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Chapter 2

Democracy and the Strange Death of Mixed Government in the Nineteenth Century

Great Britain, France and the Netherlands

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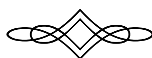

In recent years, interest in the aristocratic dimension of democracy and in mixed government or mixed constitutions has grown. This interest is historical, but it is related to current conceptions of democracy. Philosopher and historian Frank Ankersmit has argued that it would be easier to understand the current problems of 'representative democracy' if we accepted that we live in an 'elective aristocracy'.[1] In his well-known analysis of 'representative government', political philosopher Bernard Manin underlined the aristocratic elements of our current democracy. In the last sentence of his book, he concludes that 'representative government' is 'the mixed constitution of modern times'.[2] Manin traces ideas about representation from antiquity until today, and he refers to the classical theories about mixed government. These form the explicit starting point for Mogens Herman Hansen, a specialist in ancient Greek politics. He suggests that we should return to the ideas of the mixed constitution in order to understand modern democracy.[3] The conclusion of the comprehensive synthesis of the development of the idea of the mixed constitution by Swiss political scientist Alois Riklin is that modern democracy is, in fact, a mixed constitution: 'the mixed constitution is not dead'.[4]

These recent publications suggest that the old mixed constitution has not been irrevocably superseded by democracy. They show an awareness that modern democracy is a rather ambiguous concept. The advent and victory of

the concept of 'democracy' in nineteenth-century Britain have recently been described not as a 'conversion', but rather a 'prolonged negotiation between the language of democracy and the established principles of British politics'.[5] 'But why should we have to call it democracy?', John Dunn asks.[6] Yes, why do we not call it mixed government, for instance? This raises the question of what happened with the mixed constitution during the nineteenth century. At the beginning of the twentieth century, hardly anybody was still referring to the concept and, if they did, it was to argue that it had gone forever.[7] However, this did not mean that aristocratic or monarchical elements had disappeared from the constitution or that the country had turned into a 'pure' democracy. How and why did the concept and words of the 'mixed constitution' lose their attraction? Retracing the debate about the mixed constitution or mixed government may help to explain why, on the one hand, the victory of the word 'democracy' was so complete, whereas the current political system could, on the other, still be described as a sort of mixed constitution after all.

This contribution concentrates on a small number of central issues, and it shall argue that a shift in the hierarchy of political values and a concomitant reinterpretation of democracy are neglected clues to understanding the rise of 'democracy' and the demise of the mixed constitution.[8] When the democratic revolution of 1848 had unseated the French monarchy and its Prime Minister François Guizot, Guizot wrote his well-known pamphlet about 'democracy in France'. He famously equated democracy with class war and 'chaos', and he sang the praises of the British mixed system with the three constitutional powers – monarchy, House of Lords and House of Commons – in his eyes the sole guarantee of good and stable government.[9] At least since Edmund Burke, posing an opposition between savage democracy and prudent mixed government had been quite common. In the 1830s it was not uncommon in Britain to denounce 'the mad attempt at substituting a wild democracy for our mixed constitution'.[10] The ultimate triumph of democracy became possible through the discovery that it need *not* be the opposite of stability, balance and freedom, and that it could even serve as a protection against despotism. This triumph was also brought about by a change of political values: once people started to think that government should not be primarily 'stable' and 'balanced', but rather vigorous, mixed government lost its attraction.

The British Mixed Constitution and its Exportation

The classic references of the literature of the mixed constitution are, of course, Aristotle and, in particular, Polybius. Polybius perfected the classic scheme of the mixed constitution, that is, the ideal mix of monarchical, aristocratic and democratic elements, a stable balance that could avoid the de-

generation of its separate 'pure' parts into tyranny, oligarchy and ochlocracy or mob rule, respectively. In early modern Europe, his scheme was applied to many countries. The 'aristocratic republics' of Venice and the Dutch Republic, for instance, allegedly had mixed constitutions because they also included a monarchical element, such as the Prince of Orange in the Dutch case.[11] In Scandinavia, mixed government was sometimes understood in terms of dualism, between the monarch and the people. This conception was often anti-aristocratic and idealized the role of the peasants or the common people.

By the eighteenth century, Britain was by far the most famous example.[12] In no other country was the notion of the mixed constitution so pervasive. After the Glorious Revolution of 1688, politicians often argued that the 'constitution of England' with the king, the House of Lords and the House of Commons presented a 'mixture of monarchical, aristocratical, and democratical power, blended together in one system'.[13] It is obvious that this type of political language was not simply descriptive but also performative. The central issue in constitutional debates was the struggle between the king's executive power and the power of Parliament. The language of the mixed constitution could be used to hold executive power in check, avert royal absolutism and assert the power of the House of Commons. In that sense it supported the *change* of the constitution, away from a preponderant monarchy, and moving in the direction of a larger role for the House of Commons. The connection with present-day British politics was so obvious that the classic references were no longer necessary and disappeared from at least the more popular discussions of the mixed constitution. It is questionable whether those who used the concept had read the ancient authors.

When at the end of the eighteenth century power had shifted to the Commons, a parliamentary variety of the theory was developed. The balance politicians talked about was no longer primarily a balance between the independent powers of king, Lords and Commons, but rather a balance within the Commons, where king and Lords had their 'influence', but 'where all the powers of government and legislature ultimately lie'.[14] For some time this was the theory most Whigs adhered to (although around the time of the Reform Bill of 1832, they rejected the idea of 'influence', which was then defended by the Tories).

So the political implications of the mixed constitution and the theory itself were somewhat in flux. However, the terms constitutional theorists used to describe the British constitution remained the same: 'balance', 'equilibrium', 'mutual check' and 'stability'.[15] The ideal constitution was a flexible balance. According to Whig leader Charles James Fox, amongst others, the aristocratic House of Lords maintained 'the balance that equalized and meliorated the powers of the other two branches, and gave stability and firmness

to the whole'. As a constitutional historian put it: 'The desideratum of this mechanism was not progress but stability.'[16] This served political purposes, of course, such as curtailing the position of the king and afterwards legitimizing the role of the aristocratic and liberal Whigs in politics. But the interesting thing is that it was always the argument of stability and balance that was used. This balance was equally important for avoiding the two dangers of democracy, on the one hand, and despotism, on the other. The mixed constitution was a safeguard against both.

Stability and balance were also used by eighteenth-century French critics of the mixed constitution. Not all commentators were as enthusiastic about the British constitution as Montesquieu. Some thought that it was a complicated, burdensome system, while others predicted that the different powers would collide and suffer from 'discordes intestines' and 'conflits perpétuels'. Mixed government would therefore result in 'anarchy', 'a thousand times worse than despotism', and in civil war. All wars in British history resulted from this imbalanced system.[17] Also, those who wanted to criticize the British constitution used the argument of stability and balance, but now *against* it. In 1817 French lawyer Jean Chas used these arguments to counter the promotion of mixed government by French liberals. The divided sovereignty of mixed government produced distrust, 'perpetual combat', and even civil war and anarchy. The British mixed government model would inevitably result in 'democratic government' built on 'the debris of the monarchy'.[18] In 1810 Chas had used the same arguments to defend the authoritarian regime of Napoleon and to attack the British constitution. According to him, only monarchy would bring peace and stability. The mixed constitution and the system of maintaining balance between the powers led to confusion, factious politics and clashes. The British system had produced despotism and corruption.[19]

The *Edinburgh Review* was flabbergasted by this defence of Napoleon. A few years earlier, Francis Jeffrey, the Whig editor of the *Review,* had vigorously defended the parliamentary variety of the mixed constitution – the 'influence' of aristocracy and monarchy within the House of Commons maintained the balance of the constitution.[20] He agreed with Chas that unmitigated aristocracy, let alone pure democracy, did not work, but he was ready to fight for 'the fair form of mixed government'.[21] The self-confidence of British politics soared after the fall of Napoleon. It has sometimes been assumed that the mixed constitution was outdated after the French Revolution and was replaced by ideals of liberal parliamentarianism and democracy.[22] The truth is that the British form of mixed government was never as admired as in the years after the fall of Napoleon. King, Lords and Commons formed the prestigious regime of the greatest power. It was the prime example for countries that had to build up a new political system after the revolutionary period.

This new prestige, however, came at a price. The concept of mixed government was narrowed down. In the eighteenth century it was used not only to describe institutional politics as a mix of rule by one, rule by the few and rule by the many, but also as the representation or balance of different societal 'interests'.[23] The balance ensured that the British 'constitutional nobility' did not 'become an aristocracy like that of Holland'; it would be unfair to compare them to 'these little tyrants'.[24] When after the fall of Napoleon the British system of mixed government was exported to the continent, this was, however, as a system of government only. In order to be ready to be implemented, the 'modularity' of mixed government was useful: there was a kind of political package of constitutional monarchy with a two-chamber system that could be used abroad.[25] Continental commentators usually complained that the social conditions of the British system did not apply in their case. In particular, the introduction of a sort of senate or House of Lords was difficult. According to French conservatives, for example, the nobility could no longer fulfil its social role and thus no real aristocracy existed anymore. Liberals did not mind because they were looking for a new type of 'aristocracy'. Both agreed, however, that the social underpinning of the political constitution was important but problematic.[26]

In any case, in practice the British constitution was used as a model only for the state-structure. The Netherlands, for instance, was turned into a constitutional monarchy and at first tried to keep many elements of the older republican constitution, including the single, small and quiet, deliberative chamber. When the Belgians joined the Dutch in the united Kingdom of the Netherlands (1815–30), a bicameral system was introduced. The supporters of this system argued that a senate should be introduced to accommodate the Belgian nobility, but also to get a balanced constitution that would avoid the risks of an over-ambitious single chamber, such as the revolutionary French National Assembly had been, and to allow for sophisticated and moderate deliberation of political issues. Although the system was introduced without thorough theoretical debates, it is clear that the British example of the mixed constitution was in everybody's mind. Because of its mixed constitution, Britain was the cradle, the home, of 'well-ordered liberty'.[27] The introduction of an aristocratic senate – which was called the 'First Chamber' in the Dutch system – without the societal role of the British aristocracy was later considered to be a failure. Yet, the idea of a balance ('evenwigt') was prominent, at least until 1848.[28] In that year direct elections to the lower house, the 'Second Chamber', were introduced. According to conservatives, this would disturb the balance and 'firmness' of the Dutch Constitution. The aristocratic element was in danger, and this could cause problems for the monarchy as well. After the liberal revision of the Constitution of 1848, many conservatives left

parliament and, with them, their ideas of balance and stability disappeared. The liberals who had written the new constitution wanted 'representation', not 'democracy', but they hardly referred to the mixed constitution anymore. In the parliament, one of them still said that 'constitutional government' consisted of three elements that could not exist separately: (pure) monarchy, aristocracy and democracy.[29] This was an isolated comment and, significantly, he did not use the term 'mixed constitution', but the liberal expression 'constitutional government' (even though he quoted the famous theorist of the mixed constitution, William Blackstone). Liberals also advocated a balanced constitution and opposed pure democracy, but in their fight against aristocratic conservatives, they did not want to appeal to the mixed constitution. As in other countries, the separation of powers and the rule of law took the place of the balance between social powers as the guarantee of well-ordered and free government. The mixed constitution disappeared from parliamentary and other debates.

A remarkable feature of the debate about the mixed constitution was the lack of references to the Dutch past. The kingdom of the nineteenth century was presented as a 'restoration' because the Orange family returned after Napoleon had left. The main author of the Constitutions of 1814 and 1815, Gijsbert Karel van Hogendorp, was inspired by Montesquieu and theories about the mixed constitution, and tried to argue using historical precedents in support of his arguments, but only very few commentators really used the old ideas about the mixed constitution of the Dutch Republic to legitimate the new king.[30] The mixed constitution was not a reflection of Dutch societal groups, but an imported attempt to devise a new political system with checks and balances.

France

The same was true for Restoration France.[31] In around 1800, Swiss author Jean Simonde de Sismondi belonged to the circle of Madame de Staël and Benjamin Constant. He referred to his native Geneva in defending the mixed constitution as a protection of freedom against the threats of an overpowering popular sovereignty. He was influenced by the comments on the British constitution of his fellow countryman Jean-Louis Delolme, and the British system of representative government was his obvious albeit implicit model.[32]

When after the revolutionary and Napoleonic periods a new political system had to be devised for France, the prestigious British system was the natural point of reference. 'The whole of Europe appears to be inclined to adopt the [British] system of moderate monarchy', conservative leader René de Chateaubriand opined. He tried to argue that the mix of monarchical, aris-

tocratic and democratic elements was an original French system that would save France from democracy and despotism. He was referring to Aristotle and Polybius, but this could not hide the British inspiration, which he tried to ignore because nationalism was more popular than foreign inspiration.[33] France would probably not have introduced the bicameral system with an aristocratic Chambre des Pairs if it had not been for the concrete example on the other side of the Channel.[34] Already at the beginning of the French Revolution, aristocratic liberals had advocated a bicameral system along British lines. Some argued that this was an original French system that had been copied by the British, while others did not hide the fact that they wanted to introduce the British system.[35] Their proposal did not stand a chance because of the outcry against everything that was 'aristocratic' that dominated the Revolution, and that partly explains the emergence and popularity of the new term 'democrat(ic)'.[36] 'Aristocracy' was at the heart of constitutional debates in the first part of the nineteenth century. Was aristocracy synonymous with a selfish oligarchy and was it the greatest obstacle on the way to a modern republic, as many revolutionaries thought? Or was it crucial for a well-ordered society, freedom and a balanced political system?

Before the Revolution, the nobility had routinely assumed that they were the only real safeguard against despotism, on the one hand, and democracy, on the other, and that only they could assure a 'balanced' representation of all 'interests'. But they could argue this only as a force or class in society, which was not yet matched by an institutional political arrangement. On the eve of the Revolution, the nobles spent their energy on the defence of a 'social rather than an institutional equilibrium'.[37] The Revolution demonstrated the importance of proper political institutions. After the experience of the Terror, the debate about the bicameral system acquired a new dimension. A system with just one chamber would easily derail, as the National Convention had demonstrated during the Revolution.[38] A representative system needed checks and balances, and at the beginning of the Restoration, the adoption of a Chambre des Pairs was almost self-evident. According to liberal theorists, this was rather the introduction of a proper 'aristocracy', and the reflection and recognition of social differences, than the restoration of a narrow caste of 'nobility', let alone formal privileges. The Chambre des Pairs was allegedly needed to maintain the balance between the monarchy and the democratic element in the Chambre des Députés. In practice, it was only a formal political institution, regardless of the social position of the nobility.

Even advanced liberals such as Benjamin Constant thought that a hereditary senate should serve as a 'counterweight' to unpredictable 'democratic tendencies'.[39] In particular, doctrinaire or conservative liberals were fond of the hereditary Chambre des Pairs. In what amounted to a defence of mixed

government, leading doctrinaire liberal Royer-Collard argued that 'representation' should not be taken too literally as it was just a 'metaphor'. The Chambre des Députés was a constitutional 'power', the 'democratic part of the constitution'. Representation was a mere means to establish this power. France was a 'mixed monarchy', which was 'called' representative government, where several powers cooperated with the royal power.[40] The Chambre des Pairs was an indispensable element of this mixed government.

The July Revolution of 1830 propelled the doctrinaire liberals into the centre of power, but the debate about the hereditary Chambre des Pairs showed that their conception of government encountered considerable opposition. The liberal Charles de Rémusat thought that the Chambre des Pairs was an artificial creation, but that the debate about it was a nice symbolic way to channel revolutionary passions.[41] Indeed, the abolition of hereditary peers did not change much in the short run, but the outcome of the debate was important for the downfall of the theory of mixed government. Doctrinaire liberals realized their defeat; they criticized the 'commonplaces of democracy', the 'democratic clamor' and 'democratic rancour' of their opponents who presented the debate about the peers as the last combat between feudalism and the modern egalitarian spirit.[42]

Shortly after the introduction of the Chambre des Pairs, its liberal advocates had already realized that it was unlikely that the peers would get the social position that their political role in fact presupposed. The abolition of the hereditary peers turned their chamber for all practical purposes into a chamber of reflection as part of a parliamentary system instead of one of three powers in a mixed government. This did not mean that the (doctrinaire) liberals abandoned the idea of a mixed government, in the sense of balanced government. They advocated parliamentary government, not as a means to (directly) represent the 'people' or introduce democracy, but as a guarantee of good government, and this meant first and foremost 'moderate' government.[43]

The doctrinaire liberals were champions of 'representative government', and Guizot was famous for his work on the subject.[44] However, in order to demonstrate that 'representation' did not really mean that the people decided, arguments drawn from the mixed constitution were particularly useful, as Royer-Collard had already made clear. In the 1860s, Guizot's more left-wing pupil Rémusat still tried to use the mixed constitution in order to moderate or mitigate a democratic system. As 'passions' could endanger freedom, political moderation was its best guarantee. Moderation was not a virtue of 'simple' or 'pure' systems such as political democracy, but of mixed systems. Only mixed systems could maintain an equilibrium based on an institutional structure that regulated conflicts. An aristocratic second chamber was the best example. Rémusat realized that the social basis for such a system did not exist, and his

argument was not about society, but about the political system. At the end of the nineteenth century, this type of conservative liberalism was swept away by the Third Republic. It seemed to confirm the opinion of critics who argued that mixed governments did not last. The only example of a lasting mixed government was Great Britain. In other cases it was just a transitory phase on the road to the real thing: democracy.[45] Conservative liberals resigned themselves to democracy; their new motto was: 'to constitute democracy, is to moderate it' ('Constituer la démocratie, c'est la modérer').[46]

Rémusat's biographer points out that the mixed constitution was originally part of a cyclic and pessimist political philosophy, such as that advocated by Polybius. Every pure form of government would degenerate into its bad counterpart, and the best that could be achieved was to avoid evil. The most valuable quality of mixed government was its stability. However, stability was rather hard to reconcile with a progressive philosophy of history and with progress as the aim of politics, and this was one of the reasons why the philosophy of mixed government would disappear. Philosopher and liberal MP John Stuart Mill also said that the idea of a mixed constitution of Aristotle, 'a Liberal Conservative' or rather 'a moderate aristocratical politician, at Athens' was 'a philosophic consecration of existing facts', and that he was more interested in 'stability' than in 'improvement'. This was due to the fact that 'none of the ancient politicians or philosophers believed in progress; their highest hopes were limited to guarding society against its natural tendency to degeneration'. It was not Mills' favoured form of politics.[47]

'Progress' also became a strong argument for democracy and against the mixed constitution in popular circles and in newspapers. 'It is a stereotyped argument, in favour of the complicated character of the "British constitution", that the royal and aristocratic ingredients act as a "check" upon the popular, or democratic, element.' You only needed to 'check' something if it was bad or uncouth, but 'the *progress* of the English people is *upwards*, and not *downwards*'. If this were true, the crown and the nobility had checked the upward progress of the people of England. The conclusion could only be that it was time for democracy.[48]

Great Britain

It is not easy to determine when conceptions of mixed government lost their appeal in Britain. It had always been a rather bookish, theoretical term. But in particular from the 1830s to the 1870s in Britain – unlike France or other countries – the ideas about mixed government became part of newspaper debates about the nature of the constitution. It has often been asserted that the Reform Act of 1832 marked the defeat of mixed government and that

there was a parallel between developments in France (the end of the hereditary peers in 1831) and Britain, where the Reform Act affected the position of the House of Lords. By passing the Reform Bill, the Whigs 'involuntarily destroyed mixed government' (Weston) and instituted 'parliamentary government'. In the House of Commons in the 1860s, however, Prime Minister Palmerston could still refer as a matter of course to 'a mixed Constitution like ours'. And Weston also writes that Delolme's theory of British mixed government remained popular until it was superseded by Walter Bagehot's popular conceptions – and his *English Constitution* was published only in 1867.[49] It seems safe to conclude that the period from the 1830s to about 1870 was a phase of discussion. This is corroborated by an overview of newspaper hits of 'mixed constitution' and 'mixed government', which reached a peak in exactly this period, when the discussion over mixed constitution and democracy was apparently most heated.[50] Aristocrats defended the mixed constitution, while radicals attacked it (in the name of progress, democracy and popular influence), and for a couple of decades mixed constitution no longer seemed such a bookish expression, but an ordinary part of political debates.

Already by around 1800, radicals had criticized the system. In 1791 Thomas Paine wrote that mixed government was irresponsible and corrupt, but then it was still very hard to 'imagine' the alternative of a practical democratic system.[51] Another critic who has often been mentioned,[52] Jeremy Bentham, published his most interesting comments decades later, with the existing American example in mind: 'there, all is democracy, all is regularity, tranquility, prosperity, security: continual security', no aristocracy or monarchy in sight. It was clearly nonsensical to equate this democracy with anarchy. The American example inspired Bentham to try to check the overbearing aristocratic and monarchical interest in Britain. 'Mixture' was fine as long as it did not hinder the 'efficiency' of the one constitutional element that mattered – the democratic part. Nobody should think that government should be balanced: 'in a machine of any kind, when forces balance each other, the machine is at a stand'. 'Immobility' would be fatal: 'when motion ceases, the body dies'.[53]

A country could not afford to have such an inefficient 'machine for standing still';[54] progress should be made. This criticism was new. Bentham and his adherents wanted a strong government that could efficiently solve the problems of a modern society. Until then, inefficiency had not been a major problem in the theory of mixed government. On the contrary, some of its conservative adherents saw it as an advantage that it provided 'a check to the too great facility and rapidity of legislation': 'Change of law is in itself an evil, and should never be admitted but from unavoidable necessity.'[55] It is true that after 1800 both the doctrinaire liberals in France and the Whigs in Britain no

longer advocated a balance between independent elements (a possible interpretation of mixed government) because this threatened to result in paralysis or even a kind of 'civil war' between these elements. Instead, the Whigs a dvocated the close cooperation among or even fusion of monarchy, aristocracy and democracy in the lower house. According to Guizot, the mixed constitution was not a system of mere negative checks and balances; the three powers should work together closely in order to make government function properly.[56] There was no doubt that these admirers of the mixed constitution were enthusiastic supporters of a representative government with a modest role for the king. For them, representative government meant responsible and moderate government. For the legitimacy of a more powerful executive government, they could have appealed to the king, but as liberals they did not want that solution.

The moderate liberals rejected the alternative source of legitimacy, democracy. Their concept of representative government did not imply democratic rule by the representatives of the people. According to traditional political theory, 'democracy' ran the risk of degenerating into either anarchy or despotism. The period of the French Revolution had changed the meaning of the concept, but the revolutionary experience also seemed to confirm these age-old fears. Mark Philp argues that Edmund Burke's *Reflections on the Revolution in France* (1790) gave a wider and more popular currency to the until then rather academic concept of 'democracy'. Burke did this, of course, by contrasting the anarchy and despotism of French revolutionary democracy with the wise, mixed and tempered British constitution in particular, and solidity, stability and balance in general.[57]

Time and again, the fears about democracy seemed to be confirmed by its European practice. In France, the democratic revolution of 1848 ended in the authoritarian regime of Napoleon III. According to *The Times,* Napoleon's destruction of constitutional rights belonged to 'the ordinary results of democratic revolution'.[58] Walter Bagehot saw Napoleon III's regime as democratic despotism and famously called it 'the best finished democracy which the world has ever seen'. Bagehot also referred to Bentham's conception of efficient democratic government by calling Napoleon III a 'Benthamite despot. He is for the "greatest happiness of the greatest number"'.[59] Bagehot was intrigued by the way Napoleon III ruled his country. He did not like either democracy or despotism, but he favoured strong government. This helps to explain why Bagehot symbolically sealed the fate of mixed government.

Bagehot was a journalist, and his work was more convincing than really original or new. His *The English Constitution* starts with an attack on the idea of the 'balanced union of three powers'. Bagehot uses a rhetorical trick because the old Whig Lord Brougham was one of the last people to really defend

the classic idea of mixed government with its completely separate powers. He thought that its incomparable 'stability' depended on the principle 'that each of the orders or estates should remain separate from the other'.[60]

To a certain extent, Bagehot summarized current ideas. According to some comments, he was meanwhile looking for a new balance, in the Whig tradition. It is clear that he did not attack mixed government in the name of democracy. He was 'exceedingly afraid of the ignorant multitude' in Britain and thought that democracy had brought the United States 'an almost unmitigated ochlocracy'. He wanted to legitimate responsible and strong executive government. He thought that the recent broadening of the suffrage at least had the advantage that the 'now secure predominance of popular power must greatly mitigate our traditional jealousy of the Executive Government'. He did not like democracy, but democracy could serve to legitimate strong government. British government should follow the modern French and Prussian regimes, both 'new machines, made in civilized times to do their appropriate work'.[61]

The end of mixed government was not the end of the ideal of stable and balanced government. Bagehot loved the idea of an 'equilibrium'[62] in politics, exactly the ideal of mixed government. However, the hierarchy of values had changed. A combination of democracy and executive government became dominant. The answer to the question why mixed government disappeared and democracy won is not that the checks and balances had now gone and the people now ruled. The authors quoted at the start of this chapter explain that what we call 'democracy' today is more akin to mixed government than to 'pure' democracy.

In the first half of the nineteenth century, the form of government in Britain, France and the Netherlands was called representative government, but representation did not mean reproduction of the wishes of the people. In explicit contrast to 'democracy', it implied the independence of representatives, once they were chosen by the select group of voters.[63] The efforts to make representatives more responsive to the electorate and also to enlarge the electorate were increasingly symbolized by the word 'democracy'. When it became common to use the adjective 'democratic' to describe the regime in Britain, France or the Netherlands, this was parliamentary or representative democracy. However, the new popularity of the term – in France after 1848, and again after 1870, in Britain from the second but mostly the third Reform Bill, and in the Netherlands from around 1900 – was the expression of a shift in politics. The old independence of representatives was gone, and now they continuously had to justify their actions to the people and to political parties. Parties now mobilized and organized the people, and their dominance in many countries is a sure sign that the meaning of representation had changed. Conservatives and conservative liberals had used the virtues of 'mixed gov-

ernment' as an argument to prevent the change of representative government. In 1816 a prominent conservative politician said in the French Parliament that representative government meant the cooperation of royal, aristocratic and democratic powers in order to defend the common interest and the balance and security of the state. At the same time, another conservative parliamentarian doubted whether such a representative system existed in France because the balance between the powers was disturbed by the lack of power of the aristocracy.[64] They equated 'representative' with 'mixed' government. When mixed government lost its attraction, 'representative government' was also contaminated, so that now even conservatives had to come to terms with democracy. To a certain extent, the same was true for 'parliamentary government' in Britain, which in the middle of the nineteenth century was also defended as a moderate and balanced government.[65]

On the other hand, 'democracy' increasingly included liberal notions of rule of law and separation of powers, which took over the moderating functions of a balance of powers within the mixed constitution. It is no coincidence that the well-known history of the theory of the separation of powers by Maurice Vile reads as a history of the theory of mixed government until the story reaches the middle of the nineteenth century. In the nineteenth century, the main opponent of 'democracy' was 'aristocracy', and thus democracy almost self-evidently implied an attack on the social foundation and legitimation of mixed government. The struggle against totalitarianism of the 1930s and 1940s would result in the new antinomy of democracy and dictatorship, which definitely made the rule of law the heart of democracy. It brought democracy closer to mixed government again.

A second change was related to the legitimation of government and was popularized by the work of Walter Bagehot. The change from mixed government to democracy did not mean the end of checks and balances, but government could remain legitimate only by calling the new balance 'democracy'. In addition, executive government required a new legitimation too. The idea of balance and equilibrium was completed and sometimes even overruled by the idea that a modern society needed vigorous government. Bagehot's 'description' of the British constitution was an acknowledgement of the importance of executive government. He still thought that a deferential attitude of the population would suffice as popular support for this government. But soon it appeared that this was a miscalculation. It was no coincidence that future liberal leader William Gladstone complained about the 'declining efficiency of parliament' (*Quarterly Review,* September 1856) and was at the same time arguing for a broadening of the suffrage.[66] In the short run, the extension of the suffrage perhaps seemed to hinder executive government, but it appeared that legitimation of power by 'democracy' was very effective. This was

particularly the case once it had become clear that democracy did not mean 'ochlocracy' or mob rule, but suffrage for those who were – as Gladstone said in the House of Commons in 1864 – 'morally entitled to come within the pale of the Constitution'. Accepting democracy was a process of, on the one hand, parliamentarization of democracy and, on the other, democratization of parliament. In the meantime (general, male) suffrage became the main element of democracy. In the mixed constitution, suffrage had not been very important, and its prominence in political debates was one of the signs of the end of the mixed constitution, as well as of parliamentary government as an opposite of democracy.

Even more clearly than Gladstone, his radical opponent Joseph Chamberlain combined 'democracy' with strong executive government. It became hard to distinguish the two: for him, 'democratic' meant 'representation of the will of the majority', and this in turn meant that the 'executive' should mirror this majority.[67] This could just as well mean that he used democracy as legitimation for strong executive government. The first criterion for good government was no longer stability, but vigorous execution of the wishes of the majority. This was perhaps a democratic claim, but it certainly was anti-aristocratic, and it could build on older doubts about the efficiency of aristocratic government.[68]

Conclusion

After the fall of Napoleon I, the British version of the mixed constitution was attractive for opinion leaders in many countries. Only in Britain, however, was it part of popular debates and perceived as a 'national' form of government. According to MP and historian Macaulay, the French Chambre des Pairs – an essential element of mixed government – 'was a mere exotic transplant from our island'.[69] However that may be, in countries such as the Netherlands and France, as well as in Britain, defence of the mixed constitution became a strategy to hold democracy at bay; representative government was interpreted as merely virtual or metaphoric representation. For those who wanted to interpret representation in a democratic way, the mixed constitution had become a defence of aristocratic interest. Democracy, moreover, was a battle cry that could mobilize the people; the mixed constitution mainly remained an idea for the connoisseurs. It was used quite a lot in parliament, but, setting aside a short period in Britain, hardly in mass meetings. If politics was for everyone, then it should be democratic; the mixed constitution was something for the social elite and political insiders.

The values of stability and balance that were attached to the mixed constitution were gradually transferred to democracy and also became less prom-

inent. Democracy demanded progressive government that would improve society. The changed interpretation of representation as well as of executive government helps to explain the victory of democracy over mixed government. When during the nineteenth century both the input of popular influence and the output of government action were redefined, and the links between politics and society were strengthened and restructured, democracy replaced the mixed constitution. This did not mean that all aristocratic or mixed elements disappeared from the political system – far from it. Key virtues of the concept in its original shape such as stability, balance and a safeguard against despotism were to a certain extent transferred to democracy. Current debates between liberal democracy and populism sometimes recall the old opposition between the mixed constitution and democracy. Hardly anybody would really like to return to the old system, but if you want to understand modern democracy, you are well advised to review the arguments used for and against the mixed constitution.

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Notes

1. Frank Ankersmit, 'What if Our Representative Democracies are Elective Aristocracies?', *Redescriptions: Political Thought, Conceptual History and Feminist Theory* 15 (2011), 21–44. The original Dutch text is Frank Ankersmit, *De representatieve democratie is een electieve aristocratie,* Afscheidscollege, 12 April 2010 (Groningen s.a.).
2. Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997), 238.
3. Mogens Herman Hansen, 'The Mixed Constitution versus the Separation of Powers: Monarchical and Aristocratic Aspects of Modern Democracy', *History of Political Thought* 31 (2010), 509–31. Hansen and Manin refer to each other's work.

4. Alois Riklin, *Machtteilung. Geschichte der Mischverfassung* (Darmstadt: Wissenschaftliche Buchgesellschaft, 2006), 423. Riklin was inspired by a rather isolated essay by the German political scientist Dolf Sternberger (1984).
5. Robert Saunders, 'Democracy', in D. Craig and J. Thompson (eds), *The Languages of Politics in Modern British History* (Basingstoke: Palgrave Macmillan, 2013), 162.
6. John Dunn, *Setting the People Free: The Story of Democracy* (London: Atlantic Books, 2005), 155.
7. E.g. Conservative Lord Hugh Cecil, Hansard's House of Commons, 12 March 1913: 'At present we have no Parliamentary government or representative government, or what our ancestors used to be proud of – the old mixed government in which the Crown and the aristocracy and the democracy took a share. We have none of this now. Instead, we have Cabinet government and Cabinet autocracy.' This is a result of searching historical Hansard for 'mixed constitution' and 'mixed government'.
8. Cf. the first sentence of Aurelian Craiutu, *A Virtue for Courageous Minds: Moderation in French Political Thought, 1748–1830* (Princeton: Princeton University Press, 2012), 1: 'There is no agreement about what is the supreme political virtue.' He argues that 'moderation' is this virtue, which would fit very well into mixed government.
9. François Guizot, *De la démocratie en France (janvier 1849)* (Paris: Masson, 1849).
10. *London Evening Standard,* 12 November 1835.
11. E.g. Vittorio Conti, 'The Mechanisation of Virtue: Republican Rituals in Italian Political Thought in the Sixteenth and Seventeenth Centuries', in Martin van Gelderen and Quentin Skinner (eds), *Republicanism: A Shared European heritage* II (Cambridge: Cambridge University Press, 2002), 74–79; Wyger R.E. Velema, '"That a Republic is Better than a Monarchy": Anti-monarchism in Early Modern Dutch Political Thought', in van Gelderen and Skinner, *Republicanism* I, 9–41 (12); G.O. van de Klashorst, '"Metten schijn van monarchie getempert": De verdediging van het stadhouderschap in de partijliteratuur, 1650–1686', in H.W. Blom and I.W. Wildenberg (eds), *Pieter de la Court in zijn tijd: Aspecten van een veelzijdig publicist (1618–1685)* (Amsterdam/Maarssen: APA/Holland University Press, 1986), 93–136; Jill Stern, *Orangism in the Dutch Republic in Word and Image* (Manchester: Manchester University Press, 2010).
12. E.g. Riklin, *Machtteilung,* 12, 353.
13. Bolingbroke, quoted by David Lieberman, 'The Mixed Constitution and the Common Law', in Mark Goldie and Robert Wokler (eds), *The Cambridge History of Eighteenth-Century Political Thought* (Cambridge: Cambridge University Press, 2006), 319.
14. Thomas Pitt, *A Dialogue on the Actual State of Parliament* (1783), quoted by J.A.W. Gunn, 'Influence, Parties and the Constitution: Changing Attitudes, 1783–1832', *Historical Journal* XVII (1974), 301–28, at 308. In 1785 William Paley formulated a variety of this idea in his comments on the constitution.
15. Lieberman, 'Mixed Constitution', 325, 337 (quotations from William Blackstone, Jean Louis Delolme, etc.).

16. Corinne Comstock Weston, *English Constitutional Theory and the House of Lords 1556–1832* (Abingdon: Routledge, 2010), 129 (referring to Delolme) and 160 (quotation of Fox in the 1790s).
17. A list of critics in Gabriel Bonno, *La constitution britannique devant l'opinion française de Montesquieu à Bonaparte* (New York: Lenox Hill, 1971), 9, 11, 26, 59, 87, 97 and passim.
18. J. Chas, *Des gouvernemens représentatif et mixte* (Paris: Villet, 1817), 18–19, 21, 28, 37; 16 against Guizot.
19. J. Chas, *Sur la souveraineté,* 2nd edn. (Paris: Egron, 1810): this edition contains a critique of British mixed government.
20. Gunn, 'Influence, Parties and the Constitution', 320.
21. *Edinburgh Review* (1811), 409–28 (review of Chas with extensive quotations).
22. Riklin, *Machtteilung,* 425, footnote 1 refers only to developments in the nineteenth century. Like democracy, the concepts of both parliamentarianism and liberalism have their own (complicated) history: see the respective volumes about them in this same Berghahn series.
23. Angus Hawkins, *Victorian Political Culture: 'Habits of Heart and Mind'* (Oxford: Oxford University Press, 2015), 35.
24. Brook Boothby (1792), quoted by Amanda Goodrich, *Debating England's Aristocracy in the 1790s: Pamphlets, Polemics and Political Ideas* (Woodbridge: Boydell, 2005), 94; Amanda Goodrich, 'Understanding a Language of "Aristocracy", 1700–1850', *Historical Journal* 56(2) (2013), 369–98 about the difficult conceptual history of the term.
25. Historical sociologist Tarrow uses 'modularity' in his analysis of the transfer of concrete organizational elements of social movements, also around 1800; see e.g. Sidney Tarrow, *Power in Movement. Social Movements and Contentious Politics* (Cambridge: Cambridge University Press, 2011).
26. E.g. Annelien de Dijn, *French Political Thought from Montesquieu to Tocqueville: Liberty in a Levelled Society?* (Cambridge: Cambridge University Press, 2008); Lucien Jaume, 'Tocqueville face au thème de la "nouvelle aristocratie" : La difficile naissance des partis en France', *Revue française de science politique* 56 (2006), 969–84; Lucien Jaume, *L'individu effacé ou le paradoxe du libéralisme français* (Paris: Fayard, 1997), 143, 165, 288–320; Pierre Rosanvallon, *La démocratie inachevée : Histoire de la souveraineté du peuple en France* (Paris: Gallimard, 2000), 108–16; Pierre Rosanvallon, *Le moment Guizot* (Paris: Gallimard, 1985), 107–20 ('la nouvelle aristocratie'). See e.g. contemporary comments by J. Fiévée, *Histoire de la session de 1815* (Paris: Normant, 1816), 31–51 ('Du Pouvoir aristocratique').
27. Conservative G.W. Vreede, *De regtstreeksche verkiezingen tot de nationale vertegenwoordiging bestreden* (Amsterdam: Schleijer,1848), 27. Cf. for these paragraphs Henk te Velde, 'De domesticatie van democratie in Nederland: Democratie als strijdbegrip van de negentiende eeuw tot 1945', *BMGN – Low Countries Historical Review* 127 (2012), 3–27, esp. 9–10.
28. E.g. Donker Curtius van Tienhoven, *Handelingen Tweede Kamer 1832–1833*, 11 June 1833, 246.

29. A.F. Jongstra, *Handelingen Tweede Kamer 1852–1853*, 23 November 1852, 169.
30. But cf. Olivarius [Floris Adriaan van Hall], *Staatkundige opmerkingen* (Amsterdam: Van Kampen, 1848).
31. For that reason, Pierre Rosanvallon, *La monarchie impossible : Les Chartes de 1814 et 1830* (Paris: Fayard, 1994), 175–77 argues that a mixed constitution was in fact impossible or 'unthinkable' in France.
32. Emmanuelle Paulet-Grandguillot, *Libéralisme et démocratie: De Sismondi à Constant, à partir du Contrat social (1801–1806)* (Geneva: Slatkine, 2010), 266–70 and passim.
33. François-René de Chateaubriand, *Écrits politiques (1814–1816),* ed. Colin Smethurst (Geneva: Droz, 2002), 165–76; quotation from 200 (cf. footnote 138); François-René de Chateaubriand, 'Polémique', in *Oeuvres politiques (l'édition intégrale),* e-artnow 2015: e-pub.
34. Benjamin Constant, 'Principes de politique', in Benjamin Constant, *Écrits politiques,* ed. Marcel Gauchet (Paris: Gallimard, 1997), 325: 'Comme il est toujours utile de sortir des abstractions par les faits, nous citerons la constitution anglaise.'
35. Emmanuel de Waresquiel, *Un groupe d'hommes considérables. Les pairs de France et la Chambre des pairs héréditaire de la Restauration 1814–1831* (Paris: Fayard, 2006), 25 ff.
36. Pierre Rosanvallon, 'L'histoire du mot démocratie à l'époque moderne', in *La pensée politique. Situations de la démocratie* (Paris: Gallimard, 1993), 17–18, 23. Cf. Raymonde Monnier, 'Démocratie et Révolution française', *Mots* 59 (1999), 47–68, esp. 50. Joanna Innes and Mark Philp (eds), *Re-imagining Democracy in the Age of Revolutions: America, France, Britain, Ireland 1750–1850* (Oxford: Oxford University Press, 2013), in particular 57, 61, 149–50, 157, 169, 199.
37. Vivian R. Gruder, *The Notables and the Nation: The Political Schooling of the French, 1787–1788* (Cambridge, MA: Harvard University Press, 2007), Chapter 3, in particular 66, 70, 77–80; quotations from 79 and 80.
38. Waresquiel, *Groupe d'hommes,* 59: Benjamin Constant was one of the first to use this argument.
39. Constant, 'Principes de politique', 535.
40. Prosper de Barante, *La vie politique de Royer-Collard : Ses discours et ses écrits,* 2 vols (Paris: Didier, 1863) I, 222, 227–28; II, 223; Darío Roldán, *Charles de Rémusat : Certitudes et impasses du libéralisme doctrinaire* (Paris: L'Harmattan, 1999), 127. Cf. Rosanvallon, *Démocratie inachevée,* 102–4.
41. Waresquiel, *Groupe d'hommes,* 319.
42. Guizot and Broglie, quoted by Waresquiel, *Groupe d'hommes,* 330.
43. De Dijn, *French Political Thought,* 72–73, 133; François Guizot, 'De la démocratie dans les sociétés modernes', *Revue française* (1837), 193–225; Jean-François Jacouty, 'Une aristocratie dans la démocratie? Le débat politique sur la chambre des pairs au début de la Monarchie de Juillet (et ses conditions historiques et théoriques)', *Revue d'histoire du XIXe siècle* 20–21 (2000), 93–116, esp. 115–16 and 95: a memoir Guizot wrote as a civil servant in 1816 about parliamentary government.

44. François Guizot, *Histoire des origines du gouvernement représentatif en Europe,* 2 vols (Paris: Didier, 1851): this was based on lectures from the early 1820s. See for this paragraph Roldán, *Rémusat,* 248–55.
45. Étienne Vacherot, *La démocratie* (Paris: Chamerot, 1860), 15–18, 349–50. Vacherot addresses his criticism to the doctrinaires he had once belonged to himself; at the end of the nineteenth century, he would return to monarchism.
46. Charles de Rémusat, 'De l'esprit de réaction. Royer-Collard et Tocqueville', *Revue des Deux Mondes* 35 (1861), 812; cf. Roldán, *Rémusat,* 251.
47. Roldán, *Rémusat,* 249; John Stuart Mill, 'Grote's Aristotle' (1873), in John Stuart Mill, *The Collected Works* XI (Toronto: Toronto University Press/London: Routledge, 1978), 473–510, retrieved 31 January 2018, http://oll.libertyfund.org/titles/248.
48. Northumbrian, 'Our Mixed Constitution', *Reynold's Newspaper,* 16 January 1859 (letter to the editor of this radical, post-Chartist newspaper).
49. Weston, *English Constitutional Theory,* 242 and passim (quotation from 244; 129 about Delolme); Jacouty, 'Aristocratie', 108–9 and footnote 79; Hawkins, *Victorian Political Culture*; Hansard, House of Commons, 11 April 1864 (Palmerston).
50. Cf. http://www.britishnewspaperarchive.co.uk/search/results?basicsearch=%22mixed%20constitution%22 (April 2016): before and after 1830–70, in the tens each decade, in between in the (many) hundreds. In comparison, a search of the category 'la presse et les revues' of 'gallica' (Bibliothèque Nationale de France) for 'gouvernement mixte' yielded far fewer results and more purely intellectual analysis or ancient history.
51. Cf. Mark Philp, *Reforming Ideas in Britain: Politics and Language in the Shadow of the French Revolution, 1789–1815* (Cambridge: Cambridge University Press, 2014), 122–23.
52. E.g. by Weston, *English Constitutional Theory*; and M.J.C. Vile, *Constitutionalism and the Separation of Powers* (Indianapolis: Liberty Fund, 1998).
53. Jeremy Bentham, *Plan for Parliamentary Reform* (London: Hunter, 1817).
54. Bentham's adherent John Arthur Roebuck, quoted by Weston, *English Constitutional Theory,* 238.
55. John Headlam, *Attachment to the Established Forms of Our Civil and Ecclesiastical Constitution* (York: Blanchard, 1813), 23.
56. In the introduction to the edition of his parliamentary speeches, François Guizot, *Histoire parlementaire de la France : Recueil complet des discours prononcés dans les chambres de 1819 à 1848* I (Paris: Michel Lévy, 1863), 29-32; this is a long quotation from François Guizot, *Du Gouvernement représentatif et de l'état actuel de la France* (Paris: Maradan, 1816), 25–31. Cf. Vile, *Constitutionalism,* 221.
57. Mark Philp, 'Talking about Democracy: Britain in the 1790s', in Innes and Philp, *Re-imagining Democracy,* 104–5; see also 200; Burke, *Reflections.*
58. *The Times,* 8 December 1851, quoted by Saunders, *Democracy,* 139; cf. J.P. Parry, 'The Impact of Napoleon III on British Politics, 1851–1880', *Transactions of the Royal Historical Society* 11 (2001), 147–75.

59. Walter Bagehot, ‘Caesarism as it Now Exists’ (1865), in Walter Bagehot, *Collected Works* IV, ed. Norman St. John-Stevas (London: The Economist, 1968), 111–12.
60. Henry Brougham, *The British Constitution: Its History, Structure, and Working* (London: Griffin & Bohn, 1861), 26, 104. Brougham was Bagehot’s most probable target: Vile, *Constitutionalism,* 237; Miles Taylor in Walter Bagehot, *The English Constitution* (Oxford: Oxford University Press, 2001), xxii; cf. Paul Smith in Walter Bagehot, *The English Constitution* (Cambridge: Cambridge University Press 2001), xiv (see xviii–xxv for ‘a new balance’).
61. Bagehot, quoted by Vile, *Constitutionalism,* 247 and by Taylor in Bagehot, *Constitution,* xvii; Walter Bagehot, ‘What May Be in America’ (1861), in Bagehot, *Collected Works* IV, 272–73; letter to R.H. Hutton, 24 June 1867, in Bagehot, *Collected Works* XIII, 617; Bagehot, *Constitution,* 150.
62. Taylor in Bagehot, *Constitution,* xxviii.
63. E.g. the Dutch Liberal leader Thorbecke, c. 1848, in Johan Rudolf Thorbecke, *De briefwisseling,* eds G.J. Hooykaas and F.J.P. Santegoets (The Hague: ING, 1996), vol. V, 532.
64. Étienne-Denis Pasquier, Chambre des Députés, 14 February 1816; Pierre Béraud, *Souvenirs parlementaires* (Moulins: Desrosiers, 1841), 379.
65. E.g. Henry George Grey, *Parliamentary Government Considered with References to a Reform of Parliament* (1858; London: Bentley, 1864).
66. Richard Shannon, *Gladstone,* 2 vols (London: Penguin, 1982–99) underlines executive government. H.C.G. Matthew, *Gladstone,* 2 vols (Oxford: Clarendon, 1986–95); Roy Jenkins, *Gladstone* (London: Macmillan, 1995); and Eugenio Biagini, *Liberty, Retrenchment and Reform: Popular Liberalism in the Age of Gladstone, 1860–1880* (Cambridge: Cambridge University Press, 1992) concentrate on the charismatic leader, orator and popular politician.
67. J. Chamberlain, ‘The Caucus’, *Fortnightly Review* (1878), 721–41, esp. 724, 731.
68. Cf. David Craig, ‘Statesmanship’, in Craig and Thompson (eds), *Languages,* 147–48.
69. Macaulay, *Speeches*, quoted by Annelien de Dijn, ‘Balancing the Constitution: Bicameralism in Post-Revolutionary France, 1814–31’, *European Review of History* 12 (2005), 249–68, esp. 261.

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