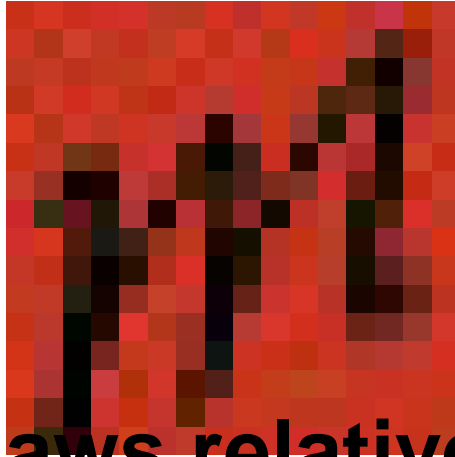


<http://montesquieu.ens-lyon.fr/spip.php?article2590>



## II.3 Of laws relative to the nature of aristocracy

- The Spirit of Law - Book II. On laws which derive directly from the nature of the government -

Date de mise en ligne : lundi 20 août 2018

---

Copyright © Montesquieu - Tous droits réservés

---

## II.3 Of laws relative to the nature of aristocracy

---

In aristocracy, the sovereign authority is in the hands of a certain number of persons. It is they who make the laws and have them carried out, and the rest of the people are at most, with respect to them, like subjects in a monarchy with respect to the monarch.

Suffrage there should not be assigned by lots ; one would reap only its drawbacks. Indeed, in a government which has already instituted the most onerous distinctions, if a man were chosen by lot he would not be less repugnant : it is the nobleman they envy, and not the magistrate.

When the nobles are numerous, there needs to be a senate to settle matters which the body of nobles cannot decide, and prepare the ones on which it does decide. In this case one can say that in a sense the aristocracy is in the senate, democracy in the body of nobles, and the people is nothing.

It will be a very happy thing in the aristocracy if by some indirect path the people are made to rise from their nonexistence : thus in Genoa the Bank of St. George, which is directed in part by the principles members of the people, [1] gives it a certain influence in the government which makes for all its prosperity.

Senators must not have the right to fill vacancies in the senate : nothing would be more likely to perpetuate abuses. In Rome, which in the earliest times was a sort of aristocracy, the senate did not designate its own replacements ; new senators were named instead by the censors. [2]

Exorbitant authority conferred all at once on a citizen in a republic creates a monarchy or something more than a monarchy. In these, the laws have provided for the constitution, or accommodated themselves to it ; the principle of the government checks the monarch ; but in a republic where a citizen has an extraordinary power conferred on himself, [3] the abuse of that power is greater, because the laws, which have not anticipated it, have done nothing to check it.

The exception to this rule is when the constitution of the state is such that it needs for a magistracy to have exorbitant power. Such was Rome with its dictators ; such is Venice with its state inquisitors : these are fearsome magistracies that recall the state violently to freedom. But how is it that these magistracies turn out so differently in these two republics ? It is because Rome was defending the remains of its aristocracy against the people, whereas Venice uses its state inquisitors to maintain its aristocracy against the nobles. Whence it followed that in Rome the dictatorship needed to last but a short while, because the people act by their impulse and not by their designs. This magistracy had to make an impact, because it had to intimidate the people and not punish them, because the dictator was created only for a single matter, and had unlimited authority only because of that matter, because it was always created for an unanticipated situation. In Venice, on the contrary, a permanent magistracy is required, in which plans can be initiated, pursued, suspended, and resumed ; where one man's ambition becomes that of a family, and the ambition of a family that of many. They need a concealed magistracy, because the crimes it punishes, always deep, are conceived in secret and in silence. This latter magistracy must have a general inquisition, because it is not called upon to check the evils that are known, but to prevent even those that are not known. In short, it is instituted to avenge the crimes it suspects, and the former made more use of threats than of punishments even for crimes confessed by their perpetrators.

In every magistracy the magnitude of its authority needs to be balanced by the brevity of its duration. A year is the time which most legislators have set : a longer time would be dangerous ; a shorter one would go against the nature of the function. Who would want to govern his domestic affairs in this way ? In Ragusa, [4] the head of the republic changes every month, the other officers every week, the governor of the château daily. This can work only in a small republic [5] surrounded by awesome powers that would easily corrupt petty magistrates.

### II.3 Of laws relative to the nature of aristocracy

---

The best aristocracy is one where the portion of the people who have no share in power is so small and so poor that the dominant portion has no interest in oppressing them. Thus, when Antipater [6] decreed in Athens that those who had less than two thousand drachmas would be excluded from the right of suffrage, he created the best possible aristocracy, because that *cens* [7] was so small that it excluded only a few, and no one of any standing in the city. Aristocratic families should therefore be of the people insofar as possible. The closer an aristocracy comes to democracy, the more perfect it will be ; and it will become progressively less perfect the closer it comes to monarchy.

The most imperfect of all is one where that part of the people that obeys are the civil slaves of the part that commands, like the aristocracy of Poland, where the peasants are slaves of the nobility.

---

[1] See Mr. [Joseph] Addison, *Remarks on Several Parts of Italy*, p. 16.

[2] At first they were named by the consuls.

[3] That is what overturned the Roman republic ; see *Considerations on the Causes of the Greatness of the Romans and of their Decline*, Paris, 1748.

[4] Tournefort, *Relation d'un voyage du Levant*.

[5] In Lucca, magistrates are instituted for only two months.

[6] Diodorus Siculus, book XVIII, p. 601, Rhodoman edition.

[7] [See Glossary.]