁵ This myopia takes several forms and Stepan warns against four fallacies, all of which can be traced liberal perceptions of religion: empirical, doctrinal, methodological, and normative. Empirically, he warns against making simple statements about the separation of church and state. Doctrinally, he argues that churches and religions are not univocal. Methodologically, he argues against the 'fallacy of unique founding conditions' which, for several hundred years, has led many a dilettante political sociologist to argue that only Protestantism (or sometimes only certain forms of it) is compatible with political democracy. Finally, he argues that the desire of many liberals like John Rawls to take religion off the table not only fits poorly with the actual experience of western democracies, but that it undercuts attempts to use the political resources of democratic institutions themselves as a means of managing conflicts of comprehensive doctrines. In the end, this essay is almost of the Edward Said Orientalism because it so clearly demonstrates the double standards that creep into even academic judgments from this kind of blindness.

⁶ This language originally comes from Stepan's frequent collaborator Juan Linz. See also Mirjam Kunkler and Julia Leininger "The multi-faceted role of religious actors in democratization processes: empirical evidence from five young democracies" in *Democratization* Vol. 16, No. 6, (December 2009), 1058–1092. They too build from Stepan's twin tolerations, "Recent research has shown that such a separation can rarely be found *de jure*, and is *de facto* nowhere present in contemporary democracies", 1064.

⁷ Jonathan Fox, for example, argues that "no state has full separation of church and state except the United States,...greater than three quarter of states do not have separation of church and state." in "World Separation of Religion and State Into the 21st Century." *Comparative Political Studies* (2006), No. 39, 537-563 and Stathis N. Kalyvas, "Democracy and Religious Politics: Evidence from Belgium" in *Comparative Political Studies* (1998; no 31), 292-323.

⁸ A strict or strong consociationalism on this model articulated by Lipjart may indeed be too rigid in terms of ability to deal with cultural and demographic shifts. In short, it had a hard time accommodating new players at the table.

⁹ Austin Gough, *Paris and Rome: the Gallican church and ultramontane campaign, 1848-1853* (New York: Oxford University Press, 1986). Two of Tocqueville's most well-known religious correspondents were the liberal Abbé Dupanloup and the Ultra Mme. Swetchine. Several letters to Mme. Swetchine have been published and the ones to Dupanloup can be consulted in the *Archives nationales*, AT 1538-1541.

¹⁰ The list here is long, see notably Seymour Drescher, Reinhard Bendix, and Raymond Aron.

¹¹ Cited in Drescher, *Dilemma's of Democracy*, p. 14. (YTC C.V.k., 7, 1, p. 44. June 22, 1838)

¹² I here cite the Henry Reeves translation, sometimes corrected by myself. For more on Tocqueville's notion of social state see the Introduction, Chapter I, II, III, and XVIII of *Democracy in America I*. See Alexis de Tocqueville, *Democracy in America*, trans. Henry Reeve (New York: Bantam, 2000).

¹³ One danger to democratic societies in Tocqueville's political theory is the tyranny of majority opinion, which, he says, "strikes at the very desire" to be an individual and causes persons to assent quietly to the opinion of the majority. He goes as far as to argue that atheism on a popular level (and he himself had his doubts about the existence of an afterlife) was one of the victims to this tyranny of opinion in America.

¹⁴ See Chapter II of *Democracy in America* and his comments on the "harmony" of liberty and religion as the "key" to "almost entirely the whole work." "I extend it [moeurs] to the various notions and opinions current among men, and to the mass of those ideas which constitute their character of mind. I comprise, therefore, under this term the whole moral and intellectual condition of a people. My intention is not to

draw a picture of American moeurs, but simply to point out such features of them as are favorable to the maintenance of political institutions.” DAI, 29-43.

¹⁵ This is an argument Tocqueville uses in both *Democracy in America* and the *Old Regime and the Revolution*, trans. Stuart Gilbert (Garden City, N.Y., Doubleday, 1955).

¹⁶ DAI, 56

¹⁷ DAI, 13

¹⁸ DA I, 14

¹⁹ This is a major theme of Tocqueville’s notes to *Democracy in America*. See Nolla, viz. etc.

²⁰ I detail this argument more fully in several other chapters of my dissertation.

²¹ Hughes de Changy, *Le mouvement légitimiste sur la Monarchie de Juillet*, (Rennes: Press Universitaires de Rennes, 2004). This alliance was for some based only on political interest but I view Tocqueville providential argument as trying to help create an ideological foundation for it.

²² Tocqueville, “Political Note” in *Œuvres complètes*, Vol.III, No. 2, ed. André Jardin (Paris: Gallimard, 1956-present), 134. Hereafter I cite the *Œuvre complètes* of Alexis de Tocqueville as *OC*, followed by the volume, number, and page.

²³ Including with Beaumont, who was associated with le Siecle

²⁴ Furet and Ozouf, *Reading and Writing in France from Calvin to Jules Ferry* (Cambridge: Cambridge University Press, 1983.) See also M. Gontard, *L’enseignement primaire en France de la Révolution a loi Guizot, 1 789-1833: Des petites écoles de la monarchie de l’Ancien Régime aux écoles primaires de la monarchie bourgeoise* (Paris, 1959).

²⁵ There is a very good accounting of the social function and ideological spectrum of the journals during the July Monarchy in “The French Catholic Press in the Education Conflict of the 1840’s” by Joseph N. Moody in *French Historical Studies*, Vol. 7, No. 3 (Spring, 1972), 394-415.

²⁶ See Anita Rasi May “The Falloux Law, the Catholic Press, and the Bishops: Crisis of Authority in the French Church” in *French Historical Studies*, Vol. 8, No. 1 (Spring, 1973), 77-94. “But instead of placating the majority of the bishops who were eager to compromise, the government's education bills...almost deliberately violated the basic principles which the bishops considered vital to the Church's position in education. Each one was avidly defended by the Universitarians and their supporters in the legislature and the press. The bishops needed the Catholic press and laymen to defend the Church from this attack.”

²⁷ Tocqueville become somewhat embittered towards Montalembert through the 1840’s. Tocqueville would describe Montalembert as “remplie de fiel avec une grande crois peinte dessus,” and, “qu’apres Voltaire, le plus grand ennemi que le christianisme ait eu on France.”

²⁸ Bibliotheque nationale, N.a.f. 24633

²⁹ In response Tocqueville published several articles in *Le Commerce* but privately complained of being cast as “l’ami d’un legitimist ou d’un jésuite.” Tocqueville would describe Montalembert as “remplie de fiel avec une grande crois peinte dessus,” and, “qu’apres Voltaire, le plus grand ennemi que le christianisme ait eu on France.”

³⁰ The Four Articles of 1682 had formed the foundation of the Gallican Church in the eighteenth century but they had been significantly modified by the revolution and successive Concordats between the French state and the Catholic Church.

³¹ “Two Articles that Corcelle Prevented me from publishing in *Le Commerce*.” Around August 15, 1844. *OC III*, vol. 2 (Gallimard).

³² The French here is notable. The phrase is “qui s’ouvriat inesperement a ses cotes” and which could have been translated as “which only reveals itself in its own way” or “which has its own means of operating.”

³³ “Letters on the Freedom of Education” 28th and 30th of November, and 2nd, 4th, 5th, 6th, 7th, 10th, and 11th of December, 1844. *OC III*, vol. 2 (Gallimard). “Cast your gaze around us and see what is going on. What has been the result of all of these injuries, threats, all of these great efforts, and all of this loud noise from the clerical press produced? An irreligious reaction. But it’s not for liberty that we fear...it is for religion.”

³⁴ “Summary of the Debate in the Chamber of Pairs,” *OC III*, vol. 2, 603-606. “Catholicism, which produces admirable effects in certain cases...will never be able to accommodate itself to the new society. It will never forget the place it had in the *ancien regime* and all the times it has been supported with power.” To Corcelle, *OC XV*, vol 1., p 174

³⁵ Alexis de Tocqueville to Francisque Corecelle *OC XV*, vol. 2 (Gallimard), 128 and 74. See also the fragment “Detached Notes” Compares his policy to that of Charles X. *OC III*, vol. 2. 553-554. “Make

them understand the insensibility of the ideas emitted and the tendencies indicated by Guizot to the Chambre de pairs on making the clergy enter political life.”

³⁶ “Gallican Church and the Freedoms of this Church.” OC, III, vol. 2, 601-602

³⁷ The historical evidence for this is the subject of several of the earlier chapters of my dissertation.

Jansenism is a strong but minor cultural movement in France from the seventeenth to nineteenth centuries in France, Italy, the Netherlands, and several other Catholic parts of Europe.

³⁸ To Corcelle, OC XV, vol. 1, p. 173 “The religious question is a preoccupation of mine, as with you; no more, it affects me profoundly. One of my dreams, the principal one perhaps upon entering political life, was to work to reconcile the liberal spirit with the spirit of religion, the new society with the church. This reconciliation so necessary to liberty and public morality is now impossible...The last polemics by the clergy was really intolerable.” see also the letter to his brother Edouard.

³⁹ “I will have to take care to make sure I don’t sit on the side of Father Pasquier at the Academy. It’s not only that I look at what is happening in Rome with apprehension, I tell you. I know that the opinion that has been rendered obligatory is very ancient and respectable. But to impose this belief in a holy mystery today, at the end of 2,000 years, seems to me a bit bold. I insist for a true council, a General Council even, outside of which I would think it impossible to introduce such a novelty in the Church. I call novelty the obligation to believe in a mystery, which, up to the present, you didn’t have hold in order to remain Catholic. I know very well that at this moment religious authorities – like political authorities – know very well that there will be little serious opposition on anything, no matter what they do. But it is not of the present that one should think, but of the future because there will be a reaction sooner or late. To F. de Corcelle, 28 December, 1854, OC XV, vol. 2 128. Tocqueville to Swetchine, p. 292. “Priests should not only support the regime, but should teach to Christians that they should ‘Take a part in one of the greatest associations that God has established to make visible and sensible the relations which should attaches individuals to one another, associations which name people and which the county calls ‘la Patrie.’”

⁴⁰ Montalembert, speech pronounced in the Chamber of Deputies, 16 April, 1844. Published in *Trois discours sur la liberté de l’Eglise, la liberté de l’enseignement...* (Paris: Waille, 1844) p. 2-63.

⁴¹ Ibid. p. 21

⁴² Montalembert, speech pronounced in the Chamber of Deputies, 26 April 1844, in *Trois discours...* p. 99.

⁴³ Ibid p. 105

⁴⁴ Guizot and the Doctrinaires had an idea of reason very similar to that of J.S. Mill, who had read and was influenced by Guizot. See Michael Levin, *J.S. Mill on civilization and barbarism* (New York, Routledge, 2004), p. 13.

⁴⁵ DAI, 367

⁴⁶ Article in *Le Commerce*, 29 July, 1844. “Freedom of Education” OC, III, vol. 2, p. 512-515; Continued, “it is to do with the freedom of education what the Restoration Monarchy did with the liberty of the press...by depriving the journals of a communal right, and preventing them from being founded. As much as we are opposed to this clerical power grab in public instruction, we are equally opposed to all those measures designed to exclude them. We will not consent to give the priest a privileged place in education; but we are equally opposed to those who...declare that they are incapable of educating, which is to say lacking in the necessary dignity for education. In our eyes, exclusion is as contrary to the spirit of our institutions as the monopoly, and we are not any more tempted to tolerate one versus the other...When the priest wants to benefit from advantages of the laws we share by submitting to the charges they impose’ when it accepts like the layman the obligations indicated by this law in the manner of teaching and the inspections it establishes; in a word, when he give to society the same guarantee that all the other citizens do, he has the right to be treated like all other citizens. To create a special rule just for him, to deprive him as a priest of the faculties he enjoys as a man is nothing but tyranny exercised in the name of liberty. And it doesn’t matter from where tyranny comes from, it will always be our enemy.

⁴⁷ “Discussion in an Office at the Chamber” OC, III, vol 2. 510-511. From *Le Constitutionnel* 18 June, 1844.

⁴⁸ P. 603. Gallicanism had also been a subject of study on his trip to America, especially in regards to how American Catholics thought about matters of the infallibility of the Pope, and the appointment of Bishops. For example see Tocqueville’s conversation with Conversation with Mr. Cranche. OC V, vol.1, 116-118. “What is the opinion of American Catholics in regards to the power of the Pope and to its independence from General Councils?” ANSWER, “It would be difficult to say. In America, as in Europe, there are Gallicans and Ultramontains. The latter have as their head the Jesuits. But up until this point, these

questions have remained in the belly of theology class. The mass of people never get mixed up in it, and it would impossible to say what the opinion of the majority is.”

⁴⁹ Some of Tocqueville’s very negative remarks on the Church at this time have been cited in the footnotes above.

⁵⁰ One notable exception – although it is still just a case-study of Germany – is Hanz N. Weiler “Legalization, Expertise, and Participation: strategies for compensatory legitimation in Educational Policy” in *Comparative Education Review*, Vol. 27, No. 2, (Jun. 1983), 259-297. I have cited some of the French literature in this paper.

⁵¹ See Przeworski et al., *Democracy and Development*, (Cambridge : Cambridge University Press, 2000).

⁵² See Arend Lijphardt, “Consociational democracy” in *World Politics*, Vol. 21, No. 2 (Jan. 1969). 207-225; see also Lijphardt, *Patterns of Democracy*, (New Haven: Yale University Press, 1999).

⁵³ Giuseppe Di Palma, *To Craft Democracies : An Essay On Democratic Transitions* (Berkeley : University of California Press, c1990).

⁵⁴ For additional literature consulted in putting together this paper see: John Higley and Michael G. Burton “The Elite Variable in Democratic Transitions and Breakdowns” in *American Sociological Review*, Vol. 54, No. 1 (Feb., 1989), pp. 17-32 and “Elite settlements” in *American Sociological Review*, Vol. 52, No. 3 (Jun., 1987), pp. 295-307; Margit Tavits and Taavi Annus “Learning to make votes count: The role of democratic experience” in *Electoral Studies* 25 (2006) 72-90; Hans Peter Schmitz, “Domestic and Transnational Perspectives on Democratization” in *International Studies Review* (2004) 6, 403–426; Stanley Fish, “Mission Impossible: Settling the Just Bounds between Church and State” in *Columbia Law Review*, Vol. 97, No. 8 (Dec., 1997), pp. 2255-2333; Barry Weingast, “The Political Foundations of Democracy and the Rule of Law” in *The American Political Science Review*, Vol. 91, No. 2 (Jun., 1997), pp. 245-263.

⁵⁵ DAI, 224

⁵⁶ DAI, 280

⁵⁷ Ibid, 123.

⁵⁸ DAII, 675

⁵⁹ DAII, 681

⁶⁰ Developmental psychology and pedagogy have, for the last twenty years at least, turned increasingly towards a social action understanding of education. While there are several versions of this, the insight that education is a social action means that teachers and learners are engaged in a common activity. This activity creates what the psychologist Lev Vygotsky calls the Zone of Proximal Development, which is the basic feature of any educational setting. More effective political elites – like better teachers – may be assumed to be more effective at creating a zone of democratic learning.