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# V.8 How the laws should relate to the principle of the government in an aristocracy

- The Spirit of Law - Book V. That the laws made by the legislator must be relative to the principle of the government -

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If, in the aristocracy, the people are virtuous, they will enjoy something like the well-being of the popular state, and the state will become powerful. But as it is rare for there to be much virtue where men's fortunes are so unequal, the laws must tend to provide as much spirit of moderation as they can, and seek to re-establish the equality which the constitution of the state necessarily suppresses.

The spirit of moderation is what is called virtue in the aristocracy, where it substitutes for the spirit of equality in the popular state.

While the pomp and splendor that surrounds kings are part of their authority, modesty and simplicity of manners are the strength of aristocratic nobles. [1] When they affect no distinction, when they mix with the people, when they dress the same way, when they share all their pleasures with them, the people forget their weakness.

Every government has its nature and its principle. An aristocracy must therefore not take on the nature and principle of monarchy ; that would happen if the nobles had some personal, individual prerogatives distinct from those of their corpus : privileges must be for the senate, and simple respect for the senators.

There are two principal sources of disorders in aristocratic states : extreme inequality between the governors and the governed, and the same inequality between the different members of the governing body. From these two inequalities flow animosities and jealousies which the laws must prevent or check.

The first inequality is principally when the privileges of the principals are honorable only because they are humiliating to the common people. Such was the law in Rome forbidding patricians from joining in marriage with plebeians, [2] which had no other effect than to make the patricians both more arrogant and more contemptible. The advantages the tribunes drew from this is obvious in their speeches.

This inequality will also come about if the status of citizens is various with regard to subsidies, which comes about in four ways : when the nobles grant themselves the privilege of paying none ; when they create loopholes to exempt themselves [3] ; when they claim the funds themselves under the pretext of recompenses or salaries for the offices they exercise ; and finally, when they make the people tributary, and divide up the taxes they levy on them. This latter case is rare ; in such a case an aristocracy is the harshest of all governments.

While Rome tended toward aristocracy, she avoided these pitfalls very well. The magistrates never drew salaries from their magistracy. The principals of the republic were taxed like the others ; they were taxed even more, and sometimes they were the only ones taxed. In short, far from sharing the revenues of the state among themselves, everything they could draw from the public treasury, all the wealth that fortune sent their way, they distributed to the people, to be forgiven for their honors. [4]

It is a fundamental maxim that whatever pernicious effects distributions made to the people have in a democracy, they have just as many good effects in the aristocratic government. The former cause the spirit of the citizen to be lost, the others lead back to it.

If the revenues are not distributed to the people, they must be made to see that they are well administered ; to display them is, in a way, to allow the people to enjoy them. The golden chain they hung in Venice, the riches carried into Rome in the triumphal marches, and the treasures that were kept in the temple of Saturn were veritably the riches of the people.

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It is above all essential in the aristocracy that it not be the nobles who levy the tributes. In Rome, the first order of the state had nothing to do with them ; the second was put in charge of them, and even that later had significant drawbacks. In an aristocracy where the tributes were raised by the nobles, all individuals would be at the discretion of the administrators ; there would be no superior court to correct them. Those among them who were assigned to suppress the abuses would prefer to benefit from the abuses. The nobles would be like the princes of despotic states, who confiscate the property of whomever they wish.

Soon the profits they might make would be regarded as a patrimony, which avarice would extend at will. The tax farms would be lowered ; the public revenues would be reduced to nothing. That is how some states, without experiencing any failure that could be noted, fall into a state of weakness unanticipated by their neighbors that takes even their citizens by surprise.

The laws must also forbid them commerce : such accredited merchants would create all sorts of monopolies. Commerce is the profession of equal persons ; and the most miserable of despotic states are those whose prince is a merchant.

The laws of Venice [5] forbade commerce, which could even innocently give them exorbitant wealth, to the nobles.

The laws must employ the most effective means for the nobles to dispense justice to the people. If they have no tribune, then the laws themselves must be a tribune.

Any kind of asylum against the execution of the laws sinks an aristocracy, and tyranny is not far behind.

They must in all times mortify the arrogance of domination. There must be temporarily or permanently a magistrate who makes the nobles tremble, like the Ephors in Lacedæmon and the state inquisitors in Venice, magistracies which are subject to no formalities. This government needs truly violent resources. A stone mouth lies open to every informant in Venice [6] ; you would say it is the mouth of tyranny.

These tyrannical magistracies in the aristocracy are related to the censure of democracy, which by its nature is not less independent. Indeed the censors must not be examined for the things they have done during their censorship ; they must be given confidence, never discouragement. The Romans were admirable : all magistrates could be required to explain their conduct, [7] except for censors. [8]

Two things are pernicious in aristocracy : extreme poverty of the nobles, and their exorbitant wealth. To prevent their poverty, they must above all be obliged early to pay all their debts. Moderating their wealth calls for wise and subtle provisions, not confiscations, agrarian laws, or abolition of debts, which cause infinite harm.

The laws must suppress primogeniture among the nobles [9] so that through the continual division of successions, fortunes will be constantly revert to equality.

There must be no substitution, no lineage right of redemption, no fee tail, no adoption. All the means invented to perpetuate the grandeur of families in monarchical states are inconceivable in an aristocracy. [10]

When the laws have equalized the families, it remains for them to maintain union between them. Disputes between nobles must be swiftly resolved, otherwise contestations between persons turn into contestations between families. Arbitrators can bring lawsuits to an end, or prevent them from arising.

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Finally, the laws must not favor the distinctions that vanity places between families under pretext that they are nobler or more ancient : that must be classified among the petty quarrels of individuals.

One has only to look at Lacedæmon to see how the Ephors succeeded in attenuating the weaknesses of the kings, the grandees, and the people.

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[1] In recent times the Venetians, who in many respects have conducted themselves very wisely, pronounced, in a dispute between a Venetian noble and a mainland gentleman for a place of honor in a church, that outside Venice a Venetian noble had no pre-eminence over another citizen.

[2] It was included by the decimvirs in the last two tables (Dionysius of Halicarnassus, book X).

[3] As in some aristocracies in our times ; nothing so weakens the state.

[4] See in Strabo (book XIV) how the Rhodians behaved in this respect.

[5] Amelot de la Houssaye, *Histoire du gouvernement de Venise* [Catalogue no. [3084](#)], part III. The Claudian law forbade senators from having any vessel at sea of more than forty almuds capacity. Livy, book XXI.

[6] Informants cast their billets into it.

[7] See Livy, book XLIX. A censor could not even be troubled by another censor : each made his evaluation without ascertaining his colleague's opinion ; and when this was altered, censorships was, so to speak, overturned.

[8] In Athens, the *logistæ*, who called all magistrates to account, did not give an account for themselves.

[9] It was so instituted in Venice (Amelot de la Houssaye, p. 30 and 31).

[10] It seems that the objective of some aristocracies is less to maintain the state than what they call their nobility.