

Alexis de Tocqueville

DEMOCRACY IN AMERICA

Historical-Critical Edition of
De la démocratie en Amérique



Edited by Eduardo Nolla

Translated from the French by James T. Schleifer

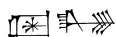
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VOLUME I

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DEMOCRACY IN AMERICA

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Translator's Note

This new translation of Tocqueville's *Democracy in America* is intended to be a close, faithful, and straightforward rendering of Tocqueville into contemporary American English. A second key goal is to present a smooth, readable version of Tocqueville's classic work. Part of my challenge has therefore been to maintain the right balance between closeness and felicity, between faithfulness and readability.

The translation scrupulously follows Tocqueville's somewhat idiosyncratic paragraphing and attempts to reflect the varied sentence structure of the original. I have tried, where possible, to follow Tocqueville's sentence structure and word order. But in many cases this effort would be inappropriate and untenable. It would not work for constructing sentences in English and would obscure Tocqueville's meaning. So sometimes I have shifted Tocqueville's word order and rearranged, even totally recast, his sentences. At times, for example, Tocqueville's extraordinarily long sentences, built from accumulated phrases, had to be broken to fit English usage. Nonetheless, the translation tries to reflect Tocqueville's stylistic mix of long, complex sentences with short, emphatic ones. Occasionally Tocqueville's sentence fragments are retained; more often, I have turned them into complete (though still very brief) sentences by inserting a verb.

As part of the effort to achieve a contemporary American English text, I have avoided translating the French *on* as *one*; almost invariably, I have used *you* (sometimes *we* or another pronoun, depending on context), or have changed the sentence from active to passive. And with the goal of closeness in mind, I have also used cognates where they fit and are appropriate.

Another basic principle for this translation has been consistency, espe-

cially for key terms. But a rigid or narrow consistency can be a false and dangerous goal, even a trap. Words often have many meanings and therefore need to be translated differently depending on context. There are several good examples. *Objet* can mean object (the object of desire), subject (the subject under consideration), matter (the matter under discussion), or objective (the objective of a plan). *Biens* can mean property or goods, or the opposite of evil(s): good, good things, or even, on a few occasions, advantages. And *désert* can mean wilderness, uninhabited area, or desert. The reader will find other examples of such clusters of possible meanings in the translation. But for the key terms used by Tocqueville, the principle has been to be as consistent as possible. (See Key Terms.)

Finally, the translation follows these more specific principles: (1) words referring specifically to France, to French institutions and history, such as *commune*, *conseil d'état*, *parlement*, are usually left in French; (2) quotations presented by Tocqueville from Pascal, Montesquieu, Rousseau, Guizot, and many other French writers have been newly translated; (3) on a few occasions, specific translator's notes have been inserted; (4) the French *De* at the beginning of chapter or section titles has been retained and translated invariably as *Of* (eg. *Of the Point of Departure . . .*). The great exception, of course, is the name of the book itself, *Democracy in America*, a title simply too familiar in English to be altered; and (5) in cases where Tocqueville quotes directly and closely from an English-language source, the original English text has been provided; but in cases where Tocqueville has quoted an English-language source from a French translation, or has only paraphrased or followed an English text very loosely, Tocqueville has been translated.

The Nolla edition, on which this translation is based, presents an enormous amount and variety of materials from the drafts and manuscript variants of Tocqueville's work, as well as excerpts from closely related materials such as travel notes and correspondence, and several chapters or partial chapters never included in the published text.

Within this collection of drafts, variants, and other materials there exists an important, but not always clear, hierarchy of manuscript materials.

These layers largely reflect chronology, the development over time of Tocqueville's thinking from early notes and sketches, through successive draft versions, to final text (still often overlaid with last-minute thoughts, queries, and clarifications). But they also reflect the tangled paths of his musings, including intellectual trials, asides, and dead ends.

And from these diverse materials comes a major challenge for the translator: to reflect the stylistic and chronological shifts from early to late, from informal to formal, from rough to polished versions of Tocqueville's book. In some of the drafts, especially, the translation must try to reproduce Tocqueville's tentativeness and confusion, as reflected in incomplete, broken, or ambiguous sentences. Most important, the many layers of text need to be translated in a way that maintains parallel phrasing, but at the same time reflects key variations in wording as they occur in the unfolding development of Tocqueville's work. The various stages of manuscript variants and the final text need to match, to be harmonious where they are more or less the same, and to differ where Tocqueville has made significant changes in vocabulary or meaning.

The very act of translation teaches a great deal about the author being translated. Tocqueville, like all good writers, had certain stylistic characteristics and idiosyncrasies that a translator must grasp in order to render a faithful translation.

In general, Tocqueville's sentences are much more dense and compact in volume I of *Democracy* than in volume II, where they are more abstract and open. In the first volume, his sentences often seem stuffed with short, qualifying phrases. This difference results from the more abstract and reflective nature of the second volume, but it also arises from the more detailed, concrete, and historical subject matter that takes up much of volume I.

Tocqueville often painted verbal pictures to summarize and to express his ideas in a single image that he hoped would grab and even persuade his readers. To create these images, he repeatedly used certain clusters of related words. Among his favorite word pictures, for example, are images of light and darkness, of eyes and seeing, of shadows and fading light;

images of movement, motion or stirring; dramatic images of rising floodwaters or raging rivers; and such geometric images as the circle, the sphere, and converging beams or roads. I have been careful to reproduce these word pictures as faithfully as possible. Examples occur throughout the *Democracy*.

A key to Tocqueville's writing is his reliance on parallel structures: parallel or matched sentences, phrases, or even words. I have tried to retain such parallels, because they reveal how Tocqueville thought habitually in pairs, especially in contrasting pairs, a feature of his thinking that elsewhere I have called "pairs in tension."

Still another key to Tocqueville's writing is its very deductive, even syllogistic nature. This is one of the defining characteristics of his thought. In the *Democracy*, he frequently offers deductive sets of ideas, expressed in chains of paragraphs or sentences, or even in chains of phrases within a single, long sentence. Many segments of his book are essentially elaborate syllogisms. In an attempt to carry the reader along by the sheer force of logic, Tocqueville often presents his ideas as a tight logical sequence: *since . . . , and since . . . , so; or this . . . , moreover this . . . , therefore . . .* (*Donc* and *ainsi* are two of his favorite words, especially in volume I.) Again, as translator, I have attempted to retain this syllogistic flavor.

Acknowledgments

My work as translator has benefited greatly from the careful readings and suggestions of several individuals: my initial reader, Alison Pedicord Schleifer; my primary reader, Paul Seaton; the other members of the editorial committee, Peter Lawler, Pierre Manent, Catherine Zuckert, Eduardo Nolla, and Christine Henderson, Senior Fellow at Liberty Fund. I would also like to thank Melvin Richter and David Bovenizer, who were involved in the early phases of the project, and Emilio Pacheco, executive vice president of Liberty Fund, who provided constant support throughout the project. I extend my deepest appreciation to all for their insights, attention, support, and good will along the way. This project has made us colleagues and friends.

The resulting translation is mine, and I take full responsibility for any weaknesses or failings.

James T. Schleifer
New Haven 2007

Key Terms

Certain key terms used by Tocqueville present particular translation difficulties. Some, for example, have no precise English equivalent (e.g., *lumières*); others are extremely abstract or have a variety of meanings, depending on context. As translator, my goal was to choose the best alternative and then to be consistent throughout the edition. The following terms should be noted:

- *état social*—translated closely as *social state*, instead of *social condition*.
- *idée mère*—translated as either *generative* or *main idea*. The same principle is used for *pensée mère*, *passion mère*, etc. But *science mère* is rendered as *mother science*.
- *inquiétude*—usually translated as *restlessness* (and *inquiet* as *restless*), but sometimes it can be *concern* or *worry*. Earlier French dictionaries show that traditionally the word meant primarily an inability to be at rest, or restlessness; the more modern sense of worry or concern was not as important. A closely related word, *agitation*, is almost always rendered as the cognate, *agitation*, except occasionally when it is translated as *constant motion* or *constant movement*.
- *intérêt bien entendu*—translated as *interest well understood* or *well understood interest*, rather than *interest properly understood*, *self-interest properly/ well understood*, or *enlightened self-interest*, all of which are unnecessary glosses on the meaning.
- *liberté d'écrire*—In English, for freedom of written expression, there is no equivalent such as freedom of speech for freedom of spoken expression; freedom of the press is a more specific term. So for *liberté d'écrire*, I have simply used *freedom to write*. Related terms to note include *liberté de penser*, *freedom of thought*, and *liberté d'esprit*, *freedom of mind* (in the sense of intellectual freedom).

- *lumières*—usually translated as *enlightenment*, occasionally as *knowledge* or *learning*.
- *mœurs*—translated as *mores*, not an ideal word, but the best available option in English.
- *pouvoir d'un seul*—translated as *power of one man* or, occasionally, *power of one man alone*, rather than *power of a single man*, which is ambiguous.

In addition, the following less crucial, but still important words should be noted:

- *affaires*—almost always translated as *public affairs*, unless clearly otherwise (such as *matters*).
- *empire*—translated as *dominion*, or a few times, as *sway* or *rule*.
- *État*—translated as *State* (upper case) when referring to the nation, the general political body; otherwise, *state* (lower case) when referring to one of the American states.
- *fonctionnaire*—translated as *officer* when related to the American town (town officer); otherwise, *official*.
- *intelligences*—No good English equivalent exists; usually translated as *minds*; sometimes the phrase is altered to use the adjective *intellectual*.
- *la justice*—In certain chapters of Tocqueville's book the word means *justice*, but usually it means the *judicial system* or *court system*.
- *législateur*—translated as *law-maker* when Tocqueville is talking about the maker of fundamental law, the constitution-maker; otherwise, *legislator*.
- *patrie*—translated as *native land* or *country*, rather than *fatherland* or *homeland*.
- *sauvage*—either *savage* or *wild*, depending on the context.
- *solitudes*—closely related to *désert(s)* (see Translator's Note, p. xxii); usually translated as *uninhabited* (or *empty*) *places* (or *areas*), sometimes as *wilderness*, and once or twice as *solitude* or *seclusion*.

Foreword

“In this regard, you will pardon me, I hope, if I express a regret that I believe is general. You have pushed too far a scruple, otherwise very laudable, of not wanting to publish anything that had not absolutely received the final touch of the author. I know well the conscientiousness that caused our friend to present the expression of his thought to the public only after he had brought it to the highest perfection that he felt capable of giving it; but it is one thing to put a piece of writing aside in order to make it more perfect and something else to want it suppressed when fate has decreed that the process of perfecting it cannot take place. Even the rough drafts of a thinker and observer like Tocqueville would be of inestimable value for thinkers to come; and unless he opposed it while alive, it seems to me that there would be no disadvantage in publishing his imperfect manuscripts while presenting them only for what they are and scrupulously retaining all the indications of an intention to go back to some piece and to submit its ideas to a later verification.”¹

In these words, following the publication of the complete works, John Stuart Mill expressed his regret to the editor, Gustave de Beaumont, for not having been able to read the whole body of Tocqueville’s unpublished papers.

Within the framework of this edition, I wanted to revisit Beaumont’s decision and in part to satisfy Mill’s desire. I have resolved not only to offer to the reader the text of *Democracy in America* revised and corrected, but also to give an important place to the notes, drafts, and materials of all kinds that accompanied the period of its writing.

I have therefore chosen to present to the reader at the same time a new

1. *The Later Letters of John Stuart Mill, 1849–1873* (Toronto: University of Toronto Press, 1972. *J. S. Mill Collected Works*, XV), p. 719. [Note: Original is in French.]

edition of the *Democracy* and a *different* edition. This new *Democracy* is not only the one that Tocqueville presented to the reader of 1835 and then to the reader of 1840. It is enlarged, amplified by a body of texts that has never existed in the form that I give it today. If the added pages that follow are indeed from Tocqueville's pen, most of them existed only as support, as necessary scaffolding for the construction of the work. As such, they were naturally meant to disappear from the final version.

Drawn out of obscurity, they are going to reappear in the middle of the known text. These fragments, revived by the choice of the editor, appear between brackets in the main text and in notes. They must be treated with caution. Although they have been brought back to life here, it is advisable not to forget that Tocqueville had condemned them to disappearance. If they often lead to some interesting site, they also lead many times to a labyrinth or to an impenetrable wall. Then we will be forced to agree with the judgment that once relegated them to oblivion.

What interest does their presence have then? Above all that of vividly highlighting the extraordinary complexity of the writing of the *Democracy* and aiding in its comprehension by presenting a portion of the erasures and over-writings, the prodigious "layering" of Tocqueville's great work. The reader will discover, for example, how Tocqueville, often hesitant, uncertain about the direction to follow, asks for advice from his family and friends, and how the latter guide his thought when writing some paragraphs and sentences. He will better understand the reasons for certain additions and deletions. He will also be able to note certain changes due to the criticisms made by the first readers of the manuscript. Finally and above all, he will see how Tocqueville proceeded with the elaboration of the main ideas of his book.

Every text is unstable for a long time. When it has acquired a certain coherence and the author judges it complete, it is printed. Every typographic reproduction leads, however, to adulteration, an adulteration as necessary as it is inevitable. The printed book cannot convey either the handwriting or the look of the manuscript. Only a facsimile, a perfect reproduction of the original, made on the same paper, damaged by time and humidity, would manage to show to the reader *Democracy in America* in all its complexity and liveliness. But it would be an illusory *Democracy*,

entirely as hard to read and grasp as the original, and one whose intrinsic value would be lost.

If the edition that is being presented today is careful to restore to the *Democracy* part of its difficulties of composition, of its mistaken ideas, and of its faltering efforts, it is not trying to and cannot in any way take the place of the manuscript, any more than it can come close to being a facsimile. A good number of research projects will still have to return to the unique object that the manuscript represents.²

The Manuscripts of Tocqueville

The preparation of the first edition of the complete works goes back to 1859, and comes just after the death of Tocqueville. The work of Gustave de Beaumont, who held Tocqueville's manuscripts from his widow, Mary Mottley, was done with the aid of Louis de Kergorlay.

Beaumont knew Tocqueville's obsession to publish nothing that had not been read and reread a hundred times. Since the author was no longer there to ensure the correction of his texts, Beaumont took charge of it. In so doing, he doctored certain passages; he deleted certain others without indication; and finally he destroyed an indeterminate number of documents (perhaps in response to the demands of Tocqueville's wife).

That first edition, which elicited considerable criticism, possesses almost as many good qualities as failings. We know that the editorial practices of the period differed markedly from ours, that mutilations and corrections of all sorts did not as clearly give rise to condemnation. Some of the people cited in the correspondence were still alive at the time of publication. Fi-

2. The working manuscript of *Democracy in America* is at the Beinecke Rare Book and Manuscript Library of Yale University. It is divided among four boxes (with the classification CVIa) and follows the order of chapters of the book. Only chapters 1, 18, 19, and 20 of the second part of the 1840 volume are missing. When, for this edition, I refer to the manuscript, it is this text that I mean.

The Yale collection does not have the definitive version of the *Democracy*, the one that Tocqueville had sent to the publisher, Charles Gosselin. This version, which George W. Pierson believed that he had seen in France in 1930, was not found at the time of the purchase of the manuscripts of the *Democracy* in 1954. Everything suggests that this final version did not present perceptible differences from the first edition.

nally, the political situation of the Second Empire weighed on the decision of the editor to make a certain number of modifications.

It is no less true that Beaumont provided an impressive work in a relatively short time. Nine volumes appeared in the space of seven years.

Mary Mottley died in 1865. Since her relations with the Tocqueville family were never good, she bequeathed all of her husband's papers to Gustave de Beaumont. The family of the latter possessed them until 1891. At that time Christian de Tocqueville acquired them.

Not long after the end of the First World War, Paul Lambert White, professor at Yale University, became interested in Tocqueville's manuscripts. He went to France, where he consulted and catalogued all of the manuscripts in the possession of the Tocqueville family. Moreover, he obtained the authorization to have the manuscripts that concerned America copied. M. Bonnel, the schoolteacher at Tocqueville, was charged with this work.³

At the death of Paul White, George W. Pierson, then a doctoral student at Yale, went in turn to France with the encouragement of John M. S. Allison. He proceeded to do a new catalogue of the manuscripts⁴ and obtained the money necessary for the continuation of the work of copying. In this way Bonnel continued to work and to send copies regularly to the United States.

Several years after World War II, a new inventory revealed the disappearance of most of the manuscripts copied for the American university by Bonnel. Yale found itself from that time on in possession of invaluable documents.

Little by little, the collection grew, augmented over the years by new acquisitions and bequests. One of the most important contributions was the purchase, over a period of about twenty years (from 1953 to 1973), of the quasi-totality of the manuscripts of Gustave de Beaumont. In 1954, Yale acquired the manuscript and the final drafts of *Democracy in America*.

3. White also gained permission to have copies made of certain documents in the hands of Antoine Rédier who was then preparing his book, *Comme disait Monsieur de Tocqueville* (Paris: Perrin, 1925). These copies were done by the secretaries of Abel Doysié, responsible for copying for the Library of Congress documents belonging to the French diplomatic archives.

4. Yale owns copies of all of the catalogues of Tocqueville's manuscripts.

At that time, the American university became the sole depository of the vast majority of the texts, notes, and correspondence relating to Tocqueville's principal work.⁵

The collection holds original manuscripts as well as copies of lost originals. In the work of this edition, the drafts and the manuscript called the "working manuscript" of the *Democracy* have received particular attention.

The greater part of the drafts of the second part of the *Democracy*, to which the author gave the name "rubbish"⁶ and which constitutes perhaps the most interesting portion of the Yale collection, is unfortunately in very bad condition. Insects and moisture have led to its deterioration, the handwriting is particularly hard to read, and the paper is crumbling into pieces. A quantity of minuscule bits of paper remains at the bottom of the two boxes that protect the Rubish.⁷

Other drafts of the second part of the book, and all those belonging to the first part, exist only as copies (that all together number about 1,500 pages divided into sixteen notebooks); they can be relatively trusted.⁸

To all of that, the notes written by Tocqueville during his journey to America⁹ must be added, and a group of more than three hundred letters,

5. The other important collection of Tocqueville's manuscripts is at the château de Tocqueville.

6. The English *rubbish* means debris, remnants, trash. Following Tocqueville, we spell the word incorrectly throughout this edition. By the word, we mean either the drafts of each chapter (*rubbish*), or the whole body of the drafts of the second part (*Rubish*).

7. Some omissions could be filled in by consulting the microfilm done at the time of the arrival of the manuscript at Yale and a partial copy of the *Rubish* in Bonnel's hand.

8. The comparison of this copy of one part of the *Rubish* with the original shows some differences and omissions, as well as a certain arbitrariness in the placement of the text on the page. Bonnel also resorted, perhaps a bit too rapidly, to the expedient of "illegible word," although this type of abuse is more desirable in a copyist than is an excess of imagination. I have corrected a number of obvious errors.

9. These notes have been published in the fifth volume of the *Œuvres complètes* published by Gallimard. I have nonetheless preferred to refer to the Yale texts, given the presence in that edition, on more than one occasion, of differences and omissions.

some still unpublished. This involves Tocqueville's and Beaumont's correspondence with Americans and the English during and after their visit to the United States, and letters written to their families and to various French correspondents.¹⁰

Other documents that are of interest for understanding the *Democracy* include bibliographies, lists of questions posed by Tocqueville and Beaumont to the Americans they spoke to, and above all, numerous documents in Beaumont's hand for the writing of his novel, *Marie, ou l'esclavage aux États-Unis*, and for that of his essay on Ireland.

Some Details Concerning the Present Edition

Theodore Sedgwick, a correspondent of Tocqueville, said jokingly that the handwriting of the latter oscillated between hieroglyphics and cuneiform.¹¹ The condition of notes meant by Tocqueville to be read only by himself can be imagined.

Following a system frequently used at the time, the draft occupies the right side of the folio and leaves the left side free for notes and variants.¹² The text, nonetheless, often extends beyond the right side and successively invades the left side, the margins, and the space between the lines.

Supplementary sheets are added at the end of each chapter, small pieces of paper are glued over the original, and sometimes other papers are even

10. The letters sent by Beaumont to his family during the American voyage have been published by André Jardin and George W. Pierson with the title *Lettres d'Amérique* (Paris: PUF, 1973).

11. In a letter of 15 January 1856 (YTC, DIIa).

In a letter of 28 December 1856 to the countess de Grancey (OCB, VII, p. 424), Tocqueville makes the Abbé Lesueur responsible for his bad handwriting: "He had the singular idea of making me learn to write before teaching me spelling. Since I did not know how to write my words, I muddled them as well as I could, drowning my errors in my scribbling. As a result, I have never known how to spell perfectly, and I have continued to scribble indefinitely." We know, moreover, that Didot, the first publisher of *L'Ancien Régime et la Révolution*, sent the manuscript back to the author twice in succession because of illegibility.

12. In certain cases, I have reproduced the notes in pencil that are in Tocqueville's hand.

stuck to the first ones. Crosses, x's, ovals, circles, letters, and diacritical signs are multiplied to indicate transfers and additions. It is clear that an exact reproduction of the many minor changes in the text of the manuscript is as unnecessary as it would be boring, and I have not bothered with it.

Notes in the margin testify to Tocqueville's doubts about certain passages, his desire to review them, and sometimes his intention to ask for the opinion of his friends or their criticisms. The fragments that he intended to eliminate are generally circled.

At the point of finishing the composition of *Democracy in America*, Tocqueville wanted his family and certain of his friends to be able to read the manuscript, comment on it, and critique it. With this intention, in 1834, he hired the services of a copyist.¹³ This copy of the manuscript, which could have been sent to the publisher once definitively corrected, has been lost except for a few loose sheets that are found with the manuscript. The reading of these pages reveals the difficulties experienced by the copyist; it is probable, from several notes in the manuscript, that Tocqueville himself dictated a good part of the book.¹⁴

References made elsewhere give an idea¹⁵ of this copy, which contained a certain number of errors, as did, we can assume, the copy that constituted

13. Perhaps Monsieur Parier, cited in note o of p. 384. A letter of Édouard to Alexis de Tocqueville (CIIb, 2, pp. 65–67, reproduced in note c of pp. 142–43) suggests the idea that the copy was done in notebooks. Two notes in the drafts speak about the price of the copies and the number of pages copied (YTC, CVh, 3, p. 17, and CVh, 2, p. 11).

In a letter to Beaumont of 23 October 1839 (*Correspondance avec Beaumont*, OC, VIII, 1, p. 389), Tocqueville refers to a copy of the second volume.

14. On the jacket of chapter VII of the fourth part of volume II, we read, for example: twenty minutes. Is this an allusion to the time taken to read the chapter?

15. The commentaries from the Tocqueville family, from Gustave de Beaumont, and from Louis de Kergorlay often reproduce the fragments to which they are referring. Most of the commentaries of the first readers of Tocqueville's book relate to details of writing, style, and the vocabulary used. Of course, I have reproduced at the bottom of the page only those criticisms that seemed of some theoretical interest.

the final version sent to the publisher. The printing process inevitably introduced others.¹⁶

The editions that followed worked to correct the errors of the first edition, but added new ones. For his part, Tocqueville also made certain deletions and several additions.¹⁷

At the time of the preparation of this edition, I began by comparing the most important French editions (those of 1835, 1838, 1840, and 1850). I discovered a certain number of differences from one edition to another: corrections by the author, modifications of punctuation, omissions, etc. After recovering the missing passages, I then compared the whole text with the manuscript and identified more than a hundred diverse errors. To those, some errors made by Tocqueville had to be added. For the latter, I have merely pointed out the error; I tried to correct it if possible, but I have not in any way modified the text.

I then incorporated the fragments that I chose into the known text.¹⁸ To do this, a meticulous selection of texts was made among the multiple var-

16. For example, where Tocqueville wanted to say that “aristocratic countries are full of rich and influential individuals who know how to be self-sufficient and who are not easily or secretly oppressed” (II, p. 1267), certain editions assert: “aristocratic countries are full of rich and influential individuals who do *not* know how to be self-sufficient and who are not easily or secretly oppressed” (my emphasis).

In chapter IV of the second part of the second volume (p. 306), the author maintains that in 1831 the proposal of the partisans of the tariff circulated in a few days “due to the power of the printed word,” while several editions attribute this fact to “the birth of the printed word.” The editions in use contain more than a hundred errors of this type.

17. The reader will find in the notes the reasons that led to certain of these corrections. For instance, the deletion of the allusion to John Quincy Adams (note k for p. 53).

The editors of the new edition of the complete works of Tocqueville, published by Gallimard, preferred to produce the last edition corrected by Tocqueville, the thirteenth, which dates from 1850. That edition nonetheless presents a good number of the errors present in previous editions. It also introduced a certain number of new errors.

18. The writing of the fragments that I cite is not always, as you will see, at the level of the published texts. The sometimes maladroit, sometimes frankly incorrect sentences that are reproduced have clearly not received the attention accorded to the published texts. You will find in particular certain stylistic and grammatical archaisms, as well as certain errors in the use of tenses, moods, and prepositions that I have not tried to modify in any way.

iants and versions present in the manuscript; the selection was made for obvious reasons of interest as well as placement. I have deliberately chosen to concentrate the greatest portion of the additions in the chapters that seem to me to have the most interest, and in particular in the second volume of the book. The additions to the main text appear between brackets; they may be preceded and followed by various diacritical signs whose meaning is set forth below.¹⁹

The notes consist of marginalia, of variants or versions predating the final version, which belong to the drafts, travel notes, fragments of correspondence, and criticisms put forth by friends and family. Their sources have been carefully and systematically indicated. To these notes is added the critical apparatus that I wanted to be useful as well as succinct.

Finally, at the end of the fourth volume, I have included in the form of appendixes six texts of different types.²⁰ The first two, *Journey to Lake*

19. The new fragments that this edition presents are reproduced as they can be read in the manuscript. I have nonetheless made a certain number of corrections and modifications necessary for comprehension:

1. Punctuation and capitalizations have been added in almost all of the new fragments.

2. Spelling errors, particularly those of foreign proper names, such as *Massachusetts* or *Pennsylvania*, written indifferently in a correct or incorrect way, have always been corrected. When the error is systematic, I have included the correct word in brackets.

3. In many cases, the manuscript includes several variants of the same fragment, the same sentence, or the same word. I have chosen to present the version that seemed to me the most appropriate. I have not always presented all the versions that exist in the manuscript if they seemed to have nothing more than a philological interest. Sometimes the gender or the number of the verb in the original agrees with only one of the variants; in this case, I have reestablished the correct form of the verb.

4. I have completed some of the abbreviations used by Tocqueville in the manuscript.

5. All of the italics are Tocqueville's, with the exception of citations in the criticisms by Tocqueville's family and friends, and, sometimes, of titles of books. On this point I have made modifications due to usage.

20. The thirteenth edition included for the first time as an appendix the report of Tocqueville to the *Académie des sciences morales et politiques* on the book by Cherbuliez, *De la démocratie en Suisse*, and Tocqueville's speech of 27 January 1848 to the Chamber, in which he foresaw the February revolution. Tocqueville's intention had been as well

Oneida and *A Fortnight in the Wilderness*, had been written by Tocqueville during his journey in the United States. Everything suggests that they would have constituted appendices to the *Democracy* if Beaumont had not written *Marie*. We know in fact from the latter that Tocqueville had judged the two narratives to be too close to his travel companion's fictional venture to consider publishing them.²¹

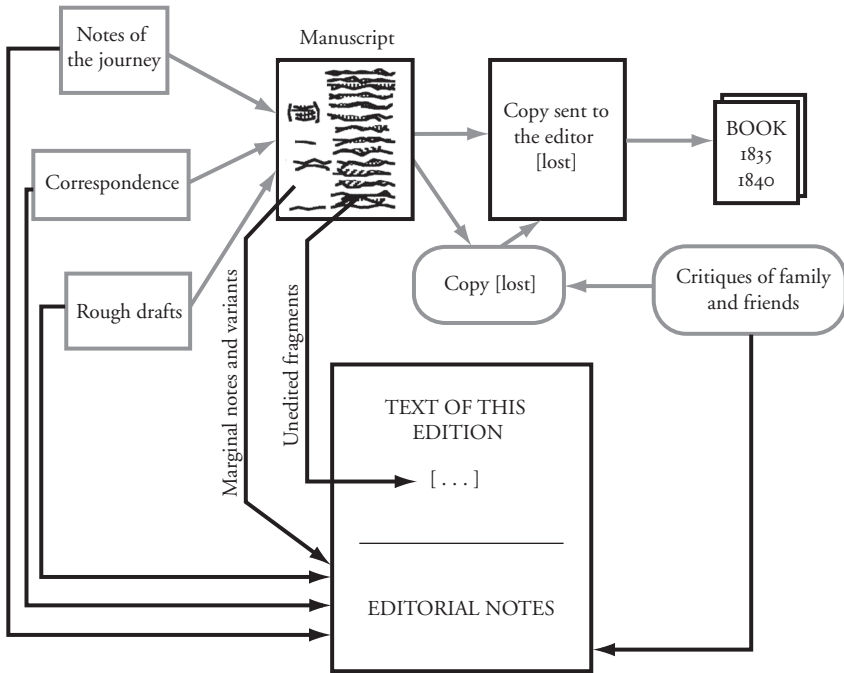
The two texts that follow are part of the drafts. Without the polish and the quality of the two preceding ones, they still have a certain documentary interest.

To include a certain number of ideas that will constitute the keystones of Tocqueville's political thought, I have added an unpublished letter from the author, dating from 1830 and addressed to Charles Stoffels.

Finally, I believed it was good to recapitulate in appendixes the foreword to the twelfth edition and all of the works cited by Tocqueville in his book as well as in the drafts, in order to aid in the reconstruction of the "Tocqueville library."

to include as an appendix a short work written in October 1847 and published with the title "De la classe moyenne et du peuple" ["Of the middle class and the people"] (*OC*, III, 2, p. 738–741), which he sent to Pagnerre (letter from Tocqueville to Pagnerre of 13 September 1850, at the National Assembly). Because of length, the present edition does not reproduce the two appendixes of the 1850 edition.

21. See *OCB*, V, p. 27.



Abbreviations and Symbols Used in This Edition

| | |
|---------------|--|
| [...] | Text not crossed out in the manuscript. |
| <...> | Text circled or surrounded in pen (this generally concerns fragments that Tocqueville wanted to delete, but the presence of a circle around a word sometimes served solely to draw the author's attention: Is the use pertinent? Does the word conflict phonetically with the one following?). |
| ≠...≠ | Word or text crossed out by one or several vertical or diagonal lines. |
| {...} | Word or text crossed out horizontally. |
| / | Sign placed at the end of the sentence to indicate that a horizontal line separates it in the manuscript from the one that follows. |
| .-.-.- | Illegible for physical reasons. Generally due to the very poor condition of the original. |
| [*] | Note of Tocqueville, present in the manuscript but absent from the published version. |
| * | Note of Tocqueville, omitted in certain editions. |
| [... (ed.)] | Information given by the editor. |
| a, b, c, ... | Notes of the editor. |
| (A), (B), ... | Notes of Tocqueville that refer to the end of the volume. |
| I, 2, 3, ... | Notes of Tocqueville placed at the bottom of the page. |
| OC | Edition of complete works published by Gallimard under the direction of J. P. Mayer at first, and François Furet and Jean-Claude Casanova afterward. |
| | <i>Œuvres complètes</i> . Paris: Gallimard, 1951–: |
| t. I: | <i>De la démocratie en Amérique</i> . 2 vols. (1951) |
| t. II: | <i>L'Ancien Régime et la Révolution</i> . 2 vols. (1952, 1953) |
| t. III: | <i>Écrits et discours politiques</i> . |
| | vol. 1. (1962) |
| | vol. 2. (1985) |
| | vol. 2. (1990) |
| t. IV: | <i>Écrits sur le système pénitentiaire en France et à l'étranger</i> . |
| | 2 vols. (1985) |
| t. V: | <i>Voyages</i> . |
| | vol. 1: <i>En Sicile et aux États-Unis</i> . (1957) |
| | vol. 2: <i>En Angleterre, Irlande, Suisse et Algérie</i> . (1958) |

- t. VI: *Correspondances anglaises*.
vol. 1: *Avec Henry Reeve et John Stuart Mill*. (1954) [cité comme *Correspondance anglaise*.]
vol. 2: *Correspondance et conversations d'Alexis de Tocqueville et Nassau William Senior*. (1991)
vol. 3: *Correspondance anglaise*. (2003)
- t. VII: *Correspondance étrangère d'Alexis de Tocqueville*. 1 vol. (1986)
- t. VIII: *Correspondance d'Alexis de Tocqueville et de Gustave de Beaumont*. 3 vols. (1967)
- t. IX: *Correspondance d'Alexis de Tocqueville et d'Arthur de Gobineau*. 1 vol. (1959)
- t. X: *Correspondance et écrits locaux*. (1995)
- t. XI: *Correspondance d'Alexis de Tocqueville et de Pierre-Paul Royer-Collard*. *Correspondance d'Alexis de Tocqueville et de Jean-Jacques Ampère*. 1 vol. (1970)
- t. XII: *Souvenirs*. 1 vol. (1964)
- t. XIII: *Correspondance d'Alexis de Tocqueville et de Louis de Kergorlay*. 2 vols. (1977)
- t. XIV: *Correspondance familiale*. (1998)
- t. XV: *Correspondance d'Alexis de Tocqueville et de Francisque de Corcelle*. *Correspondance d'Alexis de Tocqueville et de Madame Swetchine*. 2 vols. (1983)
- t. XVI: *Mélanges*. (1989)
- t. XVII: *Correspondance à divers*. Not yet published.
- t. XVIII: *Correspondance d'Alexis de Tocqueville avec Adolphe de Circourt et Madame de Circourt*. 1 vol. (1984)

OCB

Edition of complete works directed by Gustave de Beaumont.

Œuvres complètes publiées par Madame de Tocqueville. Paris: Michel Lévy Frères, 1864–1878:

- t. I–III: *De la démocratie en Amérique*.
t. IV: *L'Ancien Régime et la Révolution*.
t. V: *Correspondance et œuvres posthumes*.
t. VI: *Correspondance d'Alexis de Tocqueville*.
t. VII: *Nouvelle correspondance*.
t. VIII: *Mélanges, fragments historiques et notes sur l'Ancien Régime et la Révolution*.
t. IX: *Études économiques, politiques et littéraires*.

manuscript

In the notes of the editor, the working manuscript of the *Democracy in America* (YTC, CVIa, four boxes).

v:

variant

| | |
|--------------|---|
| YTC | Yale Tocqueville Collection. Collection of manuscripts of Yale University, belonging to the Beinecke Rare Book and Manuscript Library. Sterling Library owns several supplementary manuscripts. |
| YTC, BIIb | In this classification: lists of questions meant for American interlocutors. |
| YTC, CIIc | In this classification: "Sources manuscrites," alphabetic list, drawn up by Tocqueville, of travel notes. |
| YTC, CVa–CVk | In this classification: drafts of <i>Democracy</i> . |
| CVa | "Bundle no. 8" "Notes that very probably have no place to be used" (59 pp.) |
| CVb | "Bundle no. 13" "Various documents on the system of administration in America from which a note can be done for the chapter titled Of Government and Administration in the United States;" (34 pp.) |
| CVc | "Bundle no. 6" "That equality of conditions is an accomplished, irresistible fact, that breaks all those who will want to struggle against it. Consequence of this fact" (9 pp.) |
| CVd | "Bundle no. 5" "Ideas and fragments that all relate more or less to the great chapter titled: how the ideas and sentiments that equality suggests influence the political constitution" (53 pp.) |
| CVe | "Bundle no. 17" (two copies of 13 and 17 pp.) |
| CVf | "Bundle no. 4" "Notes, detached ideas, fragments, criticisms, relative to my two last volumes of the <i>Democracy</i> " (52 pp.) |
| CVg | "Bundle no. 9" "Drafts of the chapters of the second part of the <i>Democracy</i> " (partial copy in Bonnel's hand, three notebooks numbering a total of 416 pp. and two boxes with the original manuscript). This is the so-called "Rubish." |
| CVh | "Bundle no. 3, 1–5" "Notes, documents, ideas relative to America. Good to consult if I again want to write something on this subject" (five notebooks, 484 pp.) |
| CVj | "Bundle no. 2, 1–2" ". . . detached . . . on the philosophic method of the Americans, general ideas, the sources of belief . . . to be put in the . . . and that cannot be placed in the chapter" (two notebooks, 138 pp.) |
| CVk | "Bundle no. 7, 1–2" "Fragments, ideas that I cannot place in the work (March 1840) (insignificant collection)" (two notebooks, 148 pp.) |

Note on the Manuscripts

In addition to the documents of Yale University, the editor quotes or reproduces, with the kind permission of the libraries mentioned, the following documents:

- Letter of Hervé de Tocqueville, 15 January 1827, Bibliothèque de Versailles.
- List of questions on the situation of Blacks in the United States, library of Haverford College, Pennsylvania (E. W. Smith, no. 955).
- Letter to Edward Everett, 6 February 1833 (Tocqueville, Alexis de. Letter to Edward Everett, 6 February 1833. Edward Everett papers); letter to Edward Everett, 15 February 1850 (Tocqueville, Alexis de. Letter to Edward Everett, 15 February 1850. Edward Everett papers); passages drawn from the journal of Theodore Sedgwick (Sedgwick, Theodore III. Paris journal, volume 3, November 1833–July 1834, pages 80–81, 85. Sedgwick family papers), Massachusetts Historical Society.
- Review project (General Manuscripts, Miscellaneous, TI–TO); letter to Basil Hall, 19 June 1836 (General Manuscripts [MISC] Collection, Manuscripts Division, Department of Rare Books and Special Collections), library of Princeton University.
- Documents relating to the question of the indemnities (Dreer Collection), Historical Society of Pennsylvania.
- Letter to Sainte-Beuve, [8 April 1835]; letter of Sainte-Beuve to Beaumont, 26 November 1865, bibliothèque de l'Institut, Spoelberch de Lovenjoul collection.
- Letter to Richard M. Milnes, 29 May 1844; letter to Richard M. Milnes, 14 April 1845; and letter to Richard M. Milnes, 9 February 1852, Trinity College, Cambridge (Houghton papers, 25/200, 201 and 209).

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- Letter to the prefect, 3 December 1851 (Ms. 1070), bibliothèque historique de la ville de Paris.
 - Letter to Charles Monnard, 15 October 1856, library of the *canton* and university of Lausanne.

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Editor's Introduction

"Man obeys first causes of which he is unaware, secondary causes that he cannot foresee, a thousand caprices of his fellows; in the end, he puts himself in chains and binds himself forever to the fragile work of his hands."

—Alexis de Tocqueville

"I have spoken and dreamed a great deal about what I have seen; I believe that if I had the leisure after my return, I would be able to write something passable on the United States. To embrace the whole in its entirety would be foolishness. I am incapable of aiming at a universal exactitude; I have not seen enough for that; but I already know, I think, much more than we have ever been taught in France about it, and certain points of the picture can be of great, even current interest."²²

Published in two parts, in 1835 and 1840 successively, republished more than one hundred and fifty times and translated into fifteen languages, *Democracy in America* has elicited an enormous interest since its appearance. Elevated to the status of a classic of political philosophy and, as such, probably the last great text of that discipline, Tocqueville's work continues to attract readers, researchers, thinkers, and politicians, thanks to a modernity that few works of the nineteenth century can claim.

Regarding *Democracy*, the question of its *topicality* is often discussed. This is entirely appropriate if by it we mean that this exceptional work still continues to be understood and studied.

22. Letter to Édouard de Tocqueville, Washington, 20 January 1832. This letter belongs to the Yale University collection of manuscripts (Yale Tocqueville Collection—hereafter cited as YTC—classification Blaz). The reader will find in the Foreword a complete list of the abbreviations and symbols used in this edition.

With the perspicacity that was characteristic of him, Tocqueville envisaged the reception of his book in this way: "Some will find that at bottom I do not like democracy and that I am harsh toward it; others will think that I imprudently favor its development. I would be happier if the book were not read, and perhaps that happiness will come."²³

Readers have not failed to multiply, but they have indeed divided as the author forecast. It could not have been otherwise since this contradictory interpretation coincides precisely with Tocqueville's thinking and its development.

I

Legacies

Alexis de Tocqueville belonged to an old Norman family, Clérel, which took the patronymic *de Tocqueville* in 1661.²⁴ In the following centuries, the family, Clérel de Tocqueville, left their land from time to time to serve the church or the crown, imitating in this their ancestor, Guillaume Clarel, who had participated in the battle of Hastings.

The Revolution surprised a family firmly established on the Cotentin peninsula, on good terms with its vassals, and honoring its seigniorial duties. When the revolutionary tide reached Normandy, it carried away only

23. In a letter of the correspondence with Kergorlay [1835] (*OC*, XIII, I, p. 374), but probably addressed to someone else.

24. The village of Tocqueville and the château are about fifteen kilometers from Cherbourg. On the origins of the Tocqueville family see G.-A. Simon, *Les Clarel à l'époque de la conquête d'Angleterre et leur descendance dans la famille Clérel de Tocqueville* (Caen: Société d'Impression de Basse Normandie, 1936); and *Histoire généalogique des Clérel, seigneurs de Rampan, Tocqueville, Clouay, Lignerolles, . . .* (Caen: Imprimerie Ozanne et Cie., 1954).

My intention here is to present the principal features of Tocqueville's biography during the years that preceded the *Democracy*. For more details, refer to R.-Pierre Marcel, *Essai politique sur Alexis de Tocqueville* (Paris: Félix Alcan, 1910); Antoine Rédier, *Comme disait Monsieur de Tocqueville* (Paris: Perrin, 1925); J.-P. Mayer, *Prophet of the Mass Age: A Study of Alexis de Tocqueville* (London: J. M. Dent and Sons, 1939); André Jardin, *Alexis de Tocqueville* (Paris: Hachette, 1984); Hugh Brogan, *Alexis de Tocqueville: A Life* (New Haven, Connecticut: Yale University Press, 2007).

the dovecote of the château. It took from the Tocqueville family just the privilege of raising pigeons.

Hervé de Tocqueville welcomed the revolution with a certain sympathy. After a short stay in Brussels, disgust for the life of the *émigré*—the notes of his son on the depravity of a powerless aristocracy are the direct echo of the opinions of the father—led him to return to Paris, where he enlisted in the national guard. On 10 August 1792, Hervé de Tocqueville was part of a section of the national guard that, coming from the *faubourg* Saint-Victor, was preparing to defend the Tuileries. Rallying to the opinion of citizens met along the way, the men who made up the section decided to march against the palace; following this sudden change of opinion Hervé surreptitiously abandoned the section.

After several months in Picardy, Hervé returned to Paris in January 1793. At the end of the month, he went to Malesherbes and, on March 12, married Louise Le Peletier de Rosanbo, granddaughter of the famous Malesherbes.

The refuge at Malesherbes protected its inhabitants until the end of autumn. The defender of Louis XVI was strongly urged to leave France, but he stubbornly remained, intending perhaps to serve as the defender of the Queen. On 17 and 19 December, two members of the revolutionary committee arrested all the inhabitants of the château. Hervé de Tocqueville, his wife, the Peletier d'Aunay family, and the young Louis de Rosanbo owed their lives only to 9 Thermidor. They would see Malesherbes, Madame de Rosanbo, Jean-Baptiste de Chateaubriand, and his wife perish.²⁵

The unpublished memoirs of Hervé de Tocqueville speak, not without some melancholy, about moments spent in the company of Malesherbes and other prisoners at Port-Libre (Port-Royal).²⁶ The months that preceded the trial and inevitable sentence of death for Malesherbes brought forth within Hervé a boundless admiration for the noble old man who with dignity mounted the scaffold following his daughter and granddaughter.

25. Monsieur de Rosanbo was guillotined on 20 April 1794; Malesherbes, Madame de Rosanbo, Jean-Baptiste de Chateaubriand and his wife, the older daughter of the Rosanbos, were guillotined the following day.

26. On the captivity and execution of Malesherbes, Édouard de Tocqueville published one part of the memoirs of his father with the title "Episodes of the Terror," *Le contemporain, revue d'économie chrétienne*, January 1861, republished as a brochure in 1901.

Such events must have been evoked many times in the family, and Alexis always saw in his great-grandfather, Malesherbes, an exemplary figure without peer.²⁷ At one time he would conceive the project of writing a book on his ancestor. The idea would come to nothing, but the shadow of Malesherbes hovers over many pages of *Democracy*.²⁸ A bust of the President of the *Cour des Aides*, placed on the worktable of the author, would preside silently over the writing of many works.

Under the Empire, the Tocqueville family lived in Paris in the winter and at Verneuil in the summer, where Hervé²⁹ accepted the more or less symbolic position of mayor.³⁰ The education of the children was entrusted to the Abbé Lesueur, who had been Hervé's private tutor and who did not

27. When Tocqueville was looking for a position, his father wrote him a letter of recommendation in which he explained:

My last son Alexis de Tocqueville intends to pursue a career as a magistrate. He has just completed his law degree with some success, and I beg the support of your excellency in opening this career to him. In his family there are examples that will impose on him the obligation to follow it with zeal. Grandson by his mother of President de Rosanbo and of M. de Malesherbes, if he cannot equal them in talent, he will at least try to approach them in the qualities that distinguish a good magistrate. He would be very happy to begin under your auspices.

Letter of 15 January 1827 to an unspecified recipient, with the kind permission of the Bibliothèque de Versailles.

28. Tocqueville's political career finished with a gesture worthy of President Malesherbes. Arrested with many of his colleagues at the time of the coup of Louis-Napoleon Bonaparte, Tocqueville in prison at Vincennes received an order to be set free. He immediately wrote to the prefect: "I have just received an order setting me free. I had not solicited it and I have authorized no one to solicit it; since it does not include all of my colleagues detained for the same reason and in the same way in the same prison, I have reason to believe that it has been addressed to me by mistake, and in any case, I cannot benefit from it, since my intention is to leave here only with my colleagues." Vincennes, 3 December 1851, with the kind permission of the Bibliothèque historique de la ville de Paris.

29. According to André Jardin, Hervé could have been the secret agent of the Count d'Artois during the Empire (*Alexis de Tocqueville*, p. 16). This book also devotes a chapter to his career as prefect (pp. 18–39).

30. The father of Alexis seems to have fulfilled his duties with a zeal that was particular to him, but not without presenting a certain resistance to the orders of the Emperor. In 1814, for example, he organized the mass marriage of young men about to be conscripted into the army and posted decrees so high that it was impossible to read them. Antoine Rédier, *Comme disait Monsieur de Tocqueville*, p. 34.

hide his partiality for Alexis.³¹ Several documents attest to the anti-liberal tendencies of Lesueur as well as to his position as an intransigent Catholic monarchist; in this he seemed in better agreement with the *ultra* sympathies of the Countess de Tocqueville than with the more conciliatory and intelligent position of her husband.³²

The days of the future author of *Democracy* were occupied by the lessons of the Abbé, reading sessions with the family, composition exercises, and visits by relatives and friends.³³ The private tutor believed in a brilliant future for his pupil.³⁴ Like his brothers and his intimate

31. Hippolyte, the eldest, was born on 1 October 1797, and began a military career on 1 July 1814. He participated in the Spanish expedition with the rank of captain and left the army on 15 October 1830. Married to Émilie Evrard de Belisle, he would spend most of his time developing his property of Nacqueville, in the Contentin.

Édouard, born in 1800, entered the army in 1816, but had to leave it in 1822 for health reasons. In 1829, he married Alexandrine Ollivier, who owned a large property at Baugy, in Oise. Tocqueville would feel particular affection for their sons, René and Hubert. André Jardin, *Alexis de Tocqueville*, pp. 46–50.

Alexis was born in 1805.

32. In a letter from Lesueur to Édouard, 13 September 1822, we read regarding secret societies:

It is more than time to deal with them. All of Europe is infected by this accursed race. It seems impossible to destroy the germ, but vigorous means must be invented to stop their contagion. There must be a pest house in the Siberian oceans in which the leaders of the plague would be enclosed; there they would be forcibly quarantined not for days, but for years. I am persuaded that not one would return from there. They would poison each other, kill each other, consume each other (YTC, AIV).

33. The catalogue of the library of the Tocqueville château, established in 1818, includes, among other prestigious names, those of Montaigne, La Bruyère, Locke, Bacon, Fontenelle, Pope, Morelly, Montesquieu, Thomas More, Buffon, Corneille, Racine, Molière, Voltaire, Plutarch, Grotius, Hume, and Bossuet. YTC, AIIe.

34. At the time of a family celebration in 1822, the Abbé Lesueur addressed to the Countess de Tocqueville the following verse regarding her son:

As wise as a Demosthenes
is the youngest of your sons
going to appear in the arena:
to testify to his victory,
the name of the great Alexis
will be inscribed in the history [of the college].

friend, Louis de Kergorlay,³⁵ the young Alexis considered a military career.

We perhaps owe the abandonment of Alexis's military plans to the Abbé Lesueur's insistence: "My dear Édouard," wrote the Abbé in 1822, "you must counsel him against becoming a military man. You know the drawbacks better than we, and I am sure that he will rely more on his brothers than on his father. That character, Louis de Kergorlay, put this idea in his head. They are going to meet again, and indeed my plan is to ask M. *Loulou* to leave us alone and to mind his own business."³⁶

A distant cousin, from a quite similar family background, Kergorlay had established the bonds of a profound friendship with Tocqueville. They expressed it in an abundant correspondence that deals as much with Tocque-

Let us postpone our homage,
it is the wisest course,
and to regain our spirits,
let us wait until next year.

Next year, the Monarchy,
its foundations reestablished,
will see the liberals flee;
and our King on his throne,
finally master of his kingdom,
will want to cure all our ills.

Tune: When the oxen go two by two, the plowing goes better . . . (Letter from Lesueur to Édouard de Tocqueville, 25 August 1822, YTC, AIV).

35. During the weeks that followed the July Revolution, Tocqueville would momentarily regret not having followed his initial impulse, that of entering a military career: "I regret more than ever not having followed the initial ideas of my youth and not entering the army"—he confessed to his friend Charles Stoffels on 26 August 1830.

Those in the army are also humiliated, but they have a thousand occasions before them to rise up again, and we do not. The thought of striking a saber blow for France, if foreigners wanted to invade her territory for a third time, is the only one that rouses me amid the disgust that surrounds me. Love of independence of our country, of its external grandeur, is the only sentiment that still makes something in my soul vibrate (YTC, AVII).

36. Letter from the Abbé Lesueur to Édouard de Tocqueville, 14 September 1822, YTC, AIV. The same idea is found in a letter dated 16 September: "How sad it would be to smother under a helmet a talent that promises so many distinctions."

ville's works as with books, parliamentary opinions, and the matrimonial plans of Kergorlay; it also includes many commentaries and recommendations of the latter on the writings of his friend.³⁷ Kergorlay's mark on the pages of *Democracy* is clear and easy enough to spot.

With the Restoration, Hervé began a roving career as a prefect, beginning in 1814 in Maine-et-Loire. Hervé afterward fulfilled the same functions in Oise and in Dijon (1816). In 1817, he accepted the prefecture of Metz, where he remained until 1823. He then moved to Amiens, and in 1826 was finally back in Versailles. His nomination as a peer of France on 4 November 1827 forced him, for reasons of incompatibility of duties, to leave his position in January 1828. The July Revolution would eliminate the peerage and remove him forever from political life.³⁸

The Countess Louise de Tocqueville, who seemed never to have been able to recover from her months of detention, followed her husband in his different posts until 1817, the moment that she settled definitively in Paris. The family correspondence shows her prostrate, requiring the constant attention of those around her. Alexis lived with her until 1820.

In April of that year, while his two brothers began their military careers, Alexis rejoined his father in Moselle to complete his studies at the royal college of Metz, which he finished in 1823.³⁹ He then returned to Paris to begin his studies in law.⁴⁰

37. This correspondence is published in the two tomes of volume XIII of the *Œuvres complètes*.

38. In 1829, Hervé de Tocqueville had published a brochure on the proposed municipal law, entitled *De la charte provinciale*. On this point, the ideas of the son would not be those of the father, but they would partially echo them. In 1847, Hervé de Tocqueville published *Histoire philosophique du règne de Louis XV*, in two volumes, and in 1850, *Coup d'œil sur le règne de Louis XVI*. These two works continue to have a certain interest.

39. Two of his school compositions are preserved: "De Laudibus Demosthenes" and "L'importance de l'éloquence chez l'homme." A "Discours sur le progrès des Arts dans la Grèce" had a certain effect. In 1822, Hervé presented his son with an edition of Horace (*Quinti Horatii Flacci Opera*. Londini Aeneis Tabulis incidit Iohannes Pine MDCCXXXIII [MDCCXXVII], 2 vols.) with this dedication: "Given to my son, Alexis, on 5 September 1822, the day when he obtained the prize of honor in Rhetoric, the first prize in Latin translation, the second prize in French composition, and four certificates of merit. Metz, 5 September 1822. The Count de Tocqueville." Bernard Quav-

At the end of 1826, his law studies finished, Tocqueville started on a journey to Italy and Sicily in the company of his brother, Édouard. His nomination as *juge auditeur* at Versailles, on 5 April 1827, precipitated his return to Paris.

The Machine at Law

Tocqueville spent the first months at the prefecture of his father. Following the latter's resignation, he then shared an apartment with a new friend, Gustave de Beaumont.⁴¹

The family Bonnin de La Bonninière originated in Touraine. It had spread into the neighboring provinces and had recently acquired the patronymic *de Beaumont*. At the beginning of the century the Count Jules de Beaumont, his wife, and their four children lived at the château de La Borde, at Beaumont-la-Chartre, in Sarthe. Jules de Beaumont was the mayor there during the Empire. It was in this setting, little different from that of Verneuil, that Gustave had spent his childhood.

The Tocquevilles devoted afternoons to reading and conversation, including among their visitors Chateaubriand, who profited particularly from his visits to work on his *Moïse*. At the home of the Beaumonts, the family read together and devoted itself to music, painting, and charitable works.⁴²

itch, catalogue 1069, December 1986. I owe this information to the kindness of Marjorie G. Wynne, librarian of Yale University.

40. He would gain his diploma after the presentation of two theses: "De usurpationibus aut de usucapionibus" and "L'Action en rescision ou nullité." André Jardin, *Alexis de Tocqueville*, p. 70.

41. George W. Pierson indicated the importance of the influence of Beaumont in *Tocqueville and Beaumont in America* (New York: Oxford University Press, 1938), and even earlier in "Gustave de Beaumont: Liberal," *Franco-American Review* 1 (1936–1937): 307–16. More recently, Seymour Drescher has insisted on the significance of Beaumont's texts for understanding Tocqueville in an interesting appendix to *Tocqueville and Beaumont on Social Reform* (New York: Harper, 1968), pp. 201–17, "Tocqueville and Beaumont: A Rationale for Collective Study." See also Christine Dunn Henderson, "Beaumont y Tocqueville," in Eduardo Nolla, ed., *Alexis de Tocqueville. Libertad, igualdad, despotismo* (Madrid: Gota a Gota, 2007), pp. 73–99.

42. Rose Préau de la Baraudière had been called "La Providence" by the inhabitants of Beaumont-la-Charte. On her tomb is written: "She was, while alive, the mother of the poor."

Even if the Beaumont family belonged to the minor provincial nobility and could not include among its ancestors a Lamoignon de Malesherbes, the family had, like the Tocqueville family, distinguished itself in arms and was related to the Lafayette family.

In February 1826, Gustave de Beaumont was named *substitut du procureur du roi* at Versailles. Tocqueville struck up a friendship with him when he assumed his responsibility as *juge auditeur*,⁴³ in June 1827.

The future author of *Democracy* chose a legal career with some hesitation. He was afraid of turning into a “machine at law.”⁴⁴ His first weeks of work as a magistrate showed him the deficiencies of his legal preparation and revealed a certain trouble speaking in public that he would regret all his life. He would attribute a large part of his failure in politics to this difficulty.

Gustave de Beaumont placed him under his protection. It was the beginning of a friendship that, Tocqueville would say, “was born *already old*.”⁴⁵ Heine from his perspective would compare the two friends to oil and vinegar.⁴⁶ The first letter that still exists of their correspondence goes back to the month of October 1828. It is devoted to a long reflection on A

43. A position without salary and with vaguely defined duties.

44. To Kergorlay, 23 July 1827, *OC*, XIII, 1, p. 108.

45. In a note from Tocqueville to Beaumont criticizing his oratorical style (YTC, CIVA).

46. “It must be said in fairness about M. de Tocqueville, who reported, that he upheld his convictions with energy; he is a man of the mind, who has little fervor and who, beneath the frozen surface, follows the arguments of his logic; consequently his speeches have a certain frigid brilliance, like sculpted ice. But what M. de Tocqueville lacks in feeling, his friend, M. de Beaumont, possesses in superabundance; and these two inseparable companions, whom we see together everywhere, in their travels, in their publications, in the Chamber of Deputies, complement each other in the best possible way. The one, the severe thinker, and the other, the man with smooth feelings, go together like a bottle of vinegar and a bottle of oil.” Heinrich Heine, *Allemands et Français* (Paris: Calmann Lévy, 1881), pp. 313–14.

Another contemporary noted: “Gustave de Beaumont was as lively as he was amiable; he had solid qualities of the heart and a vivacity of spirit that gave rise to a great deal of grace and gaiety. Tocqueville, in contrast, was cold, reserved, master of himself to the point of calculating his actions as well as his relationships.” Louis Passy, *Le marquis de Bloiseville, souvenirs* (Évreux: Charles Hérissey, 1898), p. 107.

In the following pages, but above all in the pages of the *Democracy*, we will gain a better idea of Beaumont's decisive role in the work of his friend.

History of England From the First Invasion by the Romans to the Commencement of the Reign of William the Third, by John Lingard, which Tocqueville shared with his "dear future collaborator."⁴⁷ The two friends shared readings and together attended Guizot's course on the history of civilization in Europe.⁴⁸

In September 1829, Beaumont was named *substitut* for the department of Seine. The distance that separated him from his friend did not interrupt their friendship. Beaumont came to Versailles as soon as his work allowed. Tocqueville now shared his apartment with Ernest de Chabrol, who took Beaumont's place at the court of *première instance* at Versailles.

The July Revolution broke out soon after. It was going to change considerably the life of the two young magistrates.

The July Days

Although they belonged to a milieu largely hostile to the French Revolution, Tocqueville and Beaumont were not contemporaneous with the event. As such, their ideas, without being completely opposite to those of their relatives, were inevitably different. They witnessed the July Revolution with more disillusionment and sadness than hatred.

In a letter to Henry Reeve,⁴⁹ Tocqueville admitted:

Some absolutely want to make me a party man and I am not; I am given passions and I have only opinions, or rather I have only one passion, the love of liberty and human dignity. In my view, all governmental forms are

47. Letter of 5 October 1828, *Correspondance avec Beaumont*, OC, VIII, 1, p. 71. A year later, Tocqueville wrote to his friend: "We are now intimately bound, bound for life, I think" (*ibid.*, p. 89); and a little later:

Some good works on history can still emerge from our common efforts. It goes without saying that we must develop the *homme politique* in us. And for that it is the history of men and, above all, the history of those who have most immediately preceded us in the world that we must study (Letter of 25 October 1829, *ibid.*, p. 93).

48. We have the notes of Tocqueville for the lectures given between 11 April 1829 and 29 May 1830, which deal with Charlemagne and feudal society. Tocqueville also knew the contents of the other lectures.

49. Letter to Reeve, 22 March 1837, OC, VI, 1, pp. 37–38.

only more or less perfect means to satisfy that holy and legitimate passion of men. I am given alternately democratic or aristocratic prejudices; I would perhaps have had one or the other, if I had been born in another century and in another country. But the chance of my birth has made it very easy for me to defend myself from both. I came into the world at the end of a long Revolution that, after destroying the old state, had created nothing lasting. The aristocracy was already dead when I was born, and democracy did not yet exist; so my instinct could not carry me blindly toward either the one or the other. I lived in a country that for forty years had tried a bit of everything without settling definitively on anything, so I wasn't easily influenced regarding political illusions. As part of the old aristocracy of my country myself, I had neither hatred nor natural jealousy against the aristocracy, and since this aristocracy was destroyed, I did not have any natural love for it either, for we are strongly attached only to what is alive. I was close enough to it to know it well, far enough away to judge it without passion. I will say as much about the democratic element. No family memory, no personal interest gave me a natural and necessary inclination toward democracy. But as for me, I had received no injury from it; I had no particular reason to love it or to hate it, apart from those provided by my reason. In a word, I was in such good equilibrium between the past and the future that I felt naturally and instinctively drawn to neither the one nor the other, and it did not take great efforts for me to look calmly at both sides.⁵⁰

50. Beaumont expressed himself in nearly identical terms:

When I was born, a social order that was fifteen centuries old finally collapsed. [. . .] Never had such a great ruin appeared before the eyes of peoples. [. . .] Never had such a great reconstruction incited the genius of men. A new world arose on the debris of the old one; spirits were restless, passions ardent, minds in labor; all of Europe changed, [. . .] opinions, mores, laws, were swept along in a whirlpool so rapid that new institutions could scarcely be distinguished from those that no longer existed. [. . .] The origin of sovereignty had been displaced; the principles of government were changed; a new art of war had been invented, new sciences created; men were no less extraordinary than events; the greatest nations of the world took children as leaders, while old men were expelled from public affairs [. . .] soldiers without ex-

If Tocqueville exaggerated the coldness and disinterestedness with which he observed the two opposing options, he was sincere in the idea that history could just as easily have made him an *ultra* as a liberal.

Beaumont found himself in a quite similar situation. In Paris on 30 July 1830, he wrote in his memoirs: "All the men wore a tri-colored ribbon in their button hole, or a cockade on their hat. I did not have one; no one said anything to me. But when someone approached me yelling 'Long live the Charter' in a demanding tone, I gave the same cry, and it didn't cost my conscience anything to do so."⁵¹

perience triumphed over the most battle hardened groups; generals who had just come out of school overthrew powerful empires [...] the rule of peoples was solemnly proclaimed; and never were such strong and such glorious individuals seen. Everyone rushed into an arena that fortune seemed to open to all (*Marie, ou esclavage aux États-Unis* (Paris: Charles Gosselin, 1835), I, pp. 39–40).

51. Beaumont's unpublished memoirs on the July Revolution (YTC, AV). Beaumont summarized his thinking about the revolution as follows:

The middle class made the revolution that the people executed; but the republican party, a party recruited from all classes, led it and determined its results. I will explain:

The industrialists, tradesmen, heads of companies, small proprietors, etc., irritated by the Ministry and by the government of the king, knew that they did not want that government, but did not know what they wanted in its place. They cried *Vive la Charte* because the Charter was violated. They wanted what the government did not want.

They said to the workers: "You will not work, which is to say, you will not live if this illegal state of things continues."

They said nothing more. That was indeed to say: overthrow it; and since force alone could destroy it, that was also to say: even use force. But it was not in the mores of peaceful tradesmen and tranquil industrialists to march at the head of the workers in order to lead their assaults.

Then came the men who for ten years had established a new government for when the government ended. The society, *aide-toi, le ciel t'aidera*, whose power burst forth in the newspapers, in the elections, in attacks against public officials, appeared stronger and bolder than ever. Composed in the majority of enlightened, enterprising men who were inflexible in their principles and ready to sacrifice their lives for the sanctity of their cause, they provided the leaders for the populace whose courage they regularized; and when these leaders had led the populace to victory, they were its masters; they were the masters of force from the beginning. This is how a monarchical republic emerged from the triumph of a multitude set into motion by a class whose impulse was toward the constitutional monarchy.

The following day, Tocqueville returned to the town hall of Versailles the musket and ammunition that he had received the day before as a member of the national guard and declared to Ernest de Blosseville: "There is nothing more to be done; everything is finished. At the gate of Saint-Cloud, I have just seen the convoy of the monarchy pass by, the King, the children of France, the ministers are in carriages surrounded by body guards. And well! Would you believe, the escutcheons of the royal carriages are hidden beneath mud coverings."⁵²

From the time of the appointment of the Polignac government on 8 August 1829,⁵³ Tocqueville and Beaumont expected an event of this type. A partisan of the Bourbons, Tocqueville owed a certain loyalty to his social origins, but the accomplished deed of the change of dynasty led him in fact to discover a great fidelity to France.⁵⁴ It was far from the intention of Tocqueville and Beaumont to qualify themselves as liberals in 1830. Nonetheless, the fact of putting the honor of France as well as the principles of the Charter and of liberty before the Bourbons put them closer to liberal positions than they (and Tocqueville in particular) believed.

This loyalty to the nation rather than to the Bourbons nevertheless isolated them from their milieu. Friends and relatives withdrew from public life as the possibility of overturning the monarchy seemed more unreal, in particular after the month of August, when all officials were asked to swear an oath of loyalty to Louis-Philippe. At that moment Hippolyte de Tocqueville and Louis de Kergorlay left the army, and Hervé lost his title of peer of France.⁵⁵

52. Louis Passy, *Le marquis de Blosseville*, p. 130.

53. This is Beaumont's opinion in his unpublished memoirs. Tocqueville wrote the same to his brother, Édouard. André Jardin, *Alexis de Tocqueville*, pp. 83–84.

54. Tocqueville would describe his feelings in this way: "Tied to the Royalists by the sharing of a few principles and by a thousand family bonds, I see myself in some way bound to a party whose conduct seems to me often not very honorable and almost always extravagant. I cannot help suffering immensely from their faults, all the while condemning them with all my power." Letter to Ernest de Chabrol, 18 October 1831, YTC, B1a2.

55. Hervé seemed to fear that the new government, suspecting his loyalty to the Bourbons, had his mail opened. During his journey in America, Tocqueville asked his sister-in-law, Alexandrine, to assure his father that his letters arrived punctually and sealed. Letter to Madame Édouard de Tocqueville, 18 October 1831, YTC, B1a2.

For their part, Tocqueville and Beaumont were confronted with a difficult choice: swear an oath to the new king or abandon their judicial careers. Tocqueville swore an oath, and justified his decision by the fear of anarchy:

I swore an oath to the new government. I believed that by acting in this way I have fulfilled the strict duty of a Frenchman. In our current state, if Louis-Philippe were overthrown, it would certainly not be to the profit of Henry V, but of the republic and of anarchy. Those who love their country must therefore rally openly to the new power that is arising, since it alone can now save France from itself. I despise the new king; I believe his right to the throne less than doubtful, and yet I will support him more firmly, I think, than those who smoothed the way for him and who will not take long to be his masters or his enemies.⁵⁶

When Henrion, a friend of aristocratic origin, criticized Tocqueville's decision, the latter responded in words that leave no doubt about his position:

The morning of the ordinances I declared before the assembled tribunal that henceforth resistance seemed legitimate to me and that I would resist in my narrow sphere. When the movement went so far as to overthrow the dynasty, I hid from no one my opposition to this measure. I said that I would wage civil war if it took place. Once it was an accomplished fact, I continued to believe what I had always believed, that the strictest duty was not toward a man or a family, but toward country. The salvation of France, at the point where we were, seemed to me to be in maintaining the new king. So I promised to support him, without hiding the fact that I did not do it for him. I protested that I did not intend an oath that bound me forever to any cause other than to the interest of our country, and I

56. Letter to Charles Stoffels, 26 August 1830, YTC, AVII. Tocqueville swore the oath for the first time on 16 August 1830.

The conduct of Beaumont testifies to his desire to move beyond the quarrels of the moment. Thus, he opposed the policy of not applying the principle of amnesty to those who pillaged Paris on 27, 28, and 29 July, and he decided not to go forward with trials brought about by facts that seemed to him covered by the amnesty. He wrote a report on the question and defended it before the king on 14 September 1830. YTC, AV.

did not hide the fact that the moment that the new dynasty became incompatible with that interest, I would conspire against it.⁵⁷

It was out of these precise circumstances that the idea of the journey to America was born.⁵⁸ The plan and its realization did not take much time. On 31 October 1830, six days after Tocqueville took the oath a second time, following his nomination to the post of *juge suppléant*, the two magistrates presented to the government a proposal for a mission whose purpose was to study the American penal institutions.⁵⁹

It involved describing and understanding the advantages and disadvantages of the two systems in use in the United States. The Pennsylvania system provided for incarceration in solitary confinement night and day as well as individual work by each person in his cell. The Auburn system, in the state of New York, provided for imprisonment in solitary confinement and work in common, but under the strict law of silence.

About his American plans, Tocqueville gave the following argument that he confided to his friend Stoffels:

My position in France is bad on all points, at least as I see it; for either the government will consolidate itself, which is not very probable, or it will be destroyed.

57. Draft of a letter to Henrion, 17 October 1830, YTC, AVII.

58. See *OCB*, V, pp. 15–16. Young Tocqueville had perhaps spoken to Chateaubriand about his American projects. In a letter to Charles Stoffels of 26 August 1830 (YTC, AVII), he commented on them in this way: “If I am forced to leave my career, and if nothing necessarily keeps me in France, I have decided to flee the idleness of private life and to take up the busy existence of the traveler again for a few years. For a long time I have had the greatest desire to visit North America. I will go there to see what a great republic is. The only thing I fear is that, during that time, one will be established in France.” The study of the penitentiary system is “a very honorable pretext that makes us seem particularly to merit the interest of the government, whatever it may be, and that assures us its good will upon our return.” Letter of 11 October 1831 to Charles Stoffels, YTC, AVII.

59. See *Note sur le système pénitentiaire et sur la mission confiée par M. le Ministre de l'Intérieur à MM. Gustave de Beaumont et Alexis de Tocqueville* (Paris: H. Fournier, 1831).

In the first case, my situation is not very pleasant and will not be for a long while. I do not want advancement, because that would tie me to men whose intentions I suspect. So here I am, an obscure *juge suppléant*, having no way to make myself known, even in the narrow sphere in which I am enclosed; for if I become part of the opposition, as a member of the public prosecutor's office, I do not even have the honor of being removed from office; they will be content to keep me quiet by preventing me from working in court. If I support those men, I am doing something that is in accord with neither my principles nor my position. So there I am necessarily reduced to the role of a neutral, which is to say to the most pitiful role of all, especially when you occupy a lower grade. To all of that, add that the future is until now so obscure that it is impossible to say which party we should, in the interest of our country, desire to have the definitive victory.

Now, suppose that this government is overthrown; amid the disruption that will follow, I have no chance to make myself known, for I am starting too low. I still have done nothing to attract public attention. In vain would I try to do my best; this revolution would find me too young or too obscure. I would certainly warmly embrace the banner of the party that appeared to me the most just, but I would serve in its lowest ranks, which would scarcely suit me.

There is my future in France; I sketched it without exaggeration. Now, suppose that, without ceasing to be a magistrate and still maintaining my rights of seniority, I go to America; fifteen months go by; the parties become clear in France; you see clearly which one is incompatible with the grandeur and tranquility of your country; you then return with a clear and decided opinion and free of any engagement with whomsoever in the world. This journey, all by itself, has drawn you out of the most common class; the knowledge that you have acquired among so celebrated a people finally brings you out of the crowd. You know just what a vast republic is, why it is practical here, impractical there! All the points of public administration have been successively examined. Returning to France, you feel, certainly, a strength that you did not have when you left. If the moment is favorable, some publication can alert the public to your existence and fix the attention of the parties on you. If that does not happen, oh well! Your journey at least did you no harm, for you were as unknown in America as you were in France, and returning to your country you are

entirely as suited to advance as if you had remained there. There, I think, is a plan that is not in all ways absurd.⁶⁰

It is therefore understood that initially the book on the United States was considered a means: that of opening the doors of a political career for its author. But the publication that Tocqueville is referring to in the cited passage still lacked a name and substance. Moreover, the initial intention of Tocqueville and Beaumont was to publish a shared text on the political institutions and mores of the North Americans. So we are a long way from the birth of *Democracy in America* and *Marie, ou l'esclavage aux États-Unis*.

The reasons that Beaumont had for leaving France for a time were not very far from those of Tocqueville. In *Marie*, he gave the following romantic version that he put in the mouth of the protagonist:

Toward the year 1831, a Frenchman resolved to go to America with the intention of settling there. This plan was inspired by various causes. A recent revolution had revived in his country political passions that were believed to be extinct. His sympathies and his convictions carried him toward one party; his family ties kept him in another. Thus placed between his principles and his feelings, he constantly felt some conflict; to follow the movements of his heart, he would have to stifle the voice of his reason; and if he remained faithful to his beliefs, he would offend his dearest affections.⁶¹

It could also be that Beaumont had refused to remove two compromising documents relating to the trial of the Baroness de Feuchères, and it has been suggested that the government sent him to the United States with the

60. Letter to Charles Stoffels, 4 November 1830, YTC, AVII. But, in a letter probably dating from 1835 (*OC*, XIII, 1, p. 374), Tocqueville affirmed on the contrary: "I did not go there with the idea of doing a book, but the idea of a book came to me there."

Tocqueville's letters must be used with certain precautions. The author very clearly takes into account the person who is to receive his letters. Thus, he sometimes writes to his correspondents what they expect, hiding certain information from his most intimate friends, while sharing it with acquaintances, etc.

61. Beaumont, *Marie*, I, pp. 2–3.

intention of removing him from the matter.⁶² The Baroness de Feuchères was, we recall, an adventuress of English origin. She was accused of having murdered her lover, the old Prince de Condé. The person who undoubtedly profited the most from the death of the latter turned out to be Louis-Philippe himself, since his son was the direct heir of the largest portion of the wealth of the last Condé. If it is incorrect that the French government sent Beaumont to the United States for the purpose of removing him from the trial, it remains true that it was bent on including a magistrate of aristocratic origin in a trial in which the king could be implicated. By proceeding in this way, the government shielded itself from the suspicions of the legitimists and, if the judgment ever implicated the conduct of the monarch,⁶³ it could always turn against a lawyer who did not have the reputation of being favorable to the new regime.

America

Tocqueville and Beaumont left for America on April 2, 1831. Their baggage included dozens of letters of introduction and a few works on the United States: those of Volney and of Cooper, a history of the United States, and the book by Basil Hall. They did not need them very much. All the information that they were curious about was to be provided on site. It seemed to them that the book they planned to write upon their return had to concern America as much as democracy, and they were very impatient to know both.

During the crossing of the Atlantic, they translated one part of Basil Hall's work⁶⁴ as preparation for their research on the prisons; they learned about the history of the United States and discussed the *Cours d'économie politique* of Jean-Baptiste Say.

62. Louis André, *La mystérieuse Baronne de Feuchères* (Paris: Perrin, 1925), pp. 261–62. On the Feuchères affair, we can also consult Marjorie Bowen, *The Scandal of Sophie Dawes* (New York: Appleton, 1935); and Emile Lesueur, *Le dernier Condé* (Paris: Alcan, 1937).

63. The Beinecke Library holds, under the classification Clf, some of Beaumont's letters to his superiors on the matter of the Baroness de Feuchères.

64. A few pages of notes remain in YTC, B1f 2.9.

On the afternoon of 9 May, they reached Newport. They were in New York the next day. They would remain in the United States until 20 February 1832.⁶⁵

Upon their arrival, Tocqueville and Beaumont discovered that the publicity that their official mission had received in the American press opened every door to them.⁶⁶ So the official study of the penitentiary system and the unofficial research on that new form of government called democracy seemed to look very promising.

Concerning democracy, the greatest difficulty was found not in America, but in France.

Once first impressions had passed, the two friends realized that their eagerness to know and understand American society required above all a real knowledge of French society, which they lacked. The purpose of their journey became more precise. It would concern a double and simultaneous intellectual journey whose subject would be France as well as America. "I will admit to you that what most prevents me from knowing what is happening on this point in America," wrote Tocqueville to his friend Blosseville, "is being almost completely ignorant of what exists in France."⁶⁷ This observation is found many times in his correspondence.

It then became imperative to contact colleagues, friends, and relatives in order to obtain the information necessary for understanding America by way of understanding France.

On this point, Tocqueville began by asking his father, Chabrol, and Blosseville for information about the French administration:

65. This is not the place to reconstitute the American itinerary in detail. Moreover, it is impossible in this matter to improve on what George W. Pierson said in *Tocqueville and Beaumont in America* (New York: Oxford University Press, 1938). I use the mention of this work to express my deep acknowledgment to Mr. Pierson for the time that he devoted to my questions and for the encouragement that he constantly lavished on me during my work.

66. "It is true that the newspapers, which deal with everything, have announced our arrival and expressed the hope that we will find active assistance everywhere. The result is that all doors are open to us and that everywhere we receive the most flattering welcome." Letter from Tocqueville to his mother, 29 April–19 May 1831, YTC, Blaz.

67. Letter of 30 October 1831, YTC, Blaz.

You must [. . .] provide another [service] to Beaumont and to me—he wrote to Ernest de Chabrol—which is, perhaps you're going to laugh, to instruct us as fully as possible on what people think at home about this country. Since we left France, we have lived with Americans, either on the ship that carried us, or since our arrival here; as a result, we have become accustomed by degree, and without abrupt transitions, to the new order of things in the midst of which we live. We have already largely lost our national prejudices about this people. And yet you sense how necessary it is for us to know the opinions that prevail at home if we want to modify them and even if we desire to study particularly here what can be useful for enlightening minds.

About twenty questions followed concerning French ideas on American political institutions, on the national character, on the different classes of society, on the commercial situation, the future of the country, its position in religious matters, etc.

To what cause do you attribute the prosperity of this nation? Is it political institutions or material and industrial causes? [. . .] Do you think there are political parties in the United States? How far do you think the spirit of equality is pushed here? Is it in the mores or in the laws? What form do you think it takes?⁶⁸

In order not to influence the responses of his informants, Tocqueville decided not to share with them his impressions about America except by chance. The first letter to his family contained a long description of the journey and of the arrival in America, but reflections about American society had to wait until the letter to Édouard dated 28 May:

We are very truly in another world here; political passions are only at the surface; the profound passion, the only one that deeply moves the human heart, the passion of every day, is the acquisition of wealth, and there are a thousand ways to acquire it without disturbing the State. You would have to be blind, in my opinion, to want to compare this country to Europe

68. Letter to Ernest de Chabrol, 18 May 1831, YTC, Blaz. Tocqueville asked him to give the same questions to Élie de Beaumont. He also asked that the lectures of Guizot on Roman society and the Middle Ages be sent to him.

and to adopt in one what works in another; I believed it before leaving France; I believe it more and more examining the society in the midst of which I now live; they are a people of merchants who occupy themselves with public affairs when their work leaves spare time. I hope that on our return to Europe, we will be able to say something good on this subject; perhaps no one is better placed to study a people than we are.⁶⁹

A letter to Ernest de Chabrol, a few days after that one, returned to the same idea:

Imagine, my dear friend, if you can, a society composed of all the nations of the world: English, French, Germans . . . , everyone having a language, a belief, opinions that are different; in a word, a society without common prejudices, sentiments, ideas, without a national character, a hundred times happier than ours. More virtuous? I doubt it. There is the point of departure. What serves as a bond for such diverse elements, what makes all of that a people? Interest. There is the secret. Particular interest that pokes through at every instant, interest that, moreover, arises openly and calls itself a social theory.⁷⁰

Only the exceptional physical conditions of the United States seemed to justify the survival of the republic and allow the free exercise of interest: "America finds itself, for the present, in such a favorable physical situation that particular interest is never contrary to general interest, which is certainly not the case in Europe."⁷¹

69. YTC, B1a2. The passage refers to Chateaubriand. In 1825, Tocqueville had written a few pages criticizing an article of Chateaubriand that had appeared in the *Journal des débats* of 24 October, and in which the latter recommended to the French the model of the American democracy. "The only task worthy of genius would have been to show us the difference that exists between American society and us," wrote Tocqueville, "and not to abuse us with a false likeness." Quoted by Antoine Rédier, *Comme disait Monsieur de Tocqueville*, p. 93.

70. Letter of 9 June 1831, YTC, B1a2. Tocqueville copied this passage into his alphabetic notebook A. This letter contains several key ideas of the book. Chabrol is also the recipient of a letter dated 26 November 1831 that contains very precise information about the American judicial system. YTC, B1a2.

71. Tocqueville added in the same letter: "This people seems to be a company of merchants, gathered for business; and the further you dig into the national character of the Americans, the more you see that they have sought the value of everything only in

At the beginning, as we see, Tocqueville was above all recalling Bodin and Montesquieu.⁷² We must wait until the end of the journey to see climatic theories given a less important place. The final versions of the manuscript of *Democracy* still emphasize the decisive importance of the physical setting on American democracy, however.⁷³

Tocqueville also thought that it was the exceptional physical conditions of the United States that allowed the Americans to get along without public power.⁷⁴ If a public career was closed to ambition, a thousand others were open to the Americans. In America "the entire world seems [. . .] a malleable material that man turns and shapes as he wills."⁷⁵

The element that thwarted the harmful effects of the unlimited desire for money soon appeared clearly; it was religion. At the end of June Tocqueville wrote to his family: "Never have I felt so much the influence of religion on the mores and the social and political state of a people than since I have been in America, and it is impossible here to ignore the necessity of this force for motivating and regulating human actions."⁷⁶

Before the multitude of sects and doctrines, the author had no doubt about the one that was suitable for democracy:

I have always believed, you know, that constitutional monarchies would arrive at the republic; and I am persuaded as well that Protestantism will necessarily end up at natural religion. What I am saying to you is felt very deeply by many religious souls here; they are revolted at the sight of this consequence of their doctrines, and the reaction throws them into Ca-

the answer to this single question: how much money will it make?" Letter of 9 June 1831 to Ernest de Chabrol, YTC, Blaz.

72. See the letter to Ernest de Chabrol of 26 July 1831, YTC, Blaz; James T. Schleifer, *The Making of Tocqueville's "Democracy in America"* (Chapel Hill: University of North Carolina Press, 1980), pp. 45, 52–53; and George W. Pierson, *Tocqueville and Beaumont in America*, p. 126.

73. See, for example, p. lxix.

74. "Here, there is no public power and, truly speaking, there is no need for it." Letter of 9 June 1831 to Ernest de Chabrol, YTC, Blaz. In another letter to Chabrol on 16 June 1831, Tocqueville wrote: "As for the *government*, we are still looking for it. It doesn't really exist" (YTC, Blaz).

75. Letter of 9 June 1831 to Ernest de Chabrol, YTC, Blaz.

76. Letter to Édouard, 20 June 1831, YTC, Blaz.

tholicism, whose principle is very questionable, but where, at least, everything is linked together.⁷⁷

Exceptional physical conditions, private interest, religion, in that it puts a brake on the inordinate taste for material wealth—these are, from the first weeks of the American journey, the three elements that profoundly marked Tocqueville's arguments.

In the months that followed, natural conditions would no longer cover physical circumstances strictly speaking, but would also include the point of departure and the origin of the United States; interest would take various forms: individualism, monotony, love of material enjoyments, manufacturing aristocracy, industrialization of art and of life; religion would also be called patriotism, honor, and general ideas. But, added to a certain theory of history, the three initial elements—physical conditions, interest and religion—would continue to form the framework of the entire system of *Democracy*.

The journey led Tocqueville and Beaumont from New York to Albany and Buffalo; it let them briefly see the great wilderness beyond Detroit, at Pontiac and Saginaw; it took them to the Great Lakes and to Canada in order to bring them back afterward to New England and New York. From there, the travelers went to the west and the south. They saw Philadelphia and Baltimore; they passed through Philadelphia again in order to see next Cincinnati, Louisville, Nashville, Memphis, and New Orleans.⁷⁸ They returned to the north by Montgomery, Norfolk, Washington, and finally New York.

All of this allowed scarcely any leisure. As Tocqueville wrote to Louis de Kergorlay: "What categorizes a traveler are his questions, his research, and

77. Letter to Ernest de Chabrol, 26 October 1831, YTC, B1a2. This letter contains a long reflection on religions in the United States.

78. Their knowledge of the south of the Union was consequently very limited. Tocqueville recognized this in a letter to Édouard: "I am leaving America after using my time there wisely and pleasantly. I have only a superficial idea about the *South* of the Union, but in order to know it as well as the north it would be necessary to have remained there six months. In general, two years are necessary to develop a complete and exact picture of the United States. I hope, however, that I have not wasted my time." Letter of 20 January 1832, YTC, B1a2.

not the degree of facility with which he expresses himself in the national language.⁷⁹ The two magistrates, transformed into indefatigable questioners, interrogated, took notes, read and observed.⁸⁰ Tocqueville made rough notebooks in which he noted the result of his research. Beaumont did the same and carefully recorded each of their interviews.⁸¹

Tocqueville's notes are not truly a travel diary, nor do they constitute the only material out of which his theory is going to emerge.⁸² Reading them provides little information about his principal ideas. If you are unaware of the theoretical presuppositions of the author, the notes are sometimes uninteresting, even insignificant. The fragments of conversations, various remarks, and interviews only make some sense on the condition that they be considered not as the beginning of reflections on the United States but as stages in an intellectual process predating the American journey.

It is not by chance, or by some peculiar mental skill, that the whole book is already found in the first impressions about America.⁸³ Even if he wrote the opposite to some of his correspondents,⁸⁴ Tocqueville was in America as much to observe the facts that would allow him to write *Democracy* as

79. Letter to Kergorlay, 4 July 1837, *OC*, XIII, p. 460.

80. Six lists of questions exist: 1. List of forty-two questions on criminal justice. 2. List of seven questions on education. 3. Six questions on political questions. 4. Twelve questions on town rights. 5. Three questions on roads. 6. Other questions on town problems. YTC, BIIb.

81. We have the travel notes of Tocqueville, but nearly all of Beaumont's notes are lost. The few rare notes that remain show observations that are more wide-ranging and more detailed, but less theoretical in nature than those of Tocqueville. They would have been of great interest for the reconstruction of the intellectual journey of the two friends.

82. The notes of the journey to America have been published in *Voyages en Sicile et aux Etats-Unis*, *OC*, V, 1.

83. For example, in a letter of 29 June 1831 to Louis de Kergorlay, *OC*, XIII, 1, pp. 225–36.

84. If I ever do something [blank] about America, it will be in France, and with the documents that I am bringing back, that I will try to undertake it. I will leave America able to understand the documents that I have not been able to study yet: that is the clearest result of the journey. Moreover, on this country, I have only notes without order or coherence: detached ideas that only I have the key to, isolated facts that

to give body and substance to a certain idea of *Democracy* that he already had in mind before the American journey.⁸⁵

The theory began to take shape by bits and pieces in the letters sent to France. "Keep this letter, I beg of you," wrote Tocqueville to his mother, "it contains details that I do not have the time to note and that I will find again later with pleasure."⁸⁶ This request was found in all of his travel correspondence.

remind me about a host of others. What I am bringing back of most interest are two small notebooks in which I have written word for word the conversations that I had with the most notable men of this country. This sum of paper has an inestimable value for me, but only for me who can sense the value of the questions and answers. The only, somewhat general ideas that I have expressed about America until now are found in some letters addressed to my family and to a few people in France. Even then, these were written hastily, on steamboats, or in some hole where I had to use my knees as a table. Will I ever publish anything about this country? In truth, I do not know. It seems to me that I have some good ideas; but I still do not know yet in what framework to put them, and public attention frightens me (letter of Tocqueville to his mother, 24 October 1831, YTC, B1a2).

Compare the passage quoted with this fragment from a letter to Édouard of 20 June of the same year:

In France no one doubts what America is, and we find ourselves in an excellent position to give an account of it. We come here after very serious study that has made our minds aware of or put them on the track of many ideas. We come here together so that there is a constant clash of minds. [. . .] No matter what happens, we lack neither ardor nor courage, and if some obstacle does not stop us, I hope that we will finish by bringing forth the work we have thought about for a year (YTC, B1a2).

85. In a letter published in the correspondence with Kergorlay, but perhaps addressed to Eugène Stoffels, as André Jardin has pointed out, Tocqueville confessed: "For nearly ten years, I have been thinking about part of what I explained to you just now. I was in America only to enlighten myself on this point. The penitentiary system was a pretext; I took it as a passport that would enable me to penetrate everywhere in the United States." *Correspondance avec Kergorlay*, OC, XIII, 1, p. 374.

Also see the letter to Charles Stoffels, 21 April 1830, reproduced in Appendix V of the second volume, which already advances the theory of history that is present in *Democracy*.

86. Letter of 26 April–19 May 1831, YTC, B1a2. The remark is found again in the letters addressed to his friends. Thus, in the letter to Kergorlay of 29 June 1831 ("Keep this letter. It will be interesting for me later."), OC, XIII, 1, p. 236; or in that of 16 July 1831, to Ernest de Chabrol ("Do not forget to keep my letters."), YTC, B1a2.

We must not forget, however, that Tocqueville did not travel alone. If, in the end, the two friends each offered to the public his own version of democracy, it is no less true that until their return to France the notion of a great work on democracy in America was elaborated in concert, in the "duel of minds" that Tocqueville mentioned several times. It is difficult in these conditions to decide on the paternity of an idea, or the origin of a citation. The final result would forever obliterate the daily debates of the two travelers.

As has sometimes been said, Beaumont had more than the effect of a catalyst on Tocqueville. He drew Tocqueville's attention to many phenomena in American society. He collaborated with energy on the writing and revision of *Democracy*. Finally he produced an admirable social novel meant to accompany the work of his friend. Beaumont's notes could have given an idea of the intellectual debate with Tocqueville. In their absence, Beaumont's criticisms of the manuscript of *Democracy*, the drafts of his own books, and the reading of his publications bring clearly to light an intelligence that was only slightly inferior to that of Tocqueville.

It is difficult to pinpoint the moment when the book project ceased to be shared. The first news from America sent by Beaumont spoke of "our great work."⁸⁷ In a letter to his mother dated 7 October, he mentioned for the first time "my plans," and the expression was found again in the correspondence that follows.⁸⁸ Between May and October, Beaumont discovered, then got to know more closely the American Indians, and as George W. Pierson noted, perhaps this is what explains the abrupt change in his plans.⁸⁹

If family correspondence spoke with enthusiasm about the brilliant future that their works on America were to bring to the travelers, the letters addressed to colleagues remained nonetheless quite vague:

87. Gustave de Beaumont, *Lettres d'Amérique*, pp. 28, 45, 48, 66, and 92.

88. *Ibid.*, p. 159; "my work," in a letter of 26 October; and "the great work that is going to immortalize me," in a letter of 8 November.

89. In a letter of 1 August 1831, to his father and in another of 2 August, addressed to Ernest de Chabrol, Beaumont already announced his interest in the fate of the Indians. *Ibid.*, pp. 105 and 110.

You speak to me about what could be written about America, noted Tocqueville to an unknown recipient, and I do not know at all if I will ever have the occasion to publish the least thing on this subject; the general tableau of English America is an immense work absolutely beyond my strength, and from another perspective, if I abandon the idea of the whole, I no longer know to which details to pay particular attention. So I have limited myself until now to gathering a host of diverse documents and partial observations. I enjoy this work, and it interests me deeply; but will it ever be useful to me for anything? I assure you that the further I go, the more I doubt it.

But, as you say, there would be piquant new insights to present about this country. Except for about ten people in Paris who, like you, are not absorbed by the politics of the day, America is as unknown as Japan; or rather, people talk about it as Montesquieu did about Japan. The Americans *argumenti causa* are made to say and do a host of things, in honor of true principles, that the poor fellows are very innocent of, I swear.⁹⁰

Tocqueville was obviously not interested in disclosing to his superiors that what most interested him in America was not the project officially announced, but writing about the American republic. Only Le Peletier d'Aunay seemed to have been let in on the secret: "I expected a good work from you," wrote d'Aunay to Tocqueville in August 1831, "and this field of your observations makes me certain of it. You will show us this America much more exactly than all the other travelers, beginning with Liancourt and Volney. Nothing will escape, I am sure, from the observation of your solid intelligence. On your return, give the government the report promised. But save, for your reputation, your glory, the full journey to that country."⁹¹

Beaumont and Tocqueville in America had different interests, but their intention was to publish their books simultaneously, as two parts of the same work. In 1831, and for some time after, their books constituted the two sides of the same coin. They would become distinct only later. The

90. In a draft of a letter written in Philadelphia, November 1831 (YTC, B1a2). He also hid his plans from Ernest de Chabrol (letter of 24 January 1832, YTC, B1a2).

91. Letter of Le Peletier d'Aunay, 16 August 1831, YTC, B1d.

first edition of *Système pénitentiaire* still announced a joint work on America by Gustave de Beaumont and Alexis de Tocqueville, with the title *Institutions et mœurs américaines*. A month after the publication of *Système pénitentiaire*, a letter from Tocqueville to Edward Everett still suggested a collaborative work: "We are now busy, M. de Beaumont and I, composing a more general work on America."⁹²

On 20 February 1832, Tocqueville and Beaumont left New York to return to France.

Tocqueville hardly considered any longer taking up the duties that he had at Versailles. He entertained other plans that he revealed in confidence to Ernest de Chabrol: "I do not know if I must withdraw entirely," he confessed, "as I am often tempted to do, or try to advance; what I see clearly at least is that I will not put on the robe of *juge suppléant* again. I will no longer be seen at Versailles, or I will be seen with another title. This point is decided (but between us)."⁹³

The Penitentiary System

After returning to France at the end of March, Beaumont rejoined his family in Sarthe, while Tocqueville remained in Paris.

Beaumont began to write the report on the penitentiary system and met Tocqueville in Paris in mid-April in order to ensure his collaboration. Weeks passed. As Beaumont moved ahead preparing the report on the prisons, Tocqueville was plunged into a great despondency from which he did not want to emerge for work on any intellectual endeavor.⁹⁴ He seemed incapable of adapting to the idleness that followed the year of feverish agitation spent in North America. He accepted visiting the prison of Toulon,

92. Letter to Edward Everett, 6 February 1833, with the kind permission of the Massachusetts Historical Society (Tocqueville, Alexis de. Letter to Edward Everett, 6 February 1833. Edward Everett papers).

93. To Ernest de Chabrol, 24 January 1832, YTC, B1a2.

94. Letter of 4 April 1832 to Beaumont, OC, VIII, 1, pp. III–12.

then those of Geneva and Lausanne in May and June, but the largest part of the work of writing the report fell to Beaumont.⁹⁵

Before these journeys, Tocqueville came to the aid of his friend, Louis de Kergorlay, implicated in the adventure of the Duchess de Berry. On 9 March, for the first and last time, Tocqueville exercised his profession as a lawyer. He defended Kergorlay who, acquitted, was soon set free.⁹⁶

The defense of one of the prisoners of the *Carlo Alberto* must not suggest that Tocqueville had changed his position about the subversive efforts to overthrow the July Monarchy. If he preferred the Bourbons, if his friendship for Kergorlay was unshakable, he remained clearly opposed to the violent expulsion of the reigning monarch. The American letters already revealed the fear of a precipitous return to Europe in case of the overthrow of the monarchy⁹⁷ and the fear of seeing the "hothead,"⁹⁸ Hippolyte, involved in such an overthrow.

As for his opinion about the *ultras*, it can be clarified by a letter in which, sensing that his older brother was tempted to take some radical decision against the July Monarchy, Tocqueville expressed himself in these terms:

Amid the chaos in which we find ourselves, I seem to see one incontestable fact. For forty years we have made immense progress in the practical understanding of the idea of liberty. Peoples, like individuals, need to become educated before they know how to act. I cannot doubt that our people advance. There are riots in the large cities, but the mass of the

95. You know what Beaumont's publications are; but there is a detail that perhaps you do not know. The first work that we published together, M. de Beaumont and I, on the American prisons, had as the sole writer, M. de Beaumont. I only provided my observations and a few notes. Although our two names were attached to that book which was, I can say more easily now, a true success, I have never hidden from my friends that M. de Beaumont was so to speak the sole author (letter of 26 June 1841, supporting Beaumont's candidacy to the Académie des sciences morales et politiques, very probably addressed to Mignet, YTC, DIIa).

96. His plea appears in *OC*, XIII, 1, pp. 321–27.

97. The idea of an exile in the United States also crossed their minds. See note j of p. 1302 of the second volume.

98. In his letter to Édouard, on 20 June 1831, Tocqueville exhorted his brother to have the utmost patience (YTC, Blaz). Also see the letter to Kergorlay of 21 June 1831, *OC*, XIII, 1, pp. 235–36.

population calmly obeys the laws; and yet the government is useless. Do you think as much would have happened forty years ago? We are harvesting the fruit of the fifteen years of liberty that we enjoyed under the Restoration. Aren't you struck to see the extreme left protest that it wants to proceed only by legal measures and, at the same time, to hear the royalists declare that they must appeal to public opinion, that public opinion alone can give strength to the throne, that it must be won over before anything else? Amid all the miseries of the present time and the fit of high fever that gave us the July Revolution, don't you find reasons to hope that we will finally reach a settled social state? I do not know if we are made to be free, but what is certain is that we are infinitely more capable of being so than forty years ago. If the Restoration had lasted ten years longer, I believe we would have been saved; the habit of legality and constitutional forms would have entirely gotten into our mores. But now, could things be put back in their place; could a second Restoration take place? I see many obstacles. The greatest of all without question is found in the personnel of the royalist party that would triumph. Never will you make the most active portion of the royalist party understand that there are concessions without which they cannot hope to govern, that to be lasting the legitimist monarchy must be national, must ally itself with the ideas of liberty or be broken by them. If the Bourbons ever regain the throne, they will make use of force, and they will fall again. Perhaps in France we have what is needed to create a government that is strong because of military glory, but not a government that is strong solely because of right. Right can indeed help to maintain a government if it is skillful, but not to protect it from its own failings.

In any case, it seems to me that the behavior of the royalists is well conceived. I am pleased to see them stand on the ground of legality, to see them work to win the majority and not to make the minority triumph by force. That fact augurs well. If they had always acted like this, they would have spared themselves and France great misfortunes. Moreover, by adopting in this way what is reasonable in the ideas of liberty, they assume in everyone's eyes a tacit commitment to respect those ideas, if they are ever the masters. Many among them become convinced by their own words, without expecting to. They acquire the habit of associating, of appealing to public opinion, all the free and constitutional habits that they never had. This spectacle reassures me a bit about the future. I hope that after

so many conflicts we will succeed in saving ourselves from anarchy and despotism.⁹⁹

The pages of a plan for a review¹⁰⁰ that Tocqueville and Beaumont at one time intended to establish with the participation of Blosseville, Chabrol, Montalembert, and a few others put clearly in view the political convictions of the future editors:

They [the editors of the review] do not feel prejudices in favor of the government created by the July Revolution; they do not want to destroy it. They place themselves neither against it nor within it, but next to it, and they want to try to judge its acts without passion and without weakness. If the free expression of the national will brought the elder branch of the Bourbons back to the throne, if a restoration could take place while assuring the nation of the rights that are its due, the editors of the review would see the event with pleasure; they would consider it as a favorable measure of future social progress. But they want a restoration only on those conditions; and if it must take place in a totally other way and lead to opposite results, they would regard it as a duty to oppose it.¹⁰¹

The plan was soon abandoned, probably at the end of the summer of 1833.

99. Letter to Hippolyte, 4 December 1831, YTC, Blaz. In contrast, in a rough copy of a letter of August 1831, probably addressed to Dalmassy, Tocqueville noted: "Something tells me that we will not escape from civil war." YTC, Blaz.

100. See the correspondence exchanged on this subject by Tocqueville and Beaumont in *OC*, VIII, 1, pp. 119–30.

101. With the kind permission of the Library of Princeton University (General Manuscripts [MISC] Collection, Manuscripts Division. Department of Rare Books and Special Collections), reproduced in *OC*, III, 2, pp. 35–39. The same idea is found again in a letter to Mary Mottley:

As I had foreseen and you announced a few days ago, civil war has begun in the west. The royalists will perhaps have some temporary successes, but I predict to you again that they will be crushed. How much loyal and honorable blood is going to flow! I have already read in the newspaper the name of a brave young man that I knew. He has just been miserably killed. So explain to me why in all times honor and incompetence seem to go hand in hand. Who were more brave, more loyal, and at the same time, more clumsy and more unfortunate than your Jacobites? Our French royalists are following their track exactly (3 June 1832, YTC, Clb).

When he was not yet finished with his report and not thinking only about the creation of a review, Beaumont was again faced with the shadowy affair of the Baroness de Feuchères. This time it concerned a trial for defamation by the baroness against the Rohan family, descendants of the Prince de Condé. Beaumont refused to take charge of it and explained that he knew nothing about the question, that he was working on his report, that the eighteen-month leave that had been granted to him had not yet ended.¹⁰² The response was not long in coming. On 16 May 1832, he was removed from his duties.

Little satisfied by a profession that weighed on him, uncertain of his qualities for exercising it, Tocqueville found in the dismissal of Beaumont the pretext for honorably abandoning the legal career. As soon as he learned the news in Toulon, he presented his resignation.¹⁰³

Once the work of drafting the report on the penitentiary system was finished, Tocqueville reviewed the text written by Beaumont, collaborated actively on the introduction, and wrote part of the notes. The two magistrates submitted their report on 10 October. *Du système pénitentiaire aux États-Unis et de son application en France* appeared in January 1833.

The First *Democracy*

The work on the penitentiary system was generally well received. Reviews noted with satisfaction the full account of the question and the impartial presentation of the advantages and disadvantages of the two systems in use in the United States. If the authors seemed to lean toward the system used in Pennsylvania, they did not seem to forget either the high cost of the construction of a penitentiary of this type or the danger of keeping the prisoners isolated in their cell night and day. In August, the Académie des sciences morales et politiques awarded the Montyon prize to *Système pénitentiaire*.

Tocqueville and Beaumont had planned to complete their American journey with a visit to England. They thought that England would offer

102. In a letter of 18 April 1832, YTC, Clf.

103. On 21 May 1832, YTC, Clc.

an image of the Americans before their departure for the United States as well as that of a society midway between aristocratic France and democratic America. They also thought that England was at the dawn of a revolution that would lead to democracy. The cholera epidemic that broke out at the end of 1831 had precipitated their return to France. Once the prison report was published, Tocqueville went to England from August 3 to September 7, 1833.¹⁰⁴

"By going to England, I wanted [. . .] to flee for a time from the insipid spectacle that our country presents at this moment. I wanted to go to relieve my boredom a bit among our neighbors. And besides! Some claim that they are definitely going to begin a revolution and that one must hurry to see them as they are. So I hastened to go to England as to the final performance of a beautiful play."¹⁰⁵

A few days spent on the other side of the Channel enlightened Tocqueville about his error. England was not on the eve of a revolution. Unlike the French aristocracy, the English aristocracy was open; it continued to exercise ancestral duties and the inferior classes of society could attain aristocracy by money.¹⁰⁶

"The English aristocracy," wrote Tocqueville in his notes, "belongs very much by its passions and its prejudices to all the aristocracies of the world, but it is not based on birth, something inaccessible, but on the money that everyone can acquire; and this single difference allows it to resist, when all the others succumb either to peoples or to kings."¹⁰⁷

A week after his arrival in London, he wrote to Beaumont: "In short, I do not recognize in anything here our America."¹⁰⁸ If, following these observations, England did not serve strictly speaking as a reference point for the American and French situations, it was no less one of the keys for understanding America. It is evoked throughout *Democracy*.

104. The notes of the journey to England in 1833 are published in *Voyages en Angleterre, Irlande, Suisse et Algérie*, OC, V, 2, pp. 11–43.

105. Letter to the Countess de Pisieux, 5 July 1833, YTC, Clf.

106. OC, V, 2, p. 36.

107. OC, V, 2, pp. 29–30.

108. Letter to Beaumont, 13 August 1833, OC, VIII, 1, p. 124.

Upon his return to Paris, Tocqueville began writing his book.¹⁰⁹ To do this, he settled into the attic of his parents' house, on rue de Verneuil. Beaumont, for his part, made a short journey to the Midi where his book began to take the double form of a novel and a social commentary.

In a later letter to his wife, Tocqueville would evoke the first months spent writing his book as follows:

When I wrote *Democracy in America*, I had none of the advantages [notably a librarian at his disposal], but I had the youth, ardor, faith in a cause, and hope that allowed me to do without the kindness of librarians and the favor of archivists. Cuvier created in a garret the admirable works that earned him a beautiful house in which he set up a beautiful special room intended for the study of each of the subjects that interested him. It was a whole series of apartments each of which was as if impregnated with the particular idea that the author wanted to treat. From the moment when he was so admirably aided in his work, he did hardly anything considerable; and perhaps he sometimes came to regret the garret. But he would have found it old and cold. Those who want to return to the garret in which they passed the years of an intense and fruitful youth cannot do so. My own garret was a small room on the rue de Verneuil, where I worked in deep obscurity on the work that would bring me out of that obscurity. You are part of that memory, like all of those memories in my life that deserve to be remembered. The day was occupied by my work. Nearly every evening was spent near you.¹¹⁰

Provided with his notes on the United States, publications brought back from America, an ample correspondence with Americans and Frenchmen, his own letters, and a list of the subjects of his notes,¹¹¹ Tocqueville drew up the initial plan of his book.

109. James T. Schleifer has reconstructed in detail the writing of the most important chapters of *Democracy* in *The Making of Tocqueville's "Democracy in America."*

110. Letter of Tocqueville to his wife, with the only citation as "Sunday morning," YTC, Clb.

111. "*Sources manuscrites*. Subjects that can be of some interest to treat." YTC, CIIc. The list includes more or less the same questions as the first plan of the book.

The first outline included three categories: "Political society (relations between the federal and particular governments and the citizen of the Union and citizen of each state), civil society (relations of the citizens with each other), religious society (relations between God and the members of society, and of the religious sects with each other)."¹¹²

Tocqueville continued by specifying what should be found under each division:

Political society.

In political society there are two principles to which all the others are connected; the first, *sovereignty of the people*, democracy, whose principle divides and dissolves; the second, *federation*, whose principle unites and preserves.

He then noted, in two columns, the ideas that correspond to each principle:

Sovereignty of the people.

Democracy, no counter-balance. Tyranny of the majority—no aristocracy; difficulty of an aristocracy in America. Gentlemen farmers.

Government of the majority; public opinion; stubbornness of the majority once formed—formation and working of parties.

Public offices (administrative officials particularly enforce the laws between the State and individuals—judicial officials more especially the laws between individuals; the first belong to political society, the second to civil society). Public offices are small matters.—Why? *Municipal administration—Presidency of the United States—Army—Finances.*

Elections—binding mandates.

Town meetings.

Convention.

Freedom of the press—ways and effects.

Public instruction.

Laws—Their mobile character.

Militia (perhaps should be carried to the other side).

Obedience to laws. Oath

112. YTC, CVh, 1, p. 23.

(Everything that precedes is nothing more than the means that the majority uses to express and to maintain itself, and those that are put to use by the minority to attack or to defend itself.)”

Under the word federation, we read the following:

Federation.

Causes for the weakness of all federal governments—especially for the United States—future of the Union—diverse interests—multiplication—Centralization—distinguish between that of the federal government and that of the states themselves—almost non-existent—the lack of centralization already felt—however less dangerous than it will become. Causes that will make it more dangerous.

Federal tax—tariff.

Canals.

Roads.

Banks of the United States.

Land sales.

Indians.

Maritime commerce, free trade.

Patents.

Show how the various Presidents since Jefferson have successively stripped the federal government of its attributions—concessions to democracy—that is to say, to the principle on the opposite side.¹¹³

The section with the theme society included in turn:

Civil society.

Entry. The appointment of magistrates is the work of the political powers, but since their duties are principally for the purpose of regulating the relations and the rights of citizens with each other, they belong to civil society.

Jurisdiction.

Common law.

113. YTC, CVh, 1, pp. 23–25.

| | |
|------------------|--|
| Civil laws: | Slavery, equality—Negroes Civil state—inheritanes—paternal power. |
| Criminal laws: | Duel—gambling—drunkenness— fornication—etc. Jury—public prosecutor's office—lawyers. |
| Commercial laws: | Bankruptcy. Interest on money. |
| Mores: | American character. Association—commerce—industry. To make money. Washington—costume of the Lyceums. ¹¹⁴ |

Finally, religious society:

Religious society.

Nomenclature of the various sects—From Catholicism to the sect that is farthest removed from it.

Quakers, Methodists—Point out what is antisocial in the doctrines of the Quakers, Unitarians.

Relations of the sects with each other.

Freedom of religion—Toleration: from the legal aspect; from the aspect of mores.

Catholicism.

Place of religion in the political order and its degree of influence on American society.¹¹⁵

Certain ideas outlined in this first sketch would not be found again in the definitive version. The canals, roads, gambling, etc. were so many elements that would be abandoned in the process of writing.¹¹⁶ Others would

114. YTC, CVh, 1, p. 26.

115. YTC, CVh, 1, pp. 26–27.

116. At the head of the bundle of drafts that bears the number 3 (copied in notebook CVh, 1) appears the following note:

Diverse and important notes. The (illegible word) must be found here. Two or three new chapters to put I do not know where.

1. Of the great men of America and in particular of Washington.
2. Of American patriotism.

be joined to the second part, such as the army, paternal power, Catholicism, the desire to make money.

The fundamental idea of the entire book, the keystone on which Tocqueville's whole theory rests, the idea for understanding the struggle between aristocracy and democracy, between a principle that divides and a principle that unites, was already evident.

Once the general lines of the work were drawn, Tocqueville attacked the work of writing in the strict sense. For this, he followed a singular system that he described in this way to Duvergier de Hauranne:

I think what is best for me to do is to follow the method that I have already followed for writing the book that just appeared [*Old Regime*], and even for the *Democracy*. I am going to tell you about it, although it is disagreeable to talk for so long about oneself, because, knowing it, you will perhaps be able to give me some good advice. When I have whatever subject to treat, it is quasi-impossible for me to read any books that have been written on the same matter; contact with the ideas of others agitates and disturbs me to the point of making the reading of these works painful. So I refrain, as much as I can, from knowing how their authors have interpreted the facts that occupy me, the judgment that they have made of them, the diverse ideas that these facts have suggested to them (which, parenthetically, exposes me sometimes to repeating, without knowing it, what has already been said). It requires of me, on the contrary, an unbelievable effort to find the facts by myself in the documents of the time; often in this way I obtain, with immense labor, what I would have easily found by following another path. Once this harvest is gathered so laboriously, I withdraw into myself, as if into a very closed space; in a general review, I examine with an extreme attention all the notions that I have acquired by myself; I compare them, I link them, and then I make it a rule to explicate the ideas that came spontaneously to me from this long work without any consid-

3. Of the non-physical bonds of society in America.

4. Of public officials.

5. Of the different ways to understand the republican regime.

6. That the absolute goodness of laws {must not always be judged} by the respect that they are given by those who vote for them.

7. (Illegible word) on the influence of manufacturing on democratic liberty (YTC, CVh, I, p. 1).

eration whatsoever for the consequences that these men or those men can draw from them. It is not that I am not extremely sensitive about the opinion of different readers; but experience has taught me that, as soon as I wanted to write with a preconceived viewpoint, to uphold a thesis, I absolutely lost all true talent, and that I was not able to do anything of value, if I did not limit myself to wanting to make clear what was most real in my impressions and in my opinions.¹¹⁷

If Beaumont informed Tocqueville in a summary way about the works that appeared on the United States, the author went forward alone and scarcely consulted any books on America, with the exception perhaps of the book by Chevalier.¹¹⁸

The writing moved ahead at a good pace. In November 1833, Tocqueville thought he would finish the part devoted to the institutions of the United States (what now constitutes the first part of the first volume of this edition) before the first of January 1834, and at one moment had the idea of publishing the first volume before the second.¹¹⁹

This plan was abandoned, and Tocqueville buckled down immediately to writing the second part, which little by little increased to an extent beyond what the author had foreseen. In addition, the part devoted to the American political institutions was reviewed and corrected several more times and, before being completed, required the aid of several collaborators.

Even as he worked relentlessly on his book, Tocqueville helped Beaumont with the writing of his.¹²⁰ Their collaboration continued throughout

117. Tocqueville to Duvergier de Hauranne, 1 September 1856, *OCB*, VI, pp. 332–33.

118. It is possible that he knew about several letters by Chevalier published in the *Revue des deux mondes*. See volume II, p. 898 of this edition and *OC*, VIII, 1, pp. 176, 202–3. Moreover, Tocqueville read Basil Hall's book during the crossing. He does not seem to have consulted *Society in America* by Harriet Martineau.

119. Remember that the *Democracy* of 1835 was published in two volumes.

120. The collaboration of Tocqueville on Beaumont's novel probably dated from the first moments of its development. In the manuscript of *Marie*, concerning the plan of the novel, this note is found in Tocqueville's handwriting:

Plan./

It involves portraying a man such as he often becomes after great revolutions, whose desires are always beyond his capacities (but there must not be any ridicule, that is to say, that the one you want to portray really has a great soul, a remarkable

the whole following year, in Paris and in Sarthe. The influence of Tocqueville on the writing of *Marie* is difficult to measure. Beaumont's manuscripts bear the trace of conversations and of comments by Tocqueville, but the small number of available manuscripts does not allow us to assess the true extent of his influence.¹²¹ Beaumont consulted his friend about certain passages of his book and even at the last moment asked for his opinion about certain fragments that were too reminiscent of Chateaubriand.¹²²

spirit, but he aims higher than the humanity of his time); a man who, never content with his lot, has an exaggerated picture of human happiness in this world, and who, reaching the point of seeing his errors and discerning what dose of happiness life can really present, has become incapable of obtaining it and has become unsuited to society. He then looks hard and calmly at himself; convinced that he would not be able to attain the first goal of his desires, no longer capable of feeling the pleasure of reaching another one, he withdraws into the wilderness without passions, without despair, with the serenity of a strong soul that judges the greatness of its misfortunes and submits.

Perhaps here you would need a rapid and oratorical recapitulation of the reality of the things of this world and of the impossibility that he, who sees things as they are, but who has found them better in his imagination, finds of submitting . . .

You must not have him attempt love in Europe. He reconnects with love in America as to a plank of salvation, and still he misses it . . . (YTC, CIX, and OC, VIII, I, p. 131).

121. In the margins of the manuscript of *Marie*, there are comments by Tocqueville, written in pencil. The latter particularly pointed out unfortunate similarities to Atala: "You cannot close your eyes to the fact that this has a great deal of similarity with Atala" (vol. II, p. 136 of *Marie*); "Here again you have to be careful about father Aubry. Perhaps I am wrong. Think about it" (vol. II, p. 151 of *Marie*); "Again, be careful here of Atala" (vol. II, p. 156 of *Marie*).

122. Thus this note from Beaumont meant for Tocqueville that is found in the manuscript of the novel:

Note for Tocqueville.

There are two passages that are reminiscent of Chateaubriand despite all the efforts that I have made to avoid it. They are at page 6 and 20. Here I am giving the passages of Chateaubriand so that you can see if it is possible to leave mine:

"The reverie of a traveler is a kind of fullness of heart and blankness of mind that allows you to enjoy your whole existence at peace. It is by thinking that we disturb the felicity that God gives us; the soul is peaceful, the mind is restless. (See *Voyages*, t. 6, p. 112.)

"I went from tree to tree, to the right and to the left indiscriminately, saying to myself: here no road to follow, no cities, no narrow houses, no presidents, republics,

At the beginning of the year 1834, Tocqueville hired an American living in Paris, Francis Lippitt,¹²³ to help him in the compilation of the documents that he brought back from the United States. At the house of the author's parents, Faubourg St. Germain, Lippitt compiled books and brochures, newspaper clippings and diverse documents.

Theodore Sedgwick, another American whom Tocqueville contacted when he still needed information about the United States, but whom he did not hire, seems to have played a more important role. His journal bears the traces of several interviews with Tocqueville that would exercise a clear influence on several points of *Democracy*.¹²⁴

Once the writing of the principal part of the work was finished (only the last chapter of the second part was missing), Tocqueville had a copy of his manuscript made and circulated. In this way his brothers and his father, Gustave de Beaumont, and Louis de Kergorlay read the quasi-totality of the work. A few passages were read aloud at the evening gatherings of Madame Ancelot.¹²⁵

kings." (See *Essai historique sur les Révolutions*, t. 2, p. 417, YTC, CIX and OC, VIII, 1, p. 145.)

123. See note a of p. 84.

124. Sedgwick met Tocqueville in the offices of the American delegation to Paris and pointed out several books that could be useful to him. His journal for the months of November and December 1833, of January and February 1834, refers several times in succession to Tocqueville (pp. 28, 29, 32, 79, 85, 98). See Sedgwick, Theodore III. Paris journal, volume 3, November 1833–July 1834, pp. 80–81, 85. Sedgwick family papers, Massachusetts Historical Society.

On 20 January 1834, for example, Sedgwick indicated that Tocqueville found that "Russia and the United States [. . .] were the only powers which presented an avenir [a future]. Both are aggrandizing—the others are stationary or diminishing" (pp. 80–81).

You find on p. 85 (Friday, 24 January 1834): "Either this day or the day before went with Tocqueville over to the legation and show [*sic*] him the books there which might assist him." On p. 98 (8 February 1834): "Tocqueville called about 11 for more information about the États-Unis." With the kind permission of the Massachusetts Historical Society.

Tocqueville also counted on the collaboration of two other American residents in Paris: Edward Livingston, head of the American representation in Paris, and Nathaniel Niles, secretary of the delegation.

125. See OC, VIII, 1, p. 141, and Madame Ancelot, *Un salon de Paris, de 1824 à 1864* (Paris: Dentu, 1866), p. 79. Did Guerry, a friend of Beaumont, read part of the manu-

When Édouard, on 15 June, wrote to his brother to share his *observations critiques*, only the revision of the second part remained to be done in order to complete the work. Tocqueville worked on the revision during the month of July, striking out a great deal and in some places retaining only one out of three pages of the initial draft. The same month, he contacted the publisher, Charles Gosselin, who committed to publishing the text in November. He planned a printing of five hundred copies.

On 14 August 1834, Tocqueville left Paris for the château de Gallerande, in Sarthe, and there joined Beaumont. The two friends spent their days hunting and making final corrections on their texts.

Once the work was finished, a title remained to be found.

In 1833 the book by Tocqueville and Beaumont had been announced with the title *American Institutions and Mores*.¹²⁶ Once Beaumont's project became differentiated from that of Tocqueville, the latter, in March 1834, announced to Senior the publication of a book on "American institutions."¹²⁷ Beaumont kept the term "American mores." In July, at the time of Tocqueville's arrangements with his publisher, the treatise on American institutions received the title "The Dominion of Democracy in the United States";¹²⁸ in a perhaps later note announcing the publication and contained in the drafts of the first part, we find "The Dominion of Democracy in America," while a first version of the same announcement mentioned "The Dominion of Democracy in the United States." In mid-October,

script? The jacket that contains the chapter on the point of departure and the one that contains the chapter on the social state bear this comment: "The copy has been sent to Guerry."

126. Tocqueville gave a very similar title to Sparks. Letter of 30 August 1833, YTC, CId.

127. *Correspondence and Conversations of Alexis de Tocqueville with Nassau William Senior* (London: H.S. King and Co., 1872), I, p. 2. In his prologue to *Marie* (p. viii), Beaumont echoes the original title of the joint work and declares: "M. de Tocqueville described the institutions; I myself tried to sketch the mores."

128. "G[osselin] asked me what the title of the work would be. I had only lightly considered it, so that I was quite embarrassed. I answered, however, that my idea was to title the book: *The Dominion of Democracy in the United States*. Since then I have thought about it, and I find the title good. It expresses well the general idea of the book and puts it in relief. What does my judge say about it?" OC, VIII, 1, p. 141.

with the book in proofs, the publisher wrote to the author to ask him the title of his book. That is when Tocqueville chose *Democracy in America*.¹²⁹

In the *Courier Français* of 24 December 1834,¹³⁰ Léon Faucher announced the publication of the work and reproduced a few passages from *Democracy in America*. The text appeared with this title in January 1835.¹³¹

The Reception of *Democracy*

If it is true that the workers in the print shop had shown Tocqueville's book particular attention and interest, the dazzling success of the *Democracy* was no less totally surprising to its author.

Tocqueville thought that the recent political tension with the United States would not fail to increase interest in and curiosity about the American continent and could therefore create a favorable situation for the success of the *Democracy*. But readers seem to have been attracted immediately by something far beyond the simple effect of timeliness. Moreover, if the indemnity affair—indemnities that the Americans had demanded from the French since the Napoleonic period—could be profitable to Tocqueville in France, such was not the case in America, where the publication of the *Democracy* was delayed until 1838.¹³²

The appearance of the *Democracy* was unanimously acclaimed. Chateaubriand, Lamartine, Guizot, and Royer-Collard never tired in their praise. Very few publications met its appearance with silence. The reviews

129. Letter of 18 October 1834, copied in CVh, 2, pp. 55–56: “We do not have the title of your work, and I forgot yesterday to ask you about it. We cannot set the pages without the title.”

130. Léon Faucher, “Democracy in the United States, by M. Alexis de Tocqueville (unpublished),” *Courier français*, 358, 24 December 1834.

131. On the 23rd, 27th, or 31st of the month, depending on the sources.

132. This is the opinion of Jared Sparks in his letter of 6 June 1837 to Tocqueville (YTC, CId). Sparks had contracted with a publisher in Boston for the preface and notes of an American version of the *Democracy*. He would abandon the project when he learned of the imminent appearance of another edition.

of Salvandy¹³³ and Sainte-Beuve¹³⁴ alone were enough to consecrate the author.¹³⁵

"Not one of the chapters of this book," wrote Sainte-Beuve, "fails to testify to one of the best and most assured minds, to one of those minds most appropriate for political observation, a field in which we find so few striking and solid strides since the incomparable figure of Montesquieu."¹³⁶ The name of the great *légiste* also appeared from the pen of Salvandy who, in the *Journal des débats*,¹³⁷ proposed for *Democracy* the subtitle "The Spirit of American Laws."¹³⁸

Among the number of discordant voices, the following can be cited:

It is with a very particular predilection that this author offers for the admiration of the peoples of Europe a republic in which are found three colors, one color who are the masters, two other colors; a country of tri-

133. Narcise-Achille de Salvandy, "Democracy in America," *Journal des débats*, 23 March and 2 May 1835.

134. Charles-Augustin Sainte-Beuve, "Alexis de Tocqueville. De la démocratie en Amérique," *Le temps*, 7 April 1835. The first one to be astonished by the good reception of the work, Tocqueville wrote to Sainte-Beuve the next day:

Allow me, Sir, to place even more importance on something other than on the judgment that you have made of the American democracy, that is seeing the relationship that has been established between us continue and become more frequent. I cannot keep from believing that there are many points in common between us and that a sort of intellectual and moral intimacy would not take long to prevail between you and me, if we had the occasion to know each other better (letter with the sole comment "Wednesday morning" [8 April 1835], with the kind permission of the Institut de France, Collection Spoelberch de Lovenjoul).

135. On the last day of March, Gosselin asserted to the author: "But it seems that you have created a masterpiece" (Letter to Beaumont, 1 April 1835, *OC*, VIII, 1, p. 151). The second edition was published in June, and the third at the end of the year. The fourth and fifth date from 1836. The sixth was published the following year, and the seventh in 1839.

136. *Le temps*, 7 April 1835.

137. *Journal des débats*, 23 March 1835.

138. *Le sémateur* noted: "Either we are very wrong, or M. de Tocqueville greatly studied Montesquieu before studying America" (4, no. 9 [4 March 1835]: 65–68, p. 65).

The commentaries of the entire French press agreed on the point. *Le national de 1834*, on 7 June 1835, described the text as "a work whose high level will be felt by all those who meditate on the current state of society in Europe, and on the future that is in store for it."

colored humanity in which the red men who are the natural masters find themselves being exterminated by the white men who are the usurpers; in which the Black men are sold jumbled together with animals in the public square. A touching example of equality, admirable evidence of independence that it is currently stylish to take as the model in Europe, to see as the standard for true perfectibility!¹³⁹

American readers, for their part, downplayed certain critical observations of the author about American society,¹⁴⁰ but would acknowledge the impartiality of the work and particularly its clear superiority over the commentaries of English travelers.

Foreign publications did not spare compliments. The English found in Tocqueville an abundance of arguments against the American republic¹⁴¹ and recalled in reviews the precarious character of the experiment.¹⁴² The *London and Paris Courier* of 14 January 1836 asserted on its part: "Much, indeed, has been written by Englishmen respecting America, and a good deal by visitants from the continent of Europe. But with the solitary exception of the *Démocratie en Amérique*, by M. de Tocqueville, nothing absolutely has been written by a foreigner which approaches to an accurate delineation of our political organization."

When, in December, the *Moniteur du commerce* mentioned "this excellent book that everyone has known and judged for a long time," the remark

139. *Gazette de France*, 3 and 13 February 1835. The passage quoted is found in the issue of 3 February.

140. For example, the review in *American Quarterly Review*, 19, March 1839, pp. 124–66.

141. See *Blackwood's Edinburgh Magazine*, 37, no. 230 (1835): 758–66. The commentary of the *Atheneum* is particularly critical: "rational, at times, even to dullness [. . .] a dislike of its ambitious style—its reduction of everything to theory—and its over-arrogant aim at uniting the sententiousness of Montesquieu to the florid description of the Comte de Ségur" (394, 16 May 1835, p. 375). In a letter of 6 June 1837 (YTC, CId), Jared Sparks informed Tocqueville that the English reviews that mention the passages against democracy in Tocqueville's work had been reproduced in American publications, and that, in his opinion, this fact might diminish the desire for a quick translation of *Democracy*.

142. Among the English critiques, that of John Stuart Mill stands clearly apart. Tocqueville wrote to him, "You are [. . .] the only one who has understood me entirely" (Letter of 7 December 1835, OC, VI, 1, p. 302). Mill's commentary had been published in the *London Review* 30, no. 2 (1835): 85–129.

did not seem exaggerated. *Democracy* was in fashion, and the Académie des sciences morales et politiques ratified the public's interest with the Montyon prize, which bestowed on the author twelve thousand francs.

For its part, the publication of *Marie, ou l'esclavage aux États-Unis*¹⁴³ brought a success in no way inferior to that of *Democracy*.¹⁴⁴ Between 1835 and 1842, there would be five editions of the novel by Gustave de Beaumont. It would fall afterward, and very wrongly, into oblivion. Its reception was generally warm, though measured, although the *Quarterly Review* did not hesitate to declare it "the most interesting [book] that has ever yet been published on the subject of American society and manners by a native of the European continent."¹⁴⁵ Francisque de Corcelle wrote the review for the *Revue des deux mondes*.¹⁴⁶

The principal failing of the book was proclaimed immediately. *Marie* had the peculiarity of being a novel and a social commentary at the same time. As such, it did not succeed in satisfying either those who love theoretical works, who preferred the *Democracy* by far, or those who read novels. The author of the review in the *Journal des débats*¹⁴⁷ saw this correctly when he wrote:

There are two books in [the] book. That is its failing perhaps. The large public that wants to be amused is always afraid that it is being instructed. The rare public that seeks instruction fears being interested and moved. The readers of M. de Beaumont are indeed exposed to this double danger. He teaches the most frivolous. He captures, carries away, touches the most unsentimental and the coldest. The whole of American society is brought to life in this work that is so true that I dare not call it a novel; that is so

143. *Marie, ou l'esclavage aux États-Unis, tableau des mœurs américaines*. Paris: Charles Gosselin, 1835. 2 vols.

144. Beaumont's novel appeared in Brussels in 1835. It was translated into Spanish in 1840 and republished in 1849, and translated into Portuguese in 1847. An abridged edition was published in Germany in 1836. The second French edition dates from 1835, the third from the following year, the fourth from 1840, and the fifth and last from 1842.

145. *Quarterly Review* 53, no. 106 (1835): 289.

146. Francisque de Corcelle, "De l'esclavage aux États-Unis," *Revue des deux mondes*, 4th series, 6, 1836, pp. 227–46.

147. *Journal des débats*, 6 December 1835.

clothed in the richest and most intense colors of the imagination that I cannot call it a treatise."

Shortly after the publication of *Marie*, Beaumont abandoned the plan for a second part (announced in the notice).¹⁴⁸ Two years later, when he was writing *Irlande*, he seemed to care so little about his novel that he wrote to Tocqueville: "My book is my great and only passion, even more than yours is for you; I am not doing a second book, it is the first; and I am afraid of missing the mark, although I am full of zeal."¹⁴⁹

England and the Second *Democracy*

Tocqueville had begun the writing of a book on America with the intention, no matter how unhelpful it might be, of making himself known for the purpose of a political career. His friend Blosseville had even used the opportunity of his review of the *Democracy* to assert, "Such books should open the way to the parliamentary tribune."¹⁵⁰

But in March 1835, Tocqueville was not thinking so much about the career of a politician as about profiting from the extraordinary reputation that the appearance of his book had just given him. If the *Democracy* had not yet opened the doors of the Chamber of Deputies, it had earned him the friendship of a few prominent individuals who were going to play an important role in the writing of the second part of his book. They were Jean-Jacques Ampère, Royer-Collard, with whom Tocqueville was going to begin a profound and determinant intellectual relationship, and Corcelle.

Beaumont, Kergorlay, and Édouard de Tocqueville would form the principal trio of critics of the manuscript of the second part of the *Democracy*. The text would as well, here and there, bear the imprint of Ampère and Corcelle.

At the beginning of the year 1835, Tocqueville worked on the writing of

148. *Marie*, I, p. iii.

149. Letter from Beaumont to Tocqueville (15 July 1837?), *OC*, VIII, 1, p. 209.

150. *L'écho français*, 11 February 1835.

a report on pauperism¹⁵¹ and planned a new journey to England. When Tocqueville and Beaumont were at the point of making important personal and professional decisions, the two friends crossed the Channel.¹⁵²

What changes had taken place during the last two years? Was the English aristocracy capable of resisting the advance of democracy? Such were the questions that Tocqueville and Beaumont asked themselves. Their first observations concerned a strong tendency toward centralization. The point was important, and Tocqueville recognized the necessity of speaking about it in the second part of *Democracy*.¹⁵³ John Stuart Mill, Lord Minto, and Henry Reeve confirmed his impressions on this subject,¹⁵⁴ but it was Nassau W. Senior above all who, on the occasion of two long conversations, gave him the most detailed arguments on centralization.

Senior tells me: The Bill for Reform of the Poor Laws is not only a bill of social economy, but is above all a political bill. Not only does it cure the plague of pauperism that torments England, but also it gives to the aristocracy the most fatal blow that it could receive. [. . .] The law has centralized the administration of the poor law; and armed with this principle, the government, to enforce the law, has appointed a certain number of commissioners or central agents who have full power in this matter in all the parishes of England. These commissioners traveled through the territory and, in order to kill the local influences that had to be centralized,

151. "Mémoire sur le paupérisme," *Mémoires de la Société académique de Cherbourg*, 1835, pp. 293–94. It is impossible to indicate the precise reason for the writing of this work, which was inspired by the work of Villeneuve-Bargemont, *Économie politique chrétienne*, and which will be mentioned again elsewhere. Tocqueville had promised a second part that he never wrote.

152. The notes and drafts of *L'Irlande* allow us to follow in a precise way the journey of Beaumont and Tocqueville to England and Ireland in 1835. Tocqueville and Beaumont left Paris on 21 April, reached Calais on the 22nd and were in London on the 24th, where they lodged at the Ship-Hotel. The next day they went to the opera to see *Anna Bolena*. They began their visits in the English capital, continuing until 24 June. From 7 July to 9 August, they visited Ireland. On the latter date, Beaumont left to visit Scotland and Tocqueville went to Southampton. On the 18th he crossed the Channel. On 23 August he was again in Cherbourg.

153. *Voyages en Angleterre, Irlande, Suisse et Algérie*, OC, V, 2, p. 49. There is also a long, unpublished conversation with Sharp (YTC, CXIb.1). Beaumont's notes contain other unpublished conversations.

154. *Ibid.*, pp. 49, 52–54.

united ten or fifteen or twenty parishes into a single administrative circumscription, that they called a union. [. . .] These unions have already been established in this way in two thirds of England, and before long they will be established everywhere. [. . .] The Bill transfers, as you see, the administration of the poor law from the aristocracy to the middle classes. And then, there you are, central administrations organized over the whole kingdom, central administrations composed of citizens, set into motion, not by the local aristocracy, but indeed by the central power—and this is serious not only for granting to the central power and to the municipal administration called a union the power to govern England, but above all for organizing in the country an administrative power whose center is the government and for which the justices of the peace, prin[cipal] and essential elements of the aristocracy, are not the agents. [. . .] I note that the result of this is, above all, that the aristocracy is stripped to the profit of the *central power*; for the *guardians of the poor*, as they are constituted, are agents chosen it is true by the middle class, but essentially subordinate even in this choice and in their action to the will of the commissioners of the government.¹⁵⁵

155. YTC, CX.

Tocqueville explained the success of the democratic principle in England in this way:

General idea.

Tocqueville said yesterday [the note is in Beaumont's hand]:

Two elements in English society.

The Saxon principle

and the Norman principle.

The Saxon principle—democratic.

Everything that is democratic in English society dates from this time. The organization of the parish and the county—the hundreds—the representation of communal interests . . . The Normans came, which threw a layer of absolute power over this democratic base.

Combination of these two elements in English society.

For a long time, the Norman fact prevailed, without destroying the Saxon principle, which just hid and submitted.

Today the awakening of this principle which predominates over the Norman fact and which particularly showed itself to be superior to its adversary the day the Reform Bill passed in Parliament (YTC, CX).

But the centralizing movement and the rise to power of the middle classes did not, for all that, imply revolution and the destruction of the aristocracy. As Tocqueville had already observed during his journey of 1833, England was very far from a revolution. At the time of this new journey, Mill confirmed his judgment:

Revolution./

[In the margin: Why no chances of violent revolution.]

I doubt that a quick and violent revolution is happening among us. All classes are very steady and know too well how to defend themselves. They are also enlightened, used to fighting and to yielding when necessary. Moreover, there is an obstacle here to general innovations and to the impulses of reform. Reform never strikes a great number of matters at once. Since everything in this country is in bits and pieces, you can only change one thing at a time, and with each change, you only attack a small number of interests. For the same reason, you excite only a small number of passions. It is rare to proceed by the path of general reform because there are few things to which you can apply the same principle in England. (J. S. Mill).¹⁵⁶

From the time of his first journey to England, Tocqueville had shared this sentiment: in that country, the poor man aspires to occupy the place of the rich and can sometimes succeed. "The French spirit is to want no superior. The English spirit is to want *inferiors*."¹⁵⁷

156. YTC, CX. Cf. *OC*, V, 2, p. 47.

157. *Voyage en Angleterre*, *OC*, V, 2, p. 47.

Mill explained the same idea in this way:

Aristocracy in the mores./

Aristocratic spirit./

Spirit of equality, aristocratic spirit.

[In the margin: The Whig who attacks the Lord honors him as a rich man.]

Here you often find allied two sentiments that at first view seem contradictory; these are a very intense hostility toward the aristocracy and an infinite respect for the aristocrats. The privileges of the Lords are attacked, but you cannot believe what consideration there is for them as individuals, so that you see the most ardent democrat rant with an extreme exaggeration against the abusive power of an oligarchic minority and bow with humility before the Count or the Marquis of X, solely because

In *Social and Political State of France*, Tocqueville would note that the difference between the French aristocracy and the English aristocracy consists in the fact that only the English one is truly an aristocracy, that is to say a tiny part of society, having “qualities” such as blood, intelligence, money, culture, etc. In France, on the other hand, the sole quality of the aristocracy is birth, which makes it impossible for anyone to attain it. In the second part of *Democracy*, this idea would force Tocqueville to give full attention to the process of administrative centralization, inasmuch as it is the first and most powerful effect of the democratic revolution, and is capable of making its effects felt even on the English aristocracy.¹⁵⁸

For Beaumont there was a totally different discovery. He who so vigorously defended the cause of the Indians and Blacks was struck by the situation of the Irish. He noted regarding them:

Moral—History.

I do not believe that the murder of nations is more legitimate than that of individuals.

I declare that in covering the history of peoples, when I see the victors and the vanquished, I can very much admire the conqueror whose value shines before my eyes; but all the sympathies of my heart are for the conquered country. As long as a subject people exists, as long as it has not entirely disappeared under conquest, I make wishes for it, I nourish hopes, I have faith in its instincts of nationality; and in my dreams I see it shaking off the chains of servitude and cleansing itself of tyranny in the blood of its tyrants. If one day I learn that this people has expired with glory, I remain faithful to it, and I weep on its tomb. For to pardon a crime because

he is a Count or Marquis. Here we work hard to abolish privileges, but we respect those who possess them; we find that they are clever, because they have reached the goal that everyone targets. No one has the idea of blaming them for taking a place that is due not to morality and justice, but to their privileged position. For in English society, everything is privilege (Jh. Mill, 19 May. London). (Beaumont's note. YTC, CX).

158. During their journey, which took them to several large cities of England, Tocqueville and Beaumont observed the terrible effects of industrialization, which they could already have done in part during the journey to the United States. On this subject, they knew about the book by J. B. Say and about the treatise by Villeneuve-Bargemont. The famous description of Manchester is found in *Voyage en Angleterre*, OC, V, 2, pp. 79–82.

it is successful is an odious and despicable action. It is a despicable action, commonly done.

(30 January 1836).¹⁵⁹

The two friends divided subjects. To Tocqueville, America; to Beaumont, England,¹⁶⁰ and Beaumont intended to devote a book to the Irish cause. In 1837, he went to England for a second time and visited Ireland in order to complete his research on site. *L'Irlande, sociale, politique et religieuse* would be published in 1839.¹⁶¹

The manuscript of Beaumont's book contains criticisms in Tocqueville's hand. That of Tocqueville would be considered attentively by Beaumont before its publication. Their collaboration continued to include innumerable exchanges of ideas.¹⁶²

The press gave *L'Irlande* a reserved reception, but the book received the approbation of English intellectuals. In October 1839, John Stuart Mill wrote to Beaumont:

159. YTC, CX.

160. Tocqueville explained this point in a letter of 5 May 1835 to his father. André Jardin, *Alexis de Tocqueville*, p. 229.

161. The second and third editions saw the light of day in 1839; the seventh and last, in 1863. The English translation appeared in 1839. The English translator took care to eliminate several passages critical of England; he summarized and altered a certain number of Beaumont's arguments.

162. Beaumont noted this idea of Tocqueville:

Brittany. Ireland.

Remarkable parallel between the province of Brittany in France and Ireland.

—Same origin.—Celtic population.

—Similarity in mores and in social state.

—Small farms in the two countries. Small-scale farming.

—Absence of luxury and no idea of material well-being; no efforts to gain it.

Miserable hut in which the family pig grunts as a table companion.

—Eminently religious population, faithful—but not enlightened.

—Brittany is only separated by a river from Normandy where the taste for material well-being is so developed. In France we have England and Ireland in Normandy and Brittany.

—There is the similarity.

But differences—The Irishman is merry and fickle—The Breton melancholic and stubborn.

(Shouted by Tocqueville)

22 December (YTC, CX).

I hardly know how to express to you the degree of my estimation of your book, in as measured terms as a sober man likes to use in expressing a deliberate judgment—but this I may say, in the confidence of being rather within than beside the mark—that the book not only displays a complete and easy mastery over all the social elements and agencies at work in Ireland, over the whole great period of Irish history and Irish civilization; but that it also manifests a degree of clear comprehension and accurate knowledge of the far more complicated and obscure phenomena of *English* society, never before even *approached* by any foreigner whom I know of, and by very, *very* few Englishmen.¹⁶³

Like *Marie*, *L'Irlande* would be only a half-success. This second book was also the last. At one time pushed by Tocqueville to become interested in Austria, Beaumont would cease all important intellectual work following the death of one of his sons.

The Second *Democracy*

On 26 October 1835, Tocqueville married Mary Mottley, thus formalizing a relationship that was already several years old. Beaumont and Kergorlay were witnesses.

In 1828 or 1829, at Versailles, Tocqueville had met this English woman of bourgeois origin who lived with her aunt, Mrs. Belam.¹⁶⁴ The correspondence of Tocqueville and his wife has almost totally disappeared. The documents that remain attest to a certain discomfort, in the family as well as among a few friends, about a marriage judged disappointing.

On 15 November the couple went to Baugy, near Compiègne, close to Édouard de Tocqueville. That is where Alexis began to work on the second part of *Democracy*. His first plan was to divide the third volume into two parts:

163. Letter of J. S. Mill to Beaumont, 18 October 1839, YTC, Cle.

164. Concerning Mary Mottley, few things are known. See Antoine Rédier, *Comme disait Monsieur de Tocqueville*, pp. 122–28, and André Jardin, *Alexis de Tocqueville*, pp. 50–56.

Two great divisions.

1. Influence of democracy on ideas.
2. Id. on sentiments.¹⁶⁵

Then the outline became complicated:

Division to do perhaps.

Effects of democracy

1. On thought.
2. On the heart.
3. On habits.¹⁶⁶

Little by little, the work took on its definitive form:

Plan of the second volume.

Sociability, sympathy, mores becoming milder, susceptibility, p. [blank] and dignity. All of that comes easily after individualism in order to demonstrate the types of relationships that can exist in a democratic society despite egoism.

The citizen, patriotism, the master and the servant, master and farmer, master and worker. All of that again comes easily after the introduction because it is principally individualism that modifies the relationships of all those people with each other.

Father, son, wife, woman, good morals. The mind is prep[ared] by what precedes to enter into families. Moreover, individualism again greatly modifies the relationships of those people.

Tone, manners, conversation, monotony of life, gravity, vanity. The chapters relating to the family have prepared the mind to descend easily into the small details of the social existence of the Americans.

Honor, ambition, revolution, military spirit, conquests, armies, perhaps a chapter that summarizes. These chapters, which perhaps I have not placed in the relative order that they should have vis-à-vis each other, elevate the mind of the reader and end the book on a high level.

There are three chapters that remain, and I do not know where to place them: Respect that is attached to all conditions, lack of susceptibilities, sentiment of dignity.

165. YTC, CVa, p. 6.

166. YTC, CVa, p. 6.

I believe, however, that they come after sociability./
Where to place equality—slavery?¹⁶⁷

Individualism, which opened the book, would finally be placed at the beginning of the second part of the third volume. The idea of speaking again about slavery remained only a plan, but the principal ideas of the whole work were already present. The work of writing, with several interruptions,¹⁶⁸ would take four years (from November 1835 to November 1839).

In January 1836, following a division of family properties due to the death of his mother, Alexis received the château de Tocqueville and the title of count that came with it, although he would always refuse to use the title. He appeared hardly inclined in the beginning to spend much time in a cold and damp château. Various renovations that his wife would have done would be necessary before Tocqueville decided to live there for long periods. Many pages of the second *Democracy* would see the light of day there, sometimes under the critical eye of Corcelle, Beaumont, Kergorlay, or Ampère, regular guests at the château.

A large part of the first section of the book seemed finished when, in July, after the marriage of Gustave de Beaumont with Clémentine de Lafayette, Tocqueville and his wife left for Baden, in Switzerland. In November they returned to Baugy.¹⁶⁹ There, Tocqueville worked daily from 6:00 to 10:00 o'clock in the morning. The writing went well. Only one thing

167. YTC, CVa, pp. 28–30.

168. During their journey to England, Mill had begged the French visitors to contribute to the *London and Westminster Review* by writing articles on France and the United States. In 1836, Tocqueville sent Mill a first and only article on the social and political state of France before and after the Revolution, which was meant to be an introduction to a series of publications on France. "Political and Social Condition of France," *London and Westminster Review*, 25, 1836, pp. 137–69 (reproduced in *OC*, II, 1, pp. 33–66). The similarity between the first paragraphs of the article and the chapter on the philosophical method of the Americans is clear and enlightening.

169. The long stays of Tocqueville at Baugy make it difficult to measure the influence exercised by Édouard.

was missing for the author: "a good *instrument of conversation*, I needed you [Beaumont] or Louis."¹⁷⁰

During the following months, Tocqueville took careful note of all the information, of every conversation that could be useful for his work. He interviewed Thiers on the problem of centralization, Kergorlay on the army, Charles Stoffels on literature. He also met an American named Robinson and a number of other people.¹⁷¹

From mid-July to mid-August the Corcelles stayed at Tocqueville. At the end of July, the Beaumonts joined the small set. In the intellectual circle thus constituted by Tocqueville only one member was missing, Louis de Kergorlay, whom he did not hesitate to call his master.¹⁷²

In January 1838, at Baugy, Tocqueville reviewed the chapter on honor. March and April were devoted to the question of centralization, to the army and to the preparation of the fourth and last part of the book. On 15 May,

170. Letter of 22 November 1836 to Beaumont, *OC*, VIII, 1, p. 174. The same month, Tocqueville wrote to Kergorlay in very similar terms: "I feel the importance of this second work, which will find criticism wide-awake and will not be able to take the public by surprise. So I want to do my best. There is not a day so to speak that I do not feel your absence. [. . .] There are three men with whom I live a bit every day, Pascal, Montesquieu and Rousseau. I miss a fourth who is you." Letter of 10 November 1836, *OC*, XIII, 1, p. 418.

171. He found the time to think about the continuation of his work on pauperism and asked Beaumont to bring him all available information about the savings banks and the English pawnshops. There is a list of questions from Tocqueville for Beaumont in YTC, CXIb.13. Cf. *OC*, VIII, 1, pp. 185, 191, 193, 196, and 200. He did not find the time to choose some unpublished excerpts from *Democracy* for the *London and Westminster Review* as Mill had requested (*OC*, VIII, 1, p. 187).

Tocqueville also dedicated his efforts to two bids, one to enter the Chamber of Deputies in November and a second to get himself elected to the Académie française. These two attempts failed. Entry to the Académie des sciences morales et politiques was seen by Tocqueville only as a consolation prize that would make his entry to the Académie française more difficult. He would enter there on 24 December 1841. He published, in addition, two letters on Algeria, on 23 June and 22 August 1837, in *La presse de Seine-et-Oise*.

172. "For, after all, and without giving a useless compliment, I believe you are my master." Letter to Kergorlay, 4 September 1837, *OC*, XIII, 1, p. 472. Cf. Kergorlay's answer, 30 September, *ibid.*, p. 477. Alexis was then working on the chapters on good morals. In September, he laid down the foundations of the chapter on American manners.

Corcelle and Ampère were present for a reading of the chapter on revolutions. In July, August, and September, the last chapters took their definitive form. The last two chapters on centralization and the idea of equality grew in length and purpose. The only thing remaining was to revise the chapter on the philosophical method of the Americans and the one on general ideas.

On 19 October 1838, Tocqueville would write to Beaumont: "I have just written, my dear friend, the last word of the last chapter of my book."¹⁷³

The revision of the whole book would occupy all of the following year. Kergorlay, who spent most of the autumn at Tocqueville [the village], came to help the author who worked to revise the first part of his book. Unsatisfied, Tocqueville had burned it.

In January 1839, Tocqueville read part of his manuscript to Chateaubriand, but confessed to Beaumont that he did not think he would be able to advance much in the revision of the whole book before the month of March. The work stretched until mid-November, the date when Tocqueville returned to Paris with a copy of his manuscript in order to have it read and approved a final time by Beaumont and Kergorlay.

Tocqueville had spoken to his correspondents about a book on "American manners." The title that tempted Tocqueville was: "The Influence of Equality on the Ideas and the Sentiments of Men." The book appeared in April 1840, however, with the same title as that of 1835.

The reception of the second part was not as unanimously laudatory as what had accompanied the appearance of the first volume. More theoretical and less descriptive, the second *Democracy* found a public little prepared for the reading of a philosophical work of such length and ambition. The criticism that appeared in this regard in *The Examiner* reflected the tone.¹⁷⁴

Hunt's Merchant Magazine noted: "In our deliberate judgment, it is the most original, comprehensive, and profound treatise that has ever appeared regarding our republic."¹⁷⁵ The prestigious *Blackwood's Edinburgh Maga-*

173. *OC*, VIII, 1, p. 321.

174. *The Examiner*, 17 May 1840.

175. *Hunt's Merchant Magazine*, 3 July 1840, p. 443.

zine, acknowledging that the second part did not merit the unconditional approval given to the first, added: "It is a superstructure of theorizing without any base to support it."¹⁷⁶

If favorable reviews were many—and in particular the one of John Stuart Mill must be pointed out¹⁷⁷—the same judgment was found just about everywhere in the English press: "too great a disposition to theorize,"¹⁷⁸ or again: "Perhaps this method of generalizing facts is occasionally pushed too far."¹⁷⁹ The verdict seemed definitive. Tocqueville's contemporaries seemed little inclined to accept this *philosophy of democracy* that the author was offering to their understanding. The appearance of the first volume of the *Democracy* had elicited nearly seventy commentaries; that of the second brought forth scarcely half that number.

In the months immediately following the publication, Tocqueville wrote little and so to speak made no allusion to his book. Elected deputy on 2 March 1839, he intended to concern himself more with his new duties.

"Nothing has been and remains more contrary to my tastes than to accept the condition of author in this world," he wrote to Royer-Collard in 1839, explaining:

That is entirely contrary to my way of seeing what is desirable in this life. So my firm wish, after finishing this book and whatever its fate, is to work for myself and to write no longer for the public, unless a very important and *very natural* occasion presented itself, which is not probable. I am pushed to this determination not only by the desire to set myself apart from authors strictly speaking, but also by a certain pride that persuades me that I will find no subject as grand as the one that I have just treated and that, consequently, I would be demeaning myself by taking up the pen again.¹⁸⁰

176. *Blackwood's Edinburgh Magazine* 48, no. 298 (1840): 463–78, p. 463.

177. *Edinburgh Review* 145 (1840): 1–25.

178. *Dublin University Magazine* 16, no. 95 (1840): 544–63, p. 563.

179. *The New York Review* 7, no. 13 (1840): p. 234.

180. Letter to Royer-Collard, 20 November 1838, *OC*, XI, p. 74. Cf. the letter to Corcelle, 25 June 1838, *OC*, XV, 1, pp. 100–101.

The occasion would not present itself before 1852, when, forced to abandon all political activity following the coming to power of a person of whom he highly disapproved, Tocqueville decided to take up the pen again in order to remind the French of the events that had brought them liberty. That was the beginning of work on *L'Ancien régime et la révolution*.

II¹⁸¹

To Understand the Revolution

"Since, like Perrin Dandin, I am driven by the desire to judge without the power to do so, I need to keep going."¹⁸² Tocqueville's identification with the main character of the *Plaideurs* can probably be shared by an entire generation of judges who, following the revolutions of 1789 and 1830, had to devote themselves to finding a new equilibrium for society. As Ortega remarked, the solution to the political question was above all an eminently personal problem for Tocqueville and his contemporaries.¹⁸³ Ultras and liberals, 1789 and 1793, aristocracy and democracy, liberty and equality, monarchy and republic, these were so many opposites that required a choice to be made.

In this context, where to place the author of *Democracy*? The question continues to be asked.¹⁸⁴ The intellectual conversation has refined his thought and made his adjectives more nuanced; that does not prevent the labels from remaining very close to those of 1835. Tocqueville is in turn called a conservative, a liberal, a conservative liberal, a liberal conservative, a Burkean conservative, a liberal *despite himself*, a liberal aristocrat, a strange liberal—in short, the confusion about his work continues.

For it to be otherwise would be difficult. The *Democracy*, which sets forth as well one of the most fascinating interpretations of the French Revolution

181. The interpretation I am offering here is necessarily limited.

182. Letter from Tocqueville to the Countess de Pisieux, 5 July 1833, YTC, CIF.

183. "Tocqueville y su tiempo," in *Meditación de Europa*, Madrid. (Revista de Occidente, 1966), pp. 135–41.

184. There are dozens of books devoted to Tocqueville's thought, but I limit myself to pointing out those of Jean-Louis Benoît, *Tocqueville moraliste* (Paris: Honoré Champion, 2004); Luis Díez del Corral, *El pensamiento político de Tocqueville* (Madrid: Alianza Editorial, 1989); Jean-Claude Lamberti, *Tocqueville et les deux démocraties* (Paris: PUF, 1983); Pierre Manent, *Tocqueville et la nature de la démocratie* (Paris: Julliard, 1982); Nicola Matteucci, *Alexis de Tocqueville* (Bologna: Il Mulino, 1990); the brief introduction to the abridged edition of *Democracy* by Dalmacio Negro (Madrid: Aguilar, 1971); and Sheldon S. Wolin, *Tocqueville Between Two Worlds* (Princeton: Princeton University Press, 2001).

ever made, attempts indeed, by using the American "mirror,"¹⁸⁵ to create a political philosophy capable of explaining (and producing) revolution and counter-revolution.¹⁸⁶

"Placed in the middle of a rapid river," writes Tocqueville, "we obstinately fix our eyes on some debris that we still see on the bank, while the torrent carries us away and pushes us backward toward the abyss."¹⁸⁷ Amid this dangerous revolutionary turbulence, there is a pressing need to find a path and a bedrock somewhere; and this is what forces the author to seek an explanation for the Revolution from the very first pages of the *Democracy*.¹⁸⁸ If we must await *L'Ancien régime et la révolution* for Tocqueville to give a fuller and more detailed interpretation of the great historical upheaval, it is no less true that the principal lines of his theory of revolution are already present in the two *Democracies*.

Tocqueville's point of view can be somewhat roughly summarized by asserting that for him the French Revolution was neither a true revolution, nor a *French* revolution.

The Revolution was not a true revolution because authentic revolutions take place at the level of mentalities, ideas, beliefs, habits of the heart, of

185. "I did not want to do a portrait, but to present a mirror," Tocqueville confessed to Ampère. Jean-Jacques Ampère, "Alexis de Tocqueville," *Correspondant* 47 (1859): p. 322.

186. "The Revolution that reduced to dust the aristocratic society in which our fathers lived is the great event of the time. It has changed everything, modified everything, altered everything" II, p. 690, note c.

Not by chance did Tocqueville choose as a matter of fact to publish the chapter on revolutions separately, before the second volume. The chapter on revolutions undoubtedly constitutes the axis around which the whole book turns; cf. Alexis de Tocqueville, "Des révolutions dans les sociétés nouvelles," *Revue des deux mondes*, XXII, 1840, pp. 322–34.

187. I, p. 514, note o. Cf. I, p. 12, note r.

188. The unpublished texts of this edition tend to erase a certain number of differences between *Democracy* and *L'Ancien régime et la révolution*. Tocqueville is an author who treats a very small number of subjects that he considers and studies many times in each of his writings, while keeping them all interrelated, like the chapters of the same book. So in a way we have something of a *Democracy* that extends from 1835 to 1859.

all the things that, using once again the meaning of the word *mores*,¹⁸⁹ he designates by the term *mœurs*.¹⁹⁰

Every historical change necessarily begins, according to Tocqueville, at the level of ideas. In turn, the latter transform and are transformed by the social and material conditions of a society. These, according to Tocqueville, constitute the social state of a society.¹⁹¹

Political societies are not made by their laws, but are prepared in advance by the sentiments, beliefs, ideas, the habits of the hearts and minds of the men who are part of them, and by what nature and education have made those men. If this truth does not emerge from all parts of my book, if it does not in this sense constantly bring readers back to themselves, if it does not point out to them at every moment, without ever blatantly displaying the pretension of teaching them, the sentiments, ideas, mores that alone can lead to prosperity and public liberty, the vices and errors that on the contrary inevitably push prosperity and public liberty away, I will

189. The whole body of the ideas and the mores of a people form its character, and on this point Tocqueville recalls Montesquieu:

≠There is indeed in the bent of the ideas and tastes of a people a hidden force that struggles with advantage against revolutions and time. This intellectual physiognomy of nations, which is called their character, is found throughout all the centuries of their history and amid the innumerable changes that take place in the social state, beliefs and laws. A strange thing! What is least perceptible and most difficult to define among a people is at the same time what you find most enduring among them. Everything changes among them except the character, which disappears only with nations themselves≠ (I, p. 344, note y).

190. "So by this word I understand the whole moral and intellectual state of a people" (I, p. 466).

Montesquieu in fact remarks: "The customs of a people in slavery are part of its servitude; those of a free people are part of its liberty." *De l'esprit des lois*, book XIX, ch. XXVII, *Œuvres complètes* (Paris: Pléiade, 1951), II, p. 382. For Tocqueville, the mores of a people constitute nearly its *entire* liberty.

191. Tocqueville did not believe that he had resolved the question of knowing if ideas are the result or the cause of the social state. "Is the social state the result of ideas or are the ideas the result of the social state?" II, p. 748, note f. Ideas will act, alternately, as effect and as cause.

not have attained the principal and, so to speak, the only goal that I had in view.¹⁹²

The social state in turn shapes the political state.¹⁹³ (Today we would speak about society and state.) This explains why, in France as in the United States,¹⁹⁴ the people are sovereign, for if the French do not live in a condition of liberty strictly speaking, they have already learned to think of themselves as equals.¹⁹⁵ The material and intellectual conditions of a society modify and are changed by ideas and sentiments; and once the social state has been changed, the legal and political institutions adapt little by little.

192. Letter to Corcelle, 17 September 1853, *OC*, XV, 2, p. 81. This is so true that a change in the law (the abolition of slavery, for example) is useless and even negative if it is not accompanied by a change in the intellectual world (the idea that the Black man is henceforth equal to the white man). In this sense Tocqueville can say that, if he had the power, he would not immediately decide on the abolition of slavery. He was convinced that, without a previous radical change in the mores, the situation of the free Black would probably be worse than the situation of the slave.

193. This term reappears from time to time (II, p. 1262, note b).

With this supposition, Tocqueville places himself at the origin of the modern social sciences. If his work attracts sociologists as well as historians, critics, and political scientists, it is because in his work the classic elements of political philosophy are beginning to separate and take form as sociology, history, or the political sciences. In the same way, if *Democracy*, and especially the second part, has not sufficiently gained the attention of researchers in the political sciences, it is undoubtedly because it requires the latter to go beyond the position of historians of ideas in order to be political philosophers for a time.

194. In the United States, the dogma of the sovereignty of the people is not an isolated doctrine that is attached neither to the habits nor to the ensemble of dominant ideas; you can on the contrary envisage it as the last link in a chain of opinions that envelops the entire Anglo-American world. Providence has given to each individual, whatever he is, the degree of reason necessary for him to be able to direct himself in the things that interest him exclusively. Such is the great maxim on which in the United States civil and political society rests: the father of the family applies it to his children, the master to his servants, the town to those it administers, the province to the town, the state to the provinces, the Union to the states. Extended to the whole of the nation, it becomes the dogma of the sovereignty of the people.

[≠ So the republican principle of the sovereignty of the people is not only a political principle, but also a civil principle.≠] (I, p. 633)

195. II, p. 1033, note 1. Did Tocqueville participate in Beaumont's plan to present an essay on the influence of laws on mores and of mores on laws for the Montyon competition in 1830? See YTC, CXIb6.

"In the long run, political society cannot fail to become the expression and the image of civil society." Sovereignty of the people is born as public opinion.¹⁹⁶

That is why the true revolution took place largely before 1789, accelerated by a change that was above all European in nature,¹⁹⁷ that began with the Reformation, continued with Bacon and Descartes, and then gave the Enlightenment universal ideas, applicable in all periods and to all parts of the world.

"[The Revolution] was just a violent and rapid process by the aid of which the political state was adapted to the social state, facts to ideas, and laws to mores,"¹⁹⁸ Tocqueville will repeat in the *Ancien Régime*. It was nothing more than the abrupt adaptation of the real to the ideal, or more precisely to an abstract philosophy formed from theories that had not been refined, called into question, or confirmed by political practice.

The Old Regime wanted to ignore social changes and, by preventing the slow adaptation of the political to the social, had created the conditions for its own downfall. The revolutionaries, removed from the political practice that would have led them to test and adapt their theories to the material and social circumstances of France, tried for their part to make the legal and political world conform to abstract and universal principles that were far from the social state.

A difficulty unfailingly appears, however. If the Revolution indeed had as its point of departure an intellectual movement that predated it, the vast changes whose arrival it marked cannot be completed as long as differences exist between the social and political ideas of the French and their legal and

196. "What is the sovereign rule of public [v: national] opinion to which all the English of the last [century (Ed.)] constantly declared that you must submit, if not a still obscure notion of the democratic dogma of the sovereignty of the people?" II, p. 1033, note e.

197. "The French Revolution, in my eyes, is a *European* event, and everything that happened in the same period in Europe, principally in Germany, interests me nearly as much as what [took (Ed.)] place among us" Letter to Charles Monnard, 5 October 1856. With the kind permission of the Bibliothèque cantonale et universitaire de Lausanne.

198. *L'Ancien Régime et la Révolution*, OC, II, 1, p. 66.

social institutions.¹⁹⁹ This raises the following question: can the Revolution end? Are France and Europe condemned to an eternal cycle of revolutions and counter-revolutions? How can you stop a revolution that is constantly unfolding?

Tocqueville observed again in 1850:

Our country is calm and more prosperous than we could believe after such violent crises. But confidence in the future is lacking and although sixty years of Revolution have made this feeling of instability less prejudicial to social progress and less painful to us than it would be to other peoples, it has nonetheless very unfortunate results. This great nation is entirely in the state of mind of a sailor at sea or a soldier in the field. It does as little of the work of each day as possible, without worrying about tomorrow. But such a state is precarious and dangerous. Moreover, it is not peculiar to us. In all of continental Europe, except Russia, you see society in labor and the old world finally falling into ruins. Trust that all the restorations of old powers that are being made around us are only temporary happenings that do not prevent the great drama from following its course. This drama is the complete destruction of the old society and in its place the creation of I do not know what human fabric whose form the mind cannot yet clearly see.²⁰⁰

Such are the circumstances surrounding Tocqueville's project of creating a new political science that would succeed in explaining the past and the

199. Tocqueville noted that Napoleon, not wanting to give democratic political laws to France, had agreed to a body of social laws much more democratic than American laws and thus, very unwillingly, had accelerated the arrival of democracy. For the same reason, the primacy of the social over the political, Tocqueville asserted: "I would believe the future of liberty more assured with a government that would have many political rights and few civil rights than with a government that would have few political rights and many civil rights." (II, p. 1230, note p).

200. Letter to Edward Everett, 15 February 1850, Massachusetts Historical Society. The preface to the 1848 edition of *Democracy* (IV, p. 1373) repeats the same idea.

"There is only a single [revolution], a revolution always the same across various fortunes and passions, that our fathers saw begin and that, in all probability, we will not see end" *Souvenirs*, OC, XII, p. 30.

future, the old regime and the new, or, to reuse his terminology, aristocracy and democracy.²⁰¹

"There is a country in the world," we read in the introduction to the first volume, "where the great social revolution that I am speaking about seems more or less to have reached its natural limits; it came about there in a simple and easy way, or rather it can be said that this country sees the results of the democratic revolution that is taking place among us, without having had the revolution itself."²⁰²

Tocqueville intends to determine whether American society offers the sole example in the world of an exceptional situation in which the ideal easily shapes the real, in which the social state coincides with the political state, in which the entire world is "a malleable material that man turns and shapes as he wills."²⁰³ On this strange continent, it seems that the dream of the French and of the Europeans can be realized without the need for a revolution,²⁰⁴ and that their abstract, rational, and theoretical principles are real, concrete, and inductive there.

But, if the exceptional physical and intellectual conditions of America alone explain the success of democracy, there is no hope that Europe could ever know the democratic state without continual revolutions.

The first impressions of the United States, especially of the West, confirm the existence of an America that does not need revolution. The American frontier, the great wilderness that extends to the Pacific Ocean, offers a space in which ideas transform reality without encountering obstacles and

201. Tocqueville's two books thus answer the desire to elucidate first the new regime and the Revolution (*Democracy*), then *L'Ancien Régime et la Révolution*.

202. I, p. 27. The same idea appears, for example, at the beginning of the second volume: "The Americans have a democratic social state and a democratic constitution, but they have not had a democratic revolution. They arrived on the soil that they occupy more or less as we see them. That is very important." II, p. 708.

203. To Ernest de Chabrol, letter of 9 June 1831, YTC, Blaz.

204. "The Americans seemed only to have carried out what our writers had imagined; they gave the substance of reality to what we were busy dreaming" *L'Ancien Régime et la Révolution*, OC, II, 1, p. 199.

in a transparent way, so to speak.²⁰⁵ Tocqueville will perfect and complicate his theory as his journey moves ahead, but the pioneer of *Democracy* especially announces the democratic man described at length in the second volume of the work.

"Everything that is good and evil in American society is found in such relief [in the West] that you would say it was one of those books published in large type to teach children to read," already notes the traveler in a letter to his mother. "Everything there is jarring and exaggerated. Nothing has yet taken its definitive place. [. . .] In the west no one has been able to make himself known or has had the time to establish his credit. Consequently democracy, without this final barrier, appears with all of its distinctive characteristics, its fickleness, its envious passions, its instability and its restless character."²⁰⁶

The pioneer is, necessarily, occupied entirely by the search for a minimum of commodities. Withdrawn from the rest of the world, isolated in his cabin, his only concern is the yield of his field on which his family's subsistence depends. Each of his movements is dictated by the necessity of the survival and the protection of his small world. His generosity toward the stranger who appears at his door is nothing more than the fruit of calculation; it comes from reason and not from the heart; it is an investment.²⁰⁷ Obsession with material well-being, individualism, and interest well understood define, apparently accidentally and temporarily, life on the frontier, but they run the risk of becoming permanent conditions for the citizen of every democratic country.

So if North America does not need revolution, it is because the process of adaptation and struggle among philosophy, social state, and political condition is non-existent. Ideas and reality coincide; reason appears covered only by the clothing of the present. In order to be free and happy, it is enough for the American to want to be so.²⁰⁸ No need for struggle or confrontation, no need for the complex interpenetration, necessarily slow, of

205. The first thing that the pioneer does is to clear his property, to chop down the trees, to open up his view. The first symbol of civilization is the absence of trees.

206. Letter of 6 December 1831, YTC, Blar, pp. 54–56, and *OCB*, VII, p. 90.

207. II, p. 1289.

208. I, p. 276.

ideas with habits and laws; nowhere are there ruins, the past, and signs of the past. "The Union . . . profits from the experience of the old peoples of Europe, without being obliged, like them, to make use of the past and to adapt the past to the present; it is not forced, as they are, to accept an immense heritage handed down by its fathers, a mixture of glory and misery, of national friendships and hatreds."²⁰⁹

The United States has the privilege therefore of being able to enjoy the results of European thought without being encumbered by the heavy baggage of history. "In America," notes Tocqueville, "society seems to live from day to day, like an army in the field."²¹⁰

Tocqueville comments on the uncommon position of the New World, which anchors it in an eternal present: "≠For the American, the past is in a way like the future: it does not exist. He sees nowhere the natural limit that nature has put on the efforts of man; according to him what is not, is what has not yet been tried.≠"²¹¹

The pioneer is, in a way, the last link in an historical chain that begins in Europe and ends in the American *wilderness*, where he inhabits a present

209. I, p. 369.

"For him [the American] the possible has hardly any limit. To change is to improve; he has constantly before his eyes the image of indefinite perfection that throws deep within his heart an extraordinary restlessness and a great distaste for the present" (II, p. 935, note b).

210. I, p. 331.

211. I, p. 643, note n.

The American inhabits a land of wonders, around him everything is constantly stirring, and each movement seems to be an improvement. So the idea of the new is intimately linked in his mind to the idea of the better. Nowhere does he see the limit that nature might have put on the efforts of man; in his eyes what is not is what has not yet been attempted (I, p. 643).

Tocqueville specifies about the frontier:

In whatever direction you looked, your eye searched in vain for the spire of a Gothic church tower, the wooden cross that marks the road, or the moss-covered doorway of the presbytery. These venerable remnants of ancient Christian civilization have not been carried into the wilderness; nothing there yet awakens the idea of the past or of the future. You do not even find places of rest consecrated to those who are no more. Death has not had the time to reclaim its sphere or mark out its field (II, p. 1346).

without limit.²¹² In the American West the principal characteristics of society are also missing: "The new states of the West already have inhabitants; society still does not exist,"²¹³ writes Tocqueville. In the West, the only common ideas and the sole bond between the most immediate past and the present are found in the weak intellectual network created by the mail and newspapers.²¹⁴

Is the destiny of democratic man to inhabit a world without social exchanges, an eternal cycle of death and emptiness, such as the American forest or the ocean,²¹⁵ a definitive present? You could think so. The pioneer clears an opening in the forest, cuts down the trees and in his field leaves the trunks that he does not take the trouble to uproot. He builds himself a cabin and marks with a subtle trace of history the woods that surround him. As soon as he disappears, nature takes back its domain. Then nothing more remains of the passage of man except "a few remnants falling into rot that in a bit of time will have ceased to exist."²¹⁶

Is this the price to pay in order to live in a world without revolution?

212. The Indians find themselves in a quite similar situation. Beaumont writes about them: "Focused on the necessity of the present and fears of the future, the past and its memories have lost all their power over them" (*Marie*, II, p. 297). Citing Clark and Cass, Tocqueville repeats the same idea: "He [the Indian] easily forgets the past, and is not interested in the future." I, p. 527, note 7. The same thing can be said about the Black race, which has left its history in another continent.

213. I, p. 86.

214. "The only historical monuments of the United States are newspapers. If an issue happens to be missing, the chain of time is as if broken: present and past are no longer joined." I, p. 331.

215. *A Fortnight in the Wilderness*, II, p. 1339.

Also "rivers . . . are roads that respect no trails." II, p. 1353.

216. *Journey to Lake Oneida*, IV, p. 1301.

Sometimes man moves so quickly that the wilderness reappears behind him. The forest has only bent under his feet; the moment he passes, it rises up again. It is not unusual, while traveling through the new states of the West, to encounter abandoned dwellings in the middle of the woods; often you find the ruins of a cabin in the deepest solitude, and you are amazed while crossing rough-hewn clearings that attest simultaneously to human power and inconstancy. Among these abandoned fields, over these day-old ruins, the ancient forest does not delay growing new shoots; the animals retake possession of their realm; nature comes happily to cover the vestiges of man with green branches and flowers and hastens to make the ephemeral trace of man disappear. (I, p. 461).

The question is posed in these terms. So the new political science that Tocqueville imagines and develops in *Democracy in America* is going to have as its first objective man's return to society and to history.²¹⁷

The Theoretician of History

It is undoubtedly difficult to find a period when the question of history attracted more attention than in the first half of the nineteenth century. Uncertainty about the future forces minds to look back: you had to try to place the Revolution in history, to assimilate it as the past, to understand it. In order to do this, liberals, like conservatives, court Clio. Politicians make history and write it; poets and novelists who claim to be historians capture imaginations and, at times, get involved in politics; all offer the world an uncommon example of political practice and political theory.

While Burke and the conservatives explain that the French Revolution was nothing more than an aberration that, far from history, broke its rhythm, the liberals concentrate their efforts on demonstrating the inevitable character of history. At first view, Tocqueville places himself on this side because he seems to follow the liberal theory of the inevitability of history and particularly the historical interpretation of Guizot.

There is no qualifying term that has been more often associated with Tocqueville, the historian-politician, than that of fatalist. Certain critics have spoken about determinism²¹⁸ or providentialism; others have sought reasons of a pedagogic nature in his use of the idea of the inevitable movement toward equality of conditions.²¹⁹ How can Tocqueville, who hates all forms of fatalism, who speaks of liberty as an almost holy thing, who asserts

217. Ampère said with a great deal of wisdom about *Democracy*: "In short, at the core of the whole book stirs the question of time" (*Correspondance avec Ampère*, OC, XI, p. xvi).

218. Jean-Claude Lamberti, *La notion d'individualisme chez Tocqueville* (Paris: PUF, 1970).

219. Marvin Zetterbaum, *Tocqueville and the Problem of Democracy* (Stanford: Stanford University Press, 1967), p. 17. Cf. I, pp. 10–12, note q.

that the goal of his book is to reveal very clearly that “whatever the tendencies of the social state, men can always modify them and ward off the bad tendencies while appropriating the good,”²²⁰ how can this same Tocqueville talk at the same time about an “irresistible movement” of democracy and make it a “providential fact”?

At once simple and complex, his answer consists of saying that inevitability concerns only the arrival of social equality. With him, and with a certain number of others, this fact receives the name democracy. In the sense that, in the long run, social equality produces legal and political equality, Tocqueville's theory can be called deterministic, and the arrival of democracy is inevitable. Once intellectual equality is proclaimed (each man has the same faculties for attaining truth as another), the transformation of social and political conditions is no more than a question of time; in terms of Tocqueville's thought, it is inevitable and even desired by God.

Once you eliminate all secondary causes, Tocqueville continues, all the revolutions in the world have been and are made for the sole purpose of increasing or decreasing equality, which is the foundation or the generating fact of the revolutionary motor. Revolutions have always consisted and still consist of setting the rich against the poor and the poor against the rich.

But this determinism, which is as much logical as historical, is in no way incompatible with the passionate defense of liberty, because, for Tocqueville, the movement toward equality is independent of the development of liberty. The latter is the true human element of historical change. In other words, the inevitability of democracy, understood as the adaptation of the political state to the social state, does not determine the historical evolution of liberty: equality is as good an ally of despotism as of liberty.

So the presumption of attaining equality of social and political conditions makes the classical typology of political regimes meaningless. Whether it takes the form of public opinion or whether it presents itself as it is,

220. II, p. 694, note m.

sovereignty of the people makes possible only two types of regimes: the republican (or liberal) regime or the despotic regime, liberty or despotism. In the face of this alternative, it is man who chooses and not destiny that imposes.

This understanding of history, as Marx remarked, puts Tocqueville closer to Bossuet than to Guizot.²²¹ Like the bishop of Meaux, Tocqueville believes that all the facts of history obey a divine plan, the meaning of which escapes us, but one that men can predict and whose general tendencies they can discover.²²²

The action of man, says Tocqueville, always takes place within a narrow circle. It has no meaning if it is situated outside this space. Even if man is incapable of imagining what is going to follow, of reading the plans of Providence, he can, within the domain reserved to him, recognize a law of the evolution of history and of intelligence.

The final stage, that of equality, closes the cycle of history. At the beginning of history, man, isolated and savage, is equal to his fellows in barbarism. He has no need of government.

There are few peoples who can do without government in this way. Such a state of things has never been able to subsist except at the two extremes of civilization. The savage man, who has only his physical needs to satisfy, counts only on himself. For the civilized man to be able to do the same, he must have reached the social state in which his enlightenment allows him to see clearly what is useful for him, and in which his passions do not prevent him from acting on it."²²³

So the absence of government and equality are found only at the two ends of civilization: "Savages are equal among themselves because they are

221. The Anglophile attitude of Guizot bothered Tocqueville, who was incapable of accepting that the model of the English revolution was applicable to France. These differences of opinion did not pass unnoticed. After the publication of the *Democracy* of 1840, Guizot wrote to his former student: "Why don't we think alike? I do not find any good reason." Roland-Pierre Marcel, *Essai politique sur Alexis de Tocqueville* (Paris: Félix Alcan, 1910, p. 319). Also see Aurelian Craiutu, *Liberalism Under Siege* (Lanham, Maryland: Lexington Books, 2003).

222. See Bossuet, *Discours sur l'histoire universelle*, part III, section II, entitled: "The revolutions of empires have particular causes that princes must study."

223. *Voyage*, pp. 89–90.

all equally weak and ignorant. Very civilized men can all become equal because they all have at their disposal analogous means to attain comfort and happiness."²²⁴

For Tocqueville, as we see, history is neither the progressive, rational, and necessary development of the idea of liberty, nor the advance, impossible to contain, of the middle classes, as Guizot thought. The author of *Democracy* notes a form of liberty appropriate to each period and each country.²²⁵ Liberty understood in this way is therefore as ancient, as Madame de Staël calls it, as it is modern, as Benjamin Constant describes it. So post-revolutionary liberty is not and cannot be that of the Old Regime.²²⁶ In the same way, a form of despotism corresponds to each period.

The novelty of Tocqueville's theory is to assert that in order to reach the final stage of history, the point at which true equality and liberty coincide, the aristocratic stage is absolutely necessary as an intermediate moment. If "it is in losing their liberty that men acquired the means to reconquer it,"²²⁷ true liberty always requires passing by way of servitude.

This constitutes a first way to put face to face the Old Regime and democracy, to make aristocracy an inevitable moment of history, and then to move beyond it. If, in the state of barbarism, men cannot become civilized

224. "Mémoire sur paupérisme," republished in *Commentaire*, 30, 1985, p. 633.

225. "I would regard it as a great misfortune for humankind if liberty, in all places, had to occur with the same features." I, p. 513.

226. Guizot had, however, distinguished between two forms of liberty: 1. Liberty as independence of the individual, who has only his own will as law. This is the barbaric and anti-social liberty of the childhood of nations, natural liberty. 2. Liberty as independence from any will that is different and contrary to reason. Moral liberty or liberty by right. The survival of society demands the submission of all individuals to a common rule that cannot exist if natural liberty subsists to its full extent. *Journal des cours publics de jurisprudence, histoire et belles-lettres* (Paris: au bureau du journal, 1821-1822), I, pp. 248-52, lecture 23.

227. "I ≠{think that it is in losing their liberty that men acquired the means to reconquer it}≠ that it is under an aristocracy or under a prince that men still half-savage have gathered the various notions that later would allow them to live civilized, equal and free." II, p. 879, note f.

as long as they are equal,²²⁸ it is aristocracy that, by creating a class free to dedicate itself to the works of the mind, can invent the general and universal ideas that will lead to its own destruction and to the appearance of democracy (understood as equality of conditions).

The first step toward equality was taken in the Middle Ages when peoples began to travel, to enter into contact with each other, to imitate each other. Each nation little by little lost confidence in its particular laws and in its own organization; the idea of rules common to everyone occurred to men. France placed itself at the head of these intellectual, moral, and political changes, even if the impulse that gave them birth was more European than specifically French.

If the course of history follows the change in mentalities which is, in turn, the effect and the cause of the social state,²²⁹ and if the latter little by little transforms the political state, that is to say, laws and institutions, then it is not surprising that Tocqueville devotes the first pages of *Democracy* to philosophy.

A Philosophy of Action

Perhaps the word *philosophy* is not totally accurate when applied to the theory of Tocqueville, who said that he had a horror of philosophy and who wrote: "Philosophy is in fact only the complete exercise of thought separate from the practice of action."²³⁰

Tocqueville's very principle is to draw everything out of himself. He does the work of a researcher and does not neglect brochures, reports, collections of laws. But the list of works consulted in the writing of *Democracy in America* does not include books of philosophy.²³¹

228. "If nations had begun with democratic government, I doubt they would ever have become civilized." I, p. 332.

Even industry follows this general law of evolution. The manufacturing aristocracy is the equivalent of the landed aristocracy. II, p. 980, note b.

229. Economic conditions are part of the social state, and Tocqueville judges them to be of secondary interest.

230. II, p. 739, note c.

"For no one is less philosophical than I, who preaches to you." *OCB*, VI, p. 370.

231. See vol. IV, pp. 1377–95.

Tocqueville does not like philosophy. He calls it the "essence of all gibberish,"²³² and a "voluntary torment that man consented [cf. note 242 below] [. . .] to inflict on himself."²³³

The matter is clear from the beginning of the work of writing the introduction to *Democracy*. "The author of this work," we read in a draft, "wanted to write a book of politics and not of philosophy."²³⁴

The imperatives of the history of France forbid Tocqueville, as politician and as the author of *Souvenirs*, to forget the practical side of political theory. Thought separated from action is philosophy. For Tocqueville, reflection joined to practice constitutes the nature of what he calls his "political science."²³⁵ This does not prevent him, however, from falling into the trap of the celebrated aphorism of Pascal: "To mock philosophy is truly to philosophize."²³⁶

The philosophic aspect of Tocqueville's thought appears in the form of anti-positivism.²³⁷ "≠In all human events," he writes, "there is an immense portion abandoned to chance or to secondary causes that escapes entirely from forecasts and calculations.≠"²³⁸

Tocqueville's certitude about an impenetrable divine plan and his religious beliefs prevent him from falling into the sensual philosophy of the period and into positivism.²³⁹ He accepts the existence of absolute ideas as

232. Draft of a letter to Le Peletier d'Aunay, 8 November 1831, YTC, B1a2.

233. To Charles Stoffels, 22 October 1831, YTC, B1a1, and OCB, VII, pp. 83–84. See OCB, VI, p. 370.

234. YTC, CVk, 1, p. 73.

235. Tocqueville thinks that Thomas More would not have written *Utopia* if he had been able to change the government of England. He also thinks that the Germans do philosophy because they cannot generalize their ideas in politics (II, p. 727, note b).

236. *Pensée* 513 (Ed. Lafuma). Cited by Luis Díez del Corral, *El pensamiento político de Tocqueville*, p. 42.

237. The predilection of Tocqueville for Plato is symptomatic: "I consider him a poor politician, but the philosopher has always appeared to me superior to all others and his aim, which consists of introducing morality as much as possible into politics, admirable." *Correspondance avec Kergorlay*, OC, XIII, 1, p. 41. Cf. *Correspondance avec Beaumont*, OC, VIII, 1, p. 292.

238. I, p. 574, note b.

239. "There is nothing so difficult to appreciate as a fact." I, p. 343.

"The world is a book entirely closed to man." I, p. 383, note m. Also see I, p. 574.

well as their unknowable character.²⁴⁰ A first conclusion results: every system, every man that claims to discover absolute truth is, for that reason alone, in error; you can advance only hypotheses.

There is no man in the world who has ever found, and it is nearly certain that none will ever be met who will find the central ending point for, I am not saying all the beams of general truth, which are united only in God alone, but even for all the beams of a particular truth. Men grasp fragments of truth, but never truth itself. This admitted, the result would be that every man who presents a complete and absolute system, by the sole fact that his system is complete and absolute, is almost certainly in a state of error or falsehood, and that every man who wants to impose such a system on his fellows by force must *ipso facto* and without preliminary examination of his ideas be considered as a tyrant and an enemy of the human species.²⁴¹

If absolute truth existed, the constant, complex interconnections of the elements of the motor of history would cease. The consequence of this provisional nature of all intellectual study is doubt, which Tocqueville considers characteristic of man, and in particular of philosophy.²⁴²

On this point, he summarizes his thought in this way for Charles Stoffels:

240. "Of all beings, man is assuredly the one best known; and yet his prosperity or miseries are the product of unknown laws of which only a few isolated and incomplete fragments come into our view. Absolute truth is hidden and perhaps will always remain hidden." I, p. 263.

We again see the imprint of Pascal in this attitude of Tocqueville: "The final step of reason is to recognize that an infinite number of things surpass it. It is weak only if it does not go far enough to know that." Ed. Lafuma, *pensée* 373.

241. "The great Newton himself resembles an imbecile more by the things that he does not know than he differs from one by the things that he knows." II, p. 715, note f.

242. "I consider this doubt as one of the greatest miseries of our nature; I place it immediately after illnesses and death. But because I have that opinion of it, I do not understand why so many men impose it on themselves without cause and uselessly. That is why I have always considered metaphysics and all purely theoretical sciences, which serve for nothing in the reality of life, as a voluntary torment that man consented to inflict on himself." Letter to Charles Stoffels, 22 October 1831, YTC, Blat and *OCB*, VII, pp. 83–84.

When I began to think, I believed that the world was full of demonstrated truths; that it was only a matter of looking carefully in order to see them. But when I applied myself to considering things, I no longer saw anything except inextricable doubts. [. . .] I ended by convincing myself that the search for absolute, *demonstrable* truth, like the search for perfect happiness, was an effort toward the impossible. Not that there are no such truths that merit the entire conviction of man; but be assured that they are very few in number. For the immense majority of points that are important for us to know, we have only probabilities, only approximations. To despair about this is to despair about being a man; for that is one of the most inflexible laws of our nature.²⁴³

The creator of an idea, Tocqueville also believes, is always more uncertain of its truth than his disciples. He knows its defects; he knows the elements that can invalidate its existence. But very few men in democratic times can devote their life to the search for great intellectual truths; and if they do so, they are very much required nonetheless to use general ideas to guide their conduct.²⁴⁴ It follows that the best way to avoid absolute and excessively general ideas is to force each man to occupy himself with ideas, with thinking, with feeling his way, and: "when, tired of looking for what makes his fellows act, he [man] tries hard at least to untangle what pushes himself, he still does not know what to believe. He travels across the entire universe and he doubts. He finally comes back toward himself, and obscurity seems to redouble as he approaches and wants to understand himself."²⁴⁵

As this conviction about the absence of absolute, demonstrable truths becomes deeper with Tocqueville, it seems to impose its own logic on the

243. *Ibid.*, pp. 82–83.

244. "So general ideas are only means by the aid of which men advance toward truth, but without ever finding it. You can even say that, to a certain extent, by following this path they are moving away from it." II, p. 728, note c.

245. II, p. 840, note v.

"There is no being in the world that I know less than myself. For me, I am constantly an insoluble problem. I have a very cold head, and a reasoning, even calculating mind; and next to that are found ardent passions that sweep me along without persuading me, mastering my will, while leaving my reason free." Letter to Eugène Stoffels, 18 October 1831, OCB, V, p. 422.

writing of *Democracy*: "You know that I do not take up the pen with the settled intention of following a system and marching at random toward a goal," he observes; "I give myself over to the natural movement of my ideas, allowing myself to be led in good faith from one consequence to another. The result is that, as long as the work is not finished, I do not know exactly where I am going and if I will ever arrive."²⁴⁶ The rhythm of the book becomes in fact more and more staccato; the brief chapters of the second *Democracy* turn into [*ricordi*, Italian for "souvenirs"; reference to Machiavelli's *Ricordi*.] *thoughts*, almost as if the presentation of a theory without solution required a brief and fragmentary form of writing.

So Tocqueville's philosophic ideal is the man who is feeling his way, who judges himself to be incomplete and makes doubt his natural state, while the democratic ideal is the man who can change everything because he has a blind faith in reason and in the philosophic method.

Regarding himself, the author will note for example:

I do not need to travel across heaven and earth to find a marvelous subject full of contrast, of grandeur and infinite pettiness, of profound obscurities and singular clarity, capable at the same time of giving birth to piety, admiration, contempt, terror. I have only to consider myself. Man comes out of nothing, passes through time, and goes to disappear forever into the bosom of God. You see him only for a moment wandering at the edge of the two abysses where he gets lost.²⁴⁷

Tocqueville does not, however, share the anti-rationalism of conservative theories. What he fears in democracy is not reason, but anti-rationality. Later he will blame the *philosophes* for the same thing: "Truly speaking, some of these *philosophes* adored human reason less than their own reason. Never did anyone show less confidence in common wisdom than those men."²⁴⁸

For Tocqueville, in contrast to Guizot, the rise of the middle classes is not the arrival of political reason, but of rational individualism, which in

246. Letter to Mill, 19 November 1836, *OC*, VI, 1, p. 314.

247. II, p. 840.

248. *L'Ancien Régime et la Révolution*, *OC*, II, 1, p. 306. We could say that Tocqueville fears that the men of democracies are being transformed into little *philosophes*.

the end equates with the absence of reason. The *philosophes* understood nothing more than the voice of individual reason. As for democratic man, he runs the danger of believing that he is following his own reason when he is only blindly obeying the opinion of the majority.

The best way to avoid excesses in the matter of general ideas, the predominance of thought separated from action, is to force men to enter into practice. That is the advantage of true democracy. It forces each citizen to occupy himself in a practical way with government and moderates the tendency to create the general ideas in politics that equality produces; it provokes uncertainty in this way.

Tocqueville fears in fact that history will pass from the total predominance of action, which is characteristic of barbaric peoples who know only the practice of politics, to the triumph of theory separated from all forms of practice.²⁴⁹

But criticism of philosophy is not just a matter of methodology; it does not consist solely of blaming philosophy for a lack of connection with practice. In the drafts of *Democracy* there is a detailed reflection on the birth of general ideas.

For Tocqueville, the attempt of democracies to seek general ideas in the domain of politics arises out of an unwarranted application of the method of Descartes and Bacon to matters for which those methods are not made;

249. And more especially, from a simplistic philosophy characteristic of an intermediate period that wants to explain everything with a single principle and that is embodied as much in the fatalism of the theories of democratic historians as in administrative centralization.

Simplicity of means in politics is a product of human weakness. Tocqueville wants men to be able to combine a large number of means to reach an end. According to him, beauty is not in simplicity of means, but in complexity, which is nothing more than imitating God, who creates with a multiplicity of agents and places "the idea of grandeur and perfection not in executing a great number of things with the help of a single means, but in making a multitude of diverse means contribute to the perfect execution of a single thing." II, p. 740, note d.

"Centralization is not at all the sign of high civilization. It is found neither at the beginning nor at the end of civilization, but in general in the middle." II, p. 799, note e. The idea of unity is appropriate to a middle state. The echo of Pascal and of multiplicity in unity is clear.

the attempt arises out of an extension of the presumption of rationality, foreseeability, and recurrence to matters that do not have these qualities.

That is especially dangerous in the case of equality. The lack of debate about the principle of equality (which is the principle *par excellence* since it comes down to the principle of identity) ends up by imposing a structure in which reason and confrontation are lacking. Aggravated, the individual mind kills reason and its relation to practice, and with it liberty and political confrontation.

The exaltation of individual reason can break the bond between ideology, social condition, and political organization, and lead to the immobility of the social system and ultimately to the end of history. For this reason, far into the second volume and once the foundations of his criticism of democratic thought have been explained, Tocqueville can declare that what he most fears in democracies is not revolutions, but apathy.²⁵⁰

When the tendency to create philosophical systems that are separated from practice becomes general, there is also the danger that theory will not find reality adaptable; it will become always more removed from action and more utopian, and will end up by taking the place of political reality; and men, tired of facing the difficulties of action, will take refuge in theory.²⁵¹

In this case, political theory can little by little come to resemble a religion, a doctrine applicable to all individuals and all nations, because it has considered man in an abstract way and has studied his general political rights and duties in all periods and all countries.²⁵² The dream of reason lives

250. II, p. 1150, note x.

251. This is an idea that has a very important place in the explanation of the importance of intellectuals during the Revolution, but that already appears in *Democracy*. See II, p. 727, note b.

252. The French Revolution created a body of independent ideas that were easy to transmit. Tocqueville observes that "it formed, above all particular nationalities, a common intellectual country in which the men of all nations could become citizens." *L'Ancien Régime et la Révolution*, OC, II, 1, p. 87. He also asserts that the Revolution was a religious revolution because it developed a corpus of doctrines that, like a religion, can be applied indiscriminately to all men and to all peoples, because it considered man in the abstract, like all religions, and his general political rights and obligations. *Ibid.*, pp. 88ff.

outside of time, and when it coincides with the predominance of equality over liberty, it ends up by enclosing man within the solitude of his own heart:²⁵³ "So each person withdraws narrowly into himself and claims to judge the world from there. . . . Since they [the Americans] see that they manage without help to solve all the small difficulties that their practical life presents, they easily conclude that everything in the world is explicable, and that nothing goes beyond the limits of intelligence."²⁵⁴

Democratic man is completely immersed in tasks of a practical type, because democracy takes him away from theory and confines his activities to the economic domain; he no longer believes in anything except his own reason. This tendency, combined with the search for material well-being, takes him away from political activity and predisposes him naturally to accept the opinion of the majority.

Tocqueville notes:

As citizens become more equal and more similar, the tendency of each blindly to believe a certain man or a certain class decreases. The disposition to believe the mass increases, and more and more it is opinion that leads the world. . . . In times of equality, men, because of their similarity, have no faith in each other, but this very similarity gives them an almost unlimited confidence in the judgment of the public; for it does not seem likely to them that, since all have similar enlightenment, truth is not found on the side of the greatest number. When the man who lives in democratic countries compares himself individually to all those who surround him, he feels with pride that he is equal to each of them; but, when he comes to envisage the ensemble of his fellows and to place himself alongside this great body, he is immediately overwhelmed by his own insignificance and weakness. This same equality that makes him independent of each one of his fellow citizens in particular, delivers him isolated and defenseless to the action of the greatest number.²⁵⁵

253. "Thus, not only does democracy make each man forget his ancestors, but it hides his descendants from him and separates him from his contemporaries; it constantly leads him back toward himself alone and threatens finally to enclose him entirely within the solitude of his own heart." II, p. 884.

254. II, p. 701.

255. II, p. 718.

America, Tocqueville also says, has escaped these problems for the most part, thanks to exceptional circumstances, the intellectual influence of England, and the strength of religion.

The unusual physical conditions of the Americans, which place them in a universe that is malleable and can be transformed at will, often allow them to avoid the intellectual tensions of European societies. An American who is not satisfied with his position can always leave his home and go to the West where he can easily create a new life for himself. That is how an idea easily transforms reality, and why the forces that resist that transformation are weak.

The intellectual influence of England serves to assure the general development of thought. Tocqueville observes that, strictly speaking, the Americans do not have a literature and an intellectual class, but he does not see that condition as necessarily peculiar to democracy. How can a democracy be intellectual if the example of the United States proves the opposite? Because the Americans find their ideas and their books in Europe, just like their philosophy and their religion. They put all of that into practice in the New World. The American intellectual class is found therefore on the other side of the Atlantic. The Americans are only the part of the English population that works on the conquest of America:²⁵⁶ "I consider the people of the United States as the portion of the English people charged with exploiting the forests of the New World, while the rest of the nation, provided with more leisure and less preoccupied by the material cares of life, is able to devote itself to thought and to develop the human mind in all aspects."²⁵⁷

Thus, the United States forms the non-intellectual part of a European people and constitutes a society composed solely of representatives of the middle class. Aristocracy remains on the European shore. In this way Tocqueville connects theory and practice, while avoiding having the Amer-

256. American society depends therefore on the intellectual situation of England. It follows that during its formative years, democracy in the United States does not have the following ingredient necessary for social change: the production of new ideas.

257. II, p. 768. And more particularly of the middle class: "≠America forms like one part of the middle classes of England≠" II, p. 767, note f. Also see II, p. 805, note j.

icans serve as an example of the pernicious effects of democracy that his book announces.²⁵⁸ The United States certainly does not innovate in philosophy, in literature, or in the aesthetic domain, but this situation is not due to the fact that the Americans belong to a democratic society, writes Tocqueville; the reason is that they devote themselves exclusively to business,²⁵⁹ or again, that they are showing only the interests and faults of the middle class.

Tocqueville believes, however, in the existence of man's natural taste for things of the mind: "The mind of man left to itself leans from one side toward the limited, the material and the commercial, the useful, from the other it tends without effort toward the infinite, the non-material, the great and the beautiful."²⁶⁰

Within the American framework, it is not impossible that an educated and free class will come about, a class that, having the necessary time and money, will be able to devote itself to intellectual work, to encourage and promote literature and the arts.²⁶¹

Religion, the last element peculiar to the American democratic situation, prevents the Americans from falling into the error of trying to apply the principles of rationalist philosophy to matters that are not suited to such principles.²⁶² For Tocqueville, philosophy is liberty, all that the individual discovers thanks to his own efforts; religion, which covers all that is accepted without discussion, is servitude.²⁶³ Excess of the first leads straight to intellectual individualism and to a state of permanent agitation that opens onto anarchy. Religion, which becomes more and more necessary as philosophy develops, can, by its excessive character, lead to intellectual dogmatism and immobility.

258. Thus, in the case of America, the tension between aristocracy and democracy at the level of general principles also occurs, a mechanism that we will return to. Tocqueville needed England to explain how the American model combines democratic and aristocratic principles.

259. II, pp. 786–87, note p.

260. II, p. 769, note g. We see that here, too, Pascal is not far away.

261. II, p. 772.

262. In the intellectual world, the rivalry between religion and philosophy (authority/liberty) is a variant of the opposition aristocracy/democracy. See II, p. 711, note b.

263. II, p. 724, note s.

But even if that seems paradoxical at first glance, religion, precisely for this reason, is the necessary condition for man to be able to devote himself to practical works.²⁶⁴

"For me," declares Tocqueville, "I doubt that man can ever bear complete religious independence and full political liberty at the same time; and I am led to think that, if he does not have faith, he must serve, and, if he is free, he must believe."²⁶⁵ So if religious beliefs place man in relative servitude, they enclose him in the circle within which he is able to exercise his reason; and, by limiting the action of his mind to the practical circle within which it must function, they force him into action and free his intelligence by reducing his dependence on the general ideas of the majority:²⁶⁶

A religion is a power whose movements are regulated in advance and that moves within a known sphere, and many people believe that within this sphere its effects are beneficial, and that a dogmatic religion better manages to obtain the desirable effects of a religion than one that is rational. The majority is a [illegible word] power that moves in a way haphazardly and can spread successively to everything. Religion is law, the omnipotence of the majority is arbitrariness.²⁶⁷

264. "Man needs to believe dogmatically a host of things, were it only to have the time to discuss a few others of them. This authority is principally called *religion* in aristocratic centuries. It will perhaps be named *majority* in democratic centuries, or rather *common opinion*." III, p. 720, note p.

265. III, p. 745.

266. "During centuries of fervor, men sometimes happen to abandon their religion, but they escape its yoke only to submit to the yoke of another religion. Faith changes objects; it does not die." I, p. 485. Tocqueville fears in this sense that the opinion of the majority will someday become a cult.

267. II, p. 721, note 1.

Religion is an authority (illegible word) to humanity, but manifested by one man or one class of men to all the others, who submit to it. Common opinion is an authority that is not prior to humanity and that is exercised by the generality of men on the individual.

The source of these two authorities is different, but their effects come together. Common opinion, like religion, gives ready made beliefs and relieves man from the unbearable and impossible obligation to decide everything each day by himself. These

In the context of these ideas, Tocqueville asks himself whether Catholicism is the religion that suits democratic times. He is convinced that Catholicism can be proved by the philosophical method of the eighteenth century.²⁶⁸ But he needs to assure the reader that the multiplication of religions is not going to lessen the importance of religious ideas and of their relation to liberty. Otherwise, it would be impossible for religion to fulfill the limiting role that Tocqueville gives it. That approach produces a difficulty however: religion is accepted rationally, as philosophy, and not as religion; it is not the result of an act of faith. Only the idea, rather unjustified, that solely "minds of the second rank" will apply to religion the principles of the philosophy of Descartes (and this will above all be the case of Protestantism²⁶⁹), seems to save Tocqueville from a clear misconception in his explanations.²⁷⁰

The intellectual anarchy that you could think is the necessary result of the daily use of the Cartesian method is, on the contrary, more characteristic of periods of revolution than of those in which democracy reigns.²⁷¹ Reason, by definition majoritarian, in the end produces characters and opinions that coincide in a certain way.

beliefs were originally discussed, but they are no longer discussed and they penetrate minds by a kind of pressure of all on each (II, p. 720, note p).

268. All the American sects have a core of common ideas. I, p. 473.

269. "I have always believed, you know, that constitutional monarchies would arrive at the republic; and I am persuaded as well that Protestantism will necessarily end up at natural religion." Letter to Ernest de Chabrol, 26 October 1831, YTC, B1a2.

270. Tocqueville speaks of a convention that checks the spirit of innovation at the doors of religion. This idea is the result of a personal reflection, but at the beginning of the second volume he notes: "if you look very closely, you will see that religion itself reigns there much less as revealed doctrine than as common opinion." II, p. 720. Therefore the foundations of religion are not religious, but philosophic, in the sense that the author gives to that word.

"The moral dominion of the majority is perhaps called to replace religions to a certain point or to perpetuate certain ones of them, if it protects them. But then religion would live more like common opinion than like religion. Its strength would be more borrowed than its own." *Ibid.*, note p.

271. II, p. 708, note t.

Here Tocqueville seems to find in democracy a reason for optimism that does not well fit the aristocratic vision that is sometimes imputed to him. In order for the intellectual anarchy that he believes is revolutionary to disappear, the majority of citizens must exercise their reason. But the author himself recognizes that the power that directs the mass will always be aristocratic because, as he says repeatedly, it is impossible for all men to have the time and leisure necessary to occupy themselves with works of the mind.

This way of seeing allows Tocqueville to avoid the eclecticism of Cousin. Eclecticism is the government of the middle class introduced to philosophy. The ideas of Tocqueville do not combine well with this philosophy of the *juste milieu*. But if Tocqueville's aristocratic nature pushes him to reject philosophic eclecticism, it does not prevent him from constructing a philosophy of the *middle (milieu)* that is his own. He places this principle of "life in the middle" between the two excesses of reason that in his view are represented by Heliogabalus and Saint Jerome.²⁷²

Here it was a matter of restoring man to history and society; now it is going to be a matter of restoring him to reason.

The Reign of Total Reason

In democracies, equality reaches and penetrates every aspect of life.²⁷³ Equality of minds, equality of conditions and sovereignty of the people

272. See II, p. 960, note k, and p. 1281, note e.

273. When Tocqueville speaks about the existence of equality in America, he means the sentiment of not being inferior to anyone and not the equal division of wealth or power. In an interesting commentary on American equality, placed in travel notebook E and from which we can quote only an extract, he explains this difference: "Men, in America as with us, are ranked according to certain categories in the course of social life; common habits, education and, above all, wealth establishes these classifications; but these rules are neither absolute, nor inflexible, nor permanent. They establish temporary distinctions and do not form classes strictly speaking; they give no superiority, even of opinion, to one man over another." YTC, BIIa, and *Voyage* (OC, V, 1), p. 280.

The explanation of the sentiment of equality that Beaumont gives in a note in *Marie* (I, pp. 383–90) seems equally clear on this point. But certain historians have seen in Tocqueville the model of an egalitarian society. See particularly Edward Pessen, *Jack-*

are its three constituent elements. But the reign of total reason, in which tyranny of public opinion, the pursuit of well-being, and political apathy combine and toward which the democratic regime seems to go, does not cease to frighten Tocqueville.

That is because what emerges there is a world without society, an individual without individuality, an omnipotent state that separates citizens from each other and that promotes the absence of shared ideas and sentiments;²⁷⁴ in other words, a new form of despotism that, if it still lacks a name, has all the characteristics of a new state of nature.²⁷⁵

In this new despotism, society disappears and loses its power as a creator of change and protective filter of state action. The individual finds himself isolated in the face of the action of the political power that, as the expression of the social state, is also his master and his guardian. This political power, by destroying every center of resistance, finishes by coinciding with society and occupying its place,²⁷⁶ until we are confronted only by either the isolated individual or individuals as an entire group: "In democracy you see only *yourself* and *all*."²⁷⁷

This despotism is not a type of government with its own form, as Montesquieu thought. For Tocqueville, it is the negation of all political and social forms. In this, the author recognizes his debt to Rous-

sonian America: Society, Personality, and Politics (Homewood, Ill.: Dorsey, 1969); "The Egalitarian Myth and the American Social Reality: Wealth, Mobility and Equality in the 'Era of the Common Man,'" *American Historical Review* 76, no. 4 (1971): 898-1034; and "Tocqueville's Misreading of America, America's Misreading of Tocqueville," *Tocqueville Review* 4, no. 1 (1982): 5-22; Irving M. Zeitlin, *Liberty, Equality and Revolution in Alexis de Tocqueville* (Boston: Little, Brown and Company, 1971), 57-62.

274. "Sentiments and ideas are renewed, the heart grows larger and the human mind develops only by the reciprocal action of men on each other." II, p. 900.

275. Referring to Hobbes, Tocqueville wonders: "what is a gathering of rational and intelligent beings bound together only by force?" I, p. 389.

276. "Despotism would not only destroy liberty among these people, but in a way society." II, p. 889, note f.

277. II, p. 718, note m. Here we see Rousseau's man divided between himself and society.

seau²⁷⁸ and diverges from the main current of classical liberalism by putting historical linearity in doubt. The state of nature is found as much in a final phase of history as in a pre-historic moment; it is at once pre- and post-social.

But this new condition that we have compared to the state of nature is different from the latter in an important way. By recognizing only the capacities of individual reason alone, man falls into individualistic rationalism; but at the same time, he has total confidence in common opinion, because he is pushed by the need for dogmatism that is inherent in his existence:²⁷⁹ "Faith in common opinion is the faith of democratic nations. The majority is the prophet; you believe it without reasoning. You follow it confidently without discussion. It exerts an immense pressure on individual intelligence."²⁸⁰

278. Here [in despotism] is the final outcome of inequality, and the extreme point that closes the circle and touches our starting point. This is where all individuals again become equal, because they are nothing, and where, since the subjects have no other rule than the will of the master and the master has no other rule than his passions, the notions of good and the principles of justice disappear yet again. Everything here leads to the law of the strongest alone and consequently to a new state of nature different from the one where we began; the first was the state of nature in its purity, and the second is the fruit of an excess of corruption. Yet there is so little difference between these two states, and the contract of government is so dissolved by despotism, that the despot is the master only as long as he is the strongest; and as soon as the despot can be driven out, he has no grounds to protest against violence. The riot that ends by strangling or dethroning a sultan is an act as lawful as those by which the day before he disposed of the lives and goods of his subjects. Force alone maintained him; force alone overthrows him.

J.-J. Rousseau, *Discours sur l'origine et les fondements de l'inégalité*, in *Oeuvres complètes* (Paris: Pléiade, 1964), III, p. 191. See below, I, p. 231, note z.

279. If man was forced to prove to himself all the truths that he uses every day, he would never finish doing so; he would wear himself out with preliminary demonstrations without advancing; as he has neither the time, because of the short span of his life, nor the ability, because of the limitations of his mind, to act in this way, he is reduced to holding as certain a host of facts and opinions that he has had neither the leisure nor the power to examine and to verify for himself, but that those more clever have found or that the crowd adopts. On this foundation he builds himself the structure of his own thoughts. It is not his will that leads him to proceed in this manner; the inflexible law of his condition compels him to do so. II, p. 714.

280. II, p. 720, note p.

The common sense of the democrat operates in the narrow field in which he has some knowledge and where he is able to put that knowledge into practice. But, in the areas where men are not involved, they accept general ideas that they have not thought of themselves; and in this way, the world, except for the narrow field in which each man is enclosed, "ends up being an insoluble problem for the man who clings to the most tangible objects and who ends up lying down on his stomach against the earth out of fear that he, in turn, may come to miss the ground."²⁸¹

Democratic despotism is therefore the exaltation of the individual and of society. It is a double state of nature in which men enter into relation with each other almost exclusively through the mathematical power of interests and through the most faithful expression of that power, which is money; in this double state of nature, society imposes its opinions on its members with a completely unheard of force.

From another perspective, the logic of reason invades the heart of man, eliminating many of his passions and modifying certain of his sentiments, transforming for example his egoism into individualism,²⁸² or his generosity into interest well understood. The State, for its part, by making use of the first rational principle, which is that of unity—the expression of the principle of identity that is contained in the idea of equality—and that of centralization, imposes its forms and opinions with a speed and effectiveness previously unknown.

Democratic despotism thus takes men away from political practice by leading them exclusively toward the pursuit of material well-being, which tends to separate them more and more from each other.²⁸³ In the

281. II, p. 1370.

282. "Egoism, vice of the heart. Individualism, of the mind." II, p. 882, note d.

283. Tocqueville learned from Guizot that the barbarians of the IVth century acted in the same way: "It is not by exterminating the civilized men of the IVth century that the barbarians managed to destroy the civilization of that time. It was enough for them to come between them so to speak and by separating them to make them like strangers to one another." II, p. 896, note c.

"There is a society only when men consider a great number of objects in the same way; when they have the same opinions on a great number of subjects; when, finally, the same facts give rise among them to the same impressions and the same thoughts." I, p. 598. Also see note y on the same page.

end, "men are no longer tied together except by interests and not by ideas."²⁸⁴

By separating man from his fellows, this new form of despotism brings about a clear break in the flow of the ideas and opinions that nourish society and history. For "the circulation of ideas is to civilization what the circulation of blood is to the human body";²⁸⁵ and despotism, by interrupting this movement, creates a society that is no longer composed of anything except solitary social molecules.

"In a society of barbarians equal to each other," recalls Tocqueville, "since the attention of each man is equally absorbed by the first needs and the most coarse interests of life, the idea of intellectual progress can come to the mind of any one of them only with difficulty."²⁸⁶

The old despotism was realistic. Facts were its foundation, and it made use of them. It oppressed the body, but the soul escaped its tyrannical enterprise. The new despotism has the perfidious principle of leaving the body free and oppressing the soul.²⁸⁷ While the legal and political tyranny of the majority is the modern version of the old despotism, the new despotism is the mental and social tyranny of the majority, which affects the social state, habits, and mores. Thus the damage caused by the tyranny of opinion is much greater, because this new type of despotism touches on the sources of the movement of history and society, as well as on what is most proper to the individual.

284. II, pp. 708–9.

"Don't you see, on all sides, beliefs giving way to reasoning, and sentiments, to calculation?" I, p. 391.

There is, however, a profound change from one *Democracy* to the other relating to one passion, that of well-being. If Tocqueville asserts in 1835 that "there, ambition for power is replaced by the love of well-being, a more vulgar, but less dangerous passion" (I, p. 943), he will reveal all of its malignity in the 1840 part.

285. II, p. 886, note c.

286. II, p. 878, note g.

287. The new despotism has the same relation to the old as the slavery of antiquity has to the enslavement of American Blacks. The Americans of the South "have, if I may express myself in this way, spiritualized despotism and violence." I, p. 579. Ancient slavery bound the body and left the mind free; modern slavery prevents instruction and controls the mind. Thus the enormous importance of liberty of the press in democracies. See I, pp. 290–94, and II, p. 908.

In the end man could end up by no longer belonging to anything except a quasi-society of barbarians equal to each other, thus closing the cycle of history with a despotic regime that has become permanent.

Tyranny of the majority, the tyranny of the electoral voice described in the first *Democracy*, is already the triumph of individualism, that is to say the triumph of man without individuality and personality.²⁸⁸ The moment of election forces the abandonment of what is specific and particular to the individual and forces him for a moment to become a unit, or, if you want, an abstraction (one man = one voice). In this way, the new form of despotism is entirely compatible with election. Men emerge from servitude to elect their tyrants and return there immediately after.²⁸⁹

In 1840, Tocqueville combines with the practical and legal tyranny of the majority the spiritual and intellectual oppression of the opinion of all, which leads in the last resort to a situation of permanent immobility and unity. If, as he remarks, "sentiments and ideas are renewed, the heart grows larger and the human mind develops only by the reciprocal action of men on each other,"²⁹⁰ then common action and vitality will disappear in democracies:

Do you not see that opinions are dividing more quickly than patrimonies, that each man is enclosing himself narrowly within his own mind, like the farm laborer in his field? . . . That sentiments become more individual each day, and that soon men will be more separated by their beliefs than they have ever been by inequality of conditions?²⁹¹

288. By saying that tyranny of the majority is the equivalent of the state of nature, Tocqueville also repeats Madison. I, p. 425.

289. This explains why readers have been able to find in Tocqueville a critique of communist totalitarianism as well as mass society. The interest in Tocqueville's work owes a great deal to the fact that democratic despotism is more social than political, and is, in large measure, independent of the political form. The distinction between the social and the political is, however, debatable and not very clear, even if we cannot blame Tocqueville for a lack of clarity concerning a dichotomy that we are not able to express more clearly at the present time.

290. II, p. 900.

291. II, p. 1272, note t.

The inhabitant of America is forced, like every inhabitant of a new country, to acquire rapidly the habit of governing himself,²⁹² but this habit must be prevented from being pushed beyond its natural limits and thereby taking the form of servitude:

Will I dare to say it amid the ruins that surround me? What I dread most for the generations to come is not revolutions.

If citizens continue to enclose themselves more and more narrowly within the circle of small domestic interests and to be agitated there without respite, you can fear that they will end by becoming as if impervious to these great and powerful public emotions that disturb peoples, but which develop and renew them. When I see property become so mobile, and the love of property so anxious and so ardent, I cannot prevent myself from fearing that men will reach the point of regarding every new theory as a danger, every innovation as an unfortunate trouble, every social progress as a first step toward a revolution, and that they will refuse entirely to move for fear that they would be carried away. I tremble, I confess, that they will finally allow themselves to be possessed so well by a cowardly love of present enjoyments, that the interest in their own future and that of their descendants will disappear, and that they will prefer to follow feebly the course of their destiny, than to make, if needed, a sudden and energetic effort to redress it.

You believe that the new societies are going to change face every day, and as for me, I fear that they will end by being too invariably fixed in the same institutions, the same prejudices, the same mores; so that humanity comes to a stop and becomes limited; that the mind eternally turns back on itself without producing new ideas, that man becomes exhausted in small solitary and sterile movements, and that, even while constantly moving, humanity no longer advances.²⁹³

Revolutions disrupt the activities of society; they suddenly make movement and social changes easy and unpredictable; finally they destroy personal wealth. It seems then that only the poor, who have nothing to lose, can court a revolution. Democracies seek the opposite, since they need a tranquil and peaceful atmosphere in which their members can concentrate

292. I, p. 650, note 1.

293. II, p. 1151.

all their activity on the pursuit of their individual well-being and that of their family.²⁹⁴

In democracies, Tocqueville notes,

since men are no longer attached to each other by any bond of castes, classes, corporations, families, they are only too inclined to become pre-occupied solely with their particular interests, and are always too ready to consider only themselves and to withdraw into a narrow individualism in which every public virtue is suffocated. Despotism, far from struggling against this tendency, makes it irresistible, because despotism removes from citizens every common passion, every natural need, every need to cooperate, every occasion to act together; it walls them, so to speak, within private life. They already tended to separate themselves; it isolates them; they grew cold toward one another; it turns them into ice.²⁹⁵

So democratic despotism finishes by producing the greatest stability in society, but this stability is not desirable because it announces the immobility of death.

Equality of conditions, giving individual reason a complete independence, must lead men toward intellectual anarchy and bring about continual revolutions in human opinions.

This is the first idea that presents itself, the common idea, the most likely idea at first view.

By examining things more closely, I discover that there are limits to this individual independence in democratic countries that I had not seen at first and which make me believe that beliefs must be more *common* and more *stable* than we judge at first glance.

That is already doing a great deal to lead the mind of the reader there.

But I want to aim still further and I am going even as far as imagining that the final result of democracy will be to make the human mind too immobile and human opinions too stable.

294. "Great revolutions are not more common among democratic peoples than among other peoples; I am even led to believe that they are less so. But within these nations there reigns a small uncomfortable movement, a sort of incessant rotation of men that troubles and distracts the mind without enlivening or elevating it." II, p. 780.

295. *L'Ancien Régime et la Révolution*, OC, II, 1, p. 74.

This idea is so extraordinary and so removed from the mind of the reader that I must make him see it only in the background and as an hypothesis.²⁹⁶

Tocqueville clearly perceives the radical nature of such an idea and notes in a draft:

This idea that the democratic social state is anti-revolutionary so shocks accepted ideas that I must win over the mind of the reader little by little, and for that I must begin by saying that this social state is less *revolutionary* than is supposed. I begin there and by an imperceptible curve I arrive at saying that there is room to fear that it is not revolutionary enough. True idea, but which would seem paradoxical at first view.²⁹⁷

With this last turn, Tocqueville's thought has for its part completed its own revolution.

Dialectic of Ideas

If democratic apathy can be worse than revolutionary disorders, then the political problem abruptly changes aspect. It becomes necessary to reintroduce into society change, the circulation of ideas, intellectual movement, which does not mean revolution. It is in fact no less necessary to try to avoid revolutions, even if, in Tocqueville's eyes, temporary anarchy is preferable to permanent order.²⁹⁸

The author distinguishes between legislative instability, which concerns secondary laws, and the instability that affects the foundations of the constitution. The latter produces revolutions and causes breaks in society;²⁹⁹ the former, on the other hand, is the sign of intellectual vitality. So how is

296. IV, p. 1144, note q.

297. *Ibid.*

298. See IV, p. 1191, note b.

299. II, pp. 424–26.

"The small shake-ups that public liberty imparts constantly to the most settled societies recall everyday the possibility of reversals and keep public prudence awake." *L'Ancien Régime et la Révolution*, OC, II, 1, p. 197. In this way, small revolutions prevent great ones.

it possible to create this first type of instability while avoiding the second? How can we bring about the circulation of ideas and sentiments that are debated and shared at the same time?

To invite men to communicate, to see each other, to exchange ideas, such is the main task of political philosophy: "So the great object of law-makers in democracies must be to create common *affairs* that *force* men to enter into contact with each other. . . . For what is society for thinking beings, if not the communication and connection of minds and hearts?"³⁰⁰

The struggle between opposing principles produces heat and the movement of ideas. It sometimes produces disorder, but it assures the circulation of the ideas and sentiments that nourish society.

Tocqueville wrote to Kergorlay:

I compare man in this world to a traveler who is walking constantly toward an increasingly cold region and who is forced to move more as he advances. The great sickness of the soul is cold. And to combat this fearful evil, he must not only maintain the lively movement of his mind by work, but also maintain contact with his fellows and with the business of this world. Above all at this time, we are no longer allowed to live on what has already been acquired, but must try hard to continue to acquire and not rest upon ideas that would soon enshroud us as if we were asleep in the grave. But we must constantly put into contact and into conflict the ideas that we adopt and those we do not, the ideas that we had in our youth and those suggested by the state of society and the opinions of the period that has arrived.³⁰¹

This movement and confrontation of ideas is at risk of drowning in apathy, individualism, and the obsession with well-being, first results of democracy.

300. III, p. 891, note k.

301. Letter to Kergorlay, 3 February 1857, *OC*, XIII, 2, p. 325.

During the last years of his life, when he was working on *Ancien Régime*, Tocqueville wrote: "I am more and more attached to my lands and my great fields, to my ocean above all, and to its serious beaches, and I feel that only there do I live happily. But even there, to be happy, some great occupation must animate my mind, and only through ideas do I see, so to speak, the physical beauties that surround me." Letter to Freslon [?], 8 October 1856, YTC, DIIIa.

The “democratic monster” that occupies so many pages of *Democracy* is the one that has made only half a revolution, that has forgotten the principle of liberty, and that has been entirely captivated by the rational character of the abstract principle of equality.³⁰² This democratic monster produces a political philosophy based precisely upon the social, material, and political conditions that work to promote and to ensure the existence of such a philosophy, but it does not offer the possibility of denying such a philosophy, that is to say, by political practice.

So Tocqueville aspires, in a certain way, to completing the French Revolution, to finishing it, without forgetting that fraternity is the fruit of liberty and equality, as well as of a constant tension between the two, as had been the case in 1789.

Tocqueville remarks in the *Ancien Régime*:

It is 89, time of inexperience, undoubtedly, but of generosity, enthusiasm, virility and grandeur, time of immortal memory, toward which the view of men will turn with admiration and respect, when those who saw it and we ourselves will have long disappeared. Then the French were proud enough of their cause and of themselves to believe that they could be equal in liberty. So everywhere in the middle of democratic institutions, they placed free institutions.³⁰³

For the exceptional moment represented by 1789, a momentary and magnificent combination of liberty with equality, Tocqueville shows and seems to have shown all his life a quasi-religious respect, a sort of faith never denied. In this regard, Sainte-Beuve shares with Beaumont the following anecdote:

I have always had great difficulty speaking about Tocqueville, you will have noticed it yourself; not that I do not place him very much apart and very high, but because he did not, in my opinion, completely fulfill the whole

302. See IV, p. 1209. See *Correspondence and Conversations of Alexis de Tocqueville with Nassau William Senior from 1834 to 1859*, edited by M. C. M. Simpson (London: H. S. King, 1872), II, pp. 92–94.

303. *L'Ancien Régime et la Révolution*, OC, II, 1, p. 247.

“Democracy is liberty combined with equality.” Roland-Pierre Marcel, *Essai politique sur Alexis de Tocqueville*, p. 168.

idea that his friends are allowed to have and to give of him. And then, there was always between him and me, from the beginning and long before the most recent events, a certain kernel of separation; he was of a believing nature, that is to say that, even in the realm of ideas, he had a certain religion, a certain faith. One day, at a dinner at Madame Récamier's, I saw him not being pleased with a joke about something concerning 89. I took good note of it. That form of mind impressed me, I admit, more than it attracted me, and despite friendly advances, I always remained with him on a footing more of respect than of friendship.³⁰⁴

History, according to Tocqueville, is defined as a struggle between the abstract and the concrete; thus the opposition between liberty and equality. The objective of political science is consequently to maintain these two existing principles in constant tension in such a way that no monopoly exists of equality over liberty, which would lead to despotism, and that equality does not run the risk of being carried away into anarchy by the excesses of liberty. In this sense, it is a matter of prolonging 1789.

For Tocqueville, liberty is a passion,³⁰⁵ changing and impossible to define.³⁰⁶ It belongs to the *order of the heart*. Equality, to use Pascal's distinction, reigns in the *order of the mind*.

When he writes to John Stuart Mill, "I love liberty by taste, equality by instinct and by reason,"³⁰⁷ Tocqueville is only expressing in another way the principal elements of his thought. The taste for equality is always of a rational, mental nature. Liberty, in contrast, is a passion, a sentiment.³⁰⁸

304. Letter to Beaumont, 26 November 1865. With the kind permission of the Bibliothèque de l'Institut, Spoelberch de Lovenjoul.

305. "Only liberty is able to suggest to us those powerful common emotions that carry and sustain souls above themselves; it alone can throw variety into the midst of the uniformity of our conditions and the monotony of our mores; it alone can distract our minds from small thoughts and elevate the goal of our desires." *Discours de réception at the Académie française*. OCB, IX, p. 20.

306. "Do not ask me to analyze this sublime taste; it must be experienced." *L'Ancien Régime et la Révolution*, OC, II, 1, p. 217.

307. Letter to John Stuart Mill, June 1835 (*Correspondance anglaise*, OC, VI, p. 293). Also see *Voyages en Angleterre, Irlande, Suisse et Algérie*, OC, V, 2, p. 91.

308. "For democratic institutions I have a taste from the head, but I am aristocratic by instinct." Quoted by Antoine Rédier, *Comme disait Monsieur de Tocqueville*, p. 48.

Liberty is an individual, particular sentiment, impossible to communicate; it represents the human because it is indefinable, incomplete, always in process, always being defined, by wagering, risking, making mistakes, and beginning again. Liberty must be lived as you live your life, never ceasing to invent. Authentic democracy is the equal participation of citizens in the definition of liberty, a definition that is always complicated, disorderly, and risky. God marks out the road toward equality, but liberty is a path that man opens and that crosses always different countries.

Equality is abstract, rational, always identical to itself; it is deductive, while liberty is inductive, as within reach and clear as liberty is complicated and fleeting.

The despotic democratic regime produces an unbearable and unlimited predominance of the mind over the heart, of equality over liberty. Liberty then disappears in the face of what can be defined and what is definite, in the face of equality; the principle of equality is allowed to reign alone. That is what philosophy must avoid at all cost. That is also what constitutes the ultimate objective of *Democracy*, as Tocqueville notes in a draft: "Danger of allowing a single social principle to take without objection the absolute direction of society. General idea that I wanted to emerge from this work."³⁰⁹

If, in the plan of history, the principle of liberty must be introduced as a counterbalance to that of equality, in the political world strictly speaking³¹⁰ the struggle of ideas takes place between two great universal principles that, for Tocqueville, are called democracy and aristocracy;³¹¹ the one

309. III, p. 740, note d.

"Do not adopt one social principle *alone* however good it seems. Do not use one form of government *alone*. Stay away from unity." IV, p. 1266, note j.

In the same way, Tocqueville claims that views expressed in the French parliamentary debates have become less elevated since the victory of the liberal party and the disappearance of the opposition. II, p. 284, note c.

310. If men create laws, women create mores. A good reader of Rousseau, Tocqueville claims therefore that in America the women are superior to the men (for mores create laws). See II, p. 482, note u. Woman represents the indefinite, liberty, passions, while man represents equality, the defined, the rational.

311. The democratic social state and the aristocratic social state appear with very defined features in the letter of 1830 to Charles Stoffels. The text will be found in appendix V.

seeks to concentrate public power, the other to scatter it.³¹² Once the sentiment of liberty has disappeared or is in serious danger of doing so, Tocqueville is forced to imagine institutions that can produce the conditions necessary for liberty to exist; the hope is that they will give rise to the sentiment and passion that are otherwise in danger of disappearing. In the future, liberty, according to him, will be a product of political art. Thus, if the social state moves men away from each other, the political state must unite them;³¹³ if society destroys the passions and tends no longer to promote anything except interest, the political state must work to maintain passions³¹⁴ and to turn away from economic well-being.³¹⁵

312. II, p. 286.

I find that, with rare sagacity, you have indicated the conditions under which great parties, well disciplined, can exist in a free country. As you say, each of them must be the representative of one of the two great principles that eternally divide human societies, and that, to be brief, can be designated by the names aristocracy and democracy (II, p. 281, note a).

313. "The social state separates men, the political state must draw them closer./

The social state gives them the taste for well-being [v: inclines them toward the earth], the political state must raise them up by giving them great ideas and great emotions" IV, p. 1262, note b.

314. In a letter to Corcelle of 19 October 1839 (*OC*, XI, 1, p. 139), Tocqueville asks: "So will we never see the wind of true political passions rise again, my dear Corcelle, those violent, hard, sometimes cruel, but great, disinterested, fruitful passions; those passions that are the soul of the only parties that I understand and to which I would feel myself willingly disposed to give my time, my fortune and my life?" Also see the speech on the question of the right to work (*OCB*, IX, p. 542).

315. There are many examples of opposition. Political liberty, we have said, implies religious beliefs:

In the moral world, therefore, everything is classified, coordinated, foreseen, decided in advance. In the political world, everything is agitated, contested, uncertain; in the one, passive though voluntary obedience; in the other, independence, scorn for experience and jealousy of all authority. Far from harming each other, these two tendencies, apparently so opposed, move in harmony and seem to offer mutual support (I, p. 70. Also see note in the same place).

Tocqueville wants to develop the sciences in aristocratic societies and the moral sciences in democracies, in order, in both cases, to counter the tendencies of the social state (III, p. 962, note n) and he wishes to promote spiritualism to stop democratic materialism:

The opposition of the social power to the force of the state, the opposition of society to the political power must also exist. For Tocqueville, as we know, the ideal instrument for achieving this situation is associations,³¹⁶ organizations of an aristocratic character that oppose the omnipotence of the majority that characterizes democracy.

Tocqueville's ideal is not the mixed regime, however. A predominating principle will always exist because men will always try to order society and the state according to the same principle.³¹⁷ Nonetheless, in order to avoid falling into despotism and omnipotence, that is to say, into the ultimate tyranny of equality (one = one), the opposite principle must always exist.

The classical mechanisms of liberalism, such as the separation of powers, the idea of rights, liberty of the press, and federalism, serve Tocqueville only to the degree that they can be used to that end.

The author of *Democracy* wants democracies to oppose a strong legislative power with a power elected for a longer period (or put in place in a permanent way, as in monarchy); this recalls the mechanism of balance and counterbalance inspired by Montesquieu. But Tocqueville demands that, within each power, concentration be balanced by an action of dispersal. If

If I had been born in the Middle Ages, I would have been the enemy of superstitions, for then the social movement led there.

But today, I feel indulgent toward all the follies that spiritualism can suggest.

The great enemy is materialism, not only because it is in itself a detestable doctrine, but also because it is unfortunately in accord with the social tendency (III, p. 956, note d).

316. "Sentiments and ideas are renewed, the heart grows larger and the human mind develops only by the reciprocal action of men on each other. I have demonstrated that this action is almost nil in democratic countries. So it must be created there artificially. And this is what associations alone are able to do." III, p. 900.

317. Four types of regimes (that can be despotic or free) exist: 1. Democratic social state (social equality) and democratic political state (political equality): democracy. 2. Democratic social state combined with an aristocratic political state. This regime tends toward and will arrive at democracy, for the political state finishes by being the reflection of the social state. 3. Social inequality and political equality (this is, according to Tocqueville, a chimera). 4. Social inequality and political inequality: aristocracy.

the first chamber is elected by universal suffrage, the second must be formed by indirect election. If the political power must be centralized, the administration must be decentralized to the same degree. The jury does wonders for the education of the people, but it must be guided by the judge's hand. The excesses of the majority, a constant danger in democracies, are opposed by the creation of an aristocracy of associations. And in the same way, against the associations of owners, there are the associations of workers; against the state, the society, etc.

The examples of opposition multiply throughout the book and extend from the purely political field to all aspects of intellectual life. "The most favorable moment for the development of the sciences, of literature and of the arts," Tocqueville specifies in this regard, "is when democracy begins to burst into the midst of an aristocratic society. Then you have movement amid order. Then humanity moves very rapidly, but like an army in battle, without breaking ranks and without discipline losing anything to ardor."³¹⁸

The author of *Democracy* found this idea in Montesquieu;³¹⁹ the idea of the opposition of the three powers ends up by amounting to the opposition between the legislative power and the executive power, which in Tocqueville is the confrontation between democracy and aristocracy.³²⁰ Nonetheless, the problem for Montesquieu, like that for all of political philosophy before him, was purely political despotism, while Tocqueville

318. III, p. 810, note q.

The sixteenth century had formed many of those fine, proud and free minds whose race was entirely lost in the theatrical splendor of the following century. Also you must have noted the superiority of the writers of the first period of the reign of Louis XIV over those of the second. The first were formed in that very short time in which feudal independence was allied for a moment with modern art and taste; the one gave grandeur, and the others the finish of details and the harmony of the whole (YTC, Clb (thoughts collected by Mary Mottley). See IV, p. 1146, note l, in which the same idea is found again.)

319. As Luis Díez del Corral pointed out, Tocqueville could have had this idea from the very mouth of Guizot (*El pensamiento político de Tocqueville*, pp. 285–86, 315, 377–79). But differing from Guizot, Tocqueville does not believe that the result of the struggle between the forces of society and those of the individual is the bourgeois mentality.

320. Book XI, chapter VI of *Esprit des lois*. Also see book I, chapter 2.

points out for the first time a new form of tyranny that does not have a name, but that spreads from the political power to ideas, habits and thoughts, invading all of private and public life.³²¹

There are no recipes or definitive solutions; no formula allows us to go beyond this system of opposition. The terms are in continual tension, changeable and alive. Tocqueville advances in this way between two abysses with the talent of a Malesherbes or of a Royer-Collard,³²² by adopting what is best in each condition, by maintaining a precarious equilibrium, by going along in doubt and uncertainty.

* * * * *

The objective of political philosophy is to produce among the citizens those passions that can destroy or save society, to produce that dialectic of ideas, of the abstract and the concrete, of liberty and equality, of reason and of passion, that causes small, continual revolutions.³²³

According to Tocqueville, liberty certainly cannot be defined in a negative way by obedience to laws that are the result of the compromises and struggles of two permanent and equally strong parties. The author of *Democracy* lives in a world in which one of the two powers can disappear completely and in which the best laws are capable of coexisting with a social condition similar to that of the state of nature, in which legal liberty can go hand in hand with political and intellectual despotism.

For Tocqueville, man is above all a participant in history. He is part of a vast project that he himself must work on each day. The pilot of a boat, even if he does not determine either the winds or the waves, can hoist or lower the sails; he guides his ship. He is a man who looks at the past and the future, but who cannot learn very much from history.

321. This sets him apart from Rousseau. See I, p. 406, note g, pp. 407 and 413.

322. See Luis Díez del Corral, *El pensamiento político de Tocqueville*, pp. 158–59, and *OCB*, VI, p. 445.

323. “As I grow older, I have more regard, I will almost say respect, for the passions. I love them when they are good, and I am not even sure about detesting them when they are bad. They are power, and power, wherever it is found, appears at its best amid the universal weakness that surrounds us.” Letter to Ampère, 10 August 1841, *OC*, XI, p. 152. Also see *OCB*, VI, p. 407.

The past does not offer rules of conduct or solutions for the present; it gives sentiments, but not reasons; it creates passions and faith, but not laws; it develops tendencies, it calls for prudence, but does not offer judgments.

Nor does the history of peoples offer solutions for the present, just as *Democracy in America* does not claim to give to the French or to Europeans a theory of democracy. It is not a matter of imitating America, Tocqueville says in substance; it is a matter of understanding America. For the rest, the destiny of man is still, and is forever, in his own hands.

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VOLUME I
(1835)





DEMOCRACY IN AMERICA^a

a. The drafts contain the following note, probably meant to announce the publication of the book:

Explanatory note about my position and the principal ideas that form the heart of the work./

In 1831, Messrs. Beaumont and Tocqueville received a mission from the French government for the purpose of going to the United States to study the penitentiary system there. They remained nearly one year in the United States. After returning in 1832, they published a work entitled: *Of the Penitentiary System in the United States and Its Application to France*. Since then, this work has been translated in its entirety in the United States and in Germany; a portion has been translated in England. The French Academy believed that its authors should be awarded the annual grand prize established for whoever publishes the most useful book.

M. de Tocqueville, one of the authors of the book mentioned above, is about to publish this coming October a work in two volumes that also has America as the subject. This book will be entitled *Of the Dominion of Democracy in America*.

The fact that most struck the author during his stay in the United States was the fact of equality of conditions. He believed that this primary fact had exercised and still exercised a prodigious influence on the laws, habits, mores of the Americans and dominated, so to speak, civil and political society in the United States. This struck him even more because this same fact of equality of conditions is constantly developing among all the peoples of Europe in a progressive manner.

So M. de Tocqueville thought that if someone could succeed in specifying in a very plain and very clear fashion what type of influence this fact, established in America and half-established in Europe, really exercised on society, what necessary aspect it gave to laws, what secret instincts to peoples, what cast it imparted to ideas and mores, a work not only interesting, but also useful would be written; a work, though serious in form, would nonetheless reach the minds of the greatest number of readers, because it would in some place necessarily touch on the political passions of the period and all the material interests that the political passions more or less express.

The result of these reflections has been the work that M. de Tocqueville is about to publish today and for which he gathered an enormous quantity of materials during his stay in America (YTC, CVh, 3, pp. 100–101, 99).



PART I

Introduction^a

[The work that you are about to read is not a travelogue,^b <the reader can rest easy>. I do not want him to be concerned with me. You will also not find in this book a complete summary of all the institutions of the United States; but I flatter myself that, in it, the public will find some new documentation and, from it, will gain useful knowledge about a subject that is

a. Ideas of the preface./

Irresistible movement of democracy, great fact of the modern world. Importance of this fact superior to all questions of time and of internal politics. America showing this fact come to its completion.

Goal of this work to give accurate notions about this fact; moreover, I do not judge this fact. I do not even believe that there is anything of an absolute goodness in institutions. Montesquieu . . .

Ease of criticizing me. I know that nothing will be easier than to criticize this book, if anyone ever thinks of examining it critically. You will have only to contrast certain particular facts to certain of my general ideas. Nothing is easier; there are facts and arguments for all doctrines. For you to judge me, I would like you to want to do what I did, to see an ensemble of facts and to come to a decision based on the mass of reasons. To whoever will do that and then does not agree with me, I am ready to submit. For if I am sure of having sincerely sought the truth, I am far from considering myself as certain to have found it.

To contrast an isolated fact to the ensemble of facts, a detached idea to the sequence of ideas.

It isn't that I don't have set ideas, but they are general (for there is absolute truth only in general ideas). I believe that tyranny is the greatest evil, liberty the first good. But as for knowing what is most appropriate for preventing the one and creating the other among peoples and knowing if all peoples are made to escape tyranny, that is where doubt begins (YTC, CVh, 3, pp. 96–97).

b. The criticism of this passage (YTC, CIIIb, 1, p. 7) made by Louis de Kergorlay has been published in *Correspondance avec Kergorlay* (OC, XIII, 1, p. 367).

more important for us than the fate of America and no less worthy of holding our attention.^{c]}

Among the new objects that attracted my attention during my stay in the United States, none struck me more vividly than the equality of conditions.^d I discovered without difficulty the prodigious influence that this primary fact exercises on the march of society; it gives a certain direction to the public mind, a certain turn to the laws; to those governing, new maxims, and particular habits to the governed.

Soon I recognized that this same fact extends its influence far beyond political mores and laws, and that it has no less dominion over civil society, than over government: it creates opinions, gives birth to sentiments, suggests customs and modifies all that it does not produce.

Therefore, as I studied American society, I saw more and more, in equality of conditions, the generating fact from which each particular fact seemed to derive, and I rediscovered it constantly before me as a central point where all of my observations came together.

Then I turned my thought back toward our hemisphere, and it seemed to me that I perceived something analogous to the spectacle that the New World offered me. I saw equality of conditions that, without having reached its extreme limits as in the United States, approached those limits

c. In a first version of the drafts:

[In the margin: I have not said everything that I saw, but I have said everything that I believed at the same time true and useful [v: profitable] to make known, and without wanting to write a treatise on America, I thought only to help my fellow citizens resolve a question that must interest us more deeply.]

I see around me facts without number, but I notice one of them that dominates all the others; it is old; it is stronger than laws, more powerful than men; it seems to be a direct product of the divine will; it is the gradual development of democracy in the Christian world. When I say “democracy” here I do not mean to speak only about a political form of government, but of a social state (YTC, CVh, 3, pp. 115–16).

d. This first paragraph differs a bit from the manuscript: “There is a fact that more than all the rest attracts the attention of the European upon his arrival on the shores of the New World. A surprising equality reigns there among fortunes; at first glance minds themselves seem equal. I was struck, like others, at the sight of this extreme equality of conditions and I discovered without difficulty . . .”

more each day; and this same democracy that reigned in American societies, appeared to me to advance rapidly toward power in Europe.^e

From that moment, I conceived the idea of the book you are about to read.^f

e. In the margin: “#I remember that I saw something analogous in France; I think that you can usefully examine the effects in the two countries, and I conceive the idea of the book.#” Another version is presented to the side that specifies: “#in Europe and principally in my own country.#”

The version not struck out in the manuscript says: “. . . appeared to me ready to take power among us.” Hervé de Tocqueville remarks: “The word *ready* does not seem good to me. Besides, isn’t it too absolute relative to what is still happening at the moment among us and to the government that succeeded the Restoration?”

Next to this observation, another is found, probably from Édouard de Tocqueville, brother of Alexis: “I also agree that this expression must be softened” (YTC, CIIb, 1, p. 9).

The criticisms of Hervé de Tocqueville, father of Alexis, of Édouard and Hippolyte de Tocqueville, his brothers, and those of his friends Gustave de Beaumont and Louis de Kergorlay, made at the time of reading a copy of the manuscript of the first *Democracy*, are known to us thanks to a copy in Bonnel’s hand. The latter does not identify the authors. Nonetheless, the written comments can be attributed to them without great difficulty, by taking into account tone, style, and the following facts: the observations of Louis de Kergorlay consisted of small slips of paper inserted into the manuscript (only a few of them remain relating to the introduction and to the last section of chapter X of the 1835 part); certain of his notes on the introduction have been published in the correspondence of Tocqueville and Kergorlay (cf. *OC*, XIII, 1, pp. 364–68; note that the list reproduced on p. 368 is Tocqueville’s, not Kergorlay’s); all comments using the *vous* form can be attributed to Beaumont, who always used *vous* with Tocqueville, in distinction to the members of Tocqueville’s family and Kergorlay; finally a letter included in the critical observations (reproduced in note c for p. 142) and some sentences of the first readers of the manuscript inform us that the notes found alongside the commentaries of Hervé were written by Édouard de Tocqueville. By elimination, some remaining less interesting comments could be by Hippolyte, older brother of Alexis. Certain reflections inserted between texts seem to us to be by Alexis himself.

The whole of these commentaries are found at the Beinecke Library under the classification CIIb. There are also a few brief commentaries by Hervé de Tocqueville for chapter IX of the second part of the first volume of 1835 under the classification YTC, CVh, 3, pp. 14–17.

f. At the top of the sheet appears, crossed out, the beginning of the section *IMPORTANCE OF WHAT PRECEDES IN RELATION TO EUROPE*, the conclusion of chapter 9 of the second part of volume II, constituting at the start the conclusion of the book (since chapter 10 was added at the last moment). This fact, as well as numerous similarities and displacements of paragraphs between the introduction and the conclusion of chapter 9, indicate that the two chapters were very likely written at the same time, probably at the end of the spring or at the beginning of the summer of 1834.

A great democratic revolution is taking place^g among us; everyone sees it, but not everyone judges it in the same way. Some consider it as something new and, taking it for an accident, they hope still to be able to stop it; while others judge it irresistible, because it seems to them the most continuous, oldest and most permanent fact known in history.

I look back for a moment to what France was seven hundred years ago: I find it divided up among a small number of families who own the land and govern the inhabitants; at that time, the right to command is passed down with inheritances from generation to generation; men have only a single way to act on one another, force; you discover only a single source of power, landed property.

But then the political power of the clergy becomes established and is soon expanding.^h The clergy opens its ranks to all, to the poor and to the

g. In the manuscript: “. . . is reaching completion among us.”

Hervé de Tocqueville: “This sentence seems too absolute to me for the reasons that I have just enumerated a short while ago; instead of the words *reaching completion*, I would like better *seems due to take place*.”

Édouard de Tocqueville: “That is right” (YTC, CIIIb, I, p. 9).

h. The *saints*. Men committed to the *moral* grandeur of man.

Saints taken from all classes.

Political power of the clergy that makes men of all classes arrive at the government.

[In the margin: Ascending movement of *time*, descending movement of *nobles*.]

Introduction of jurists into the government produces the same effect.

The Crusades that enervate the nobility and divide lands.

The financiers. Importance that the perpetual wars of the Middle Ages give to them. The middle classes are introduced by them into government.

Granting of freedom to the towns.

Personal estates. Tyranny toward the Jews that brings about the invention of paper wealth.

Instruction begun by the monks in the cathedrals. Religion awakens the arts. Introduction of men of letters into government. Political power of the University of Paris.

Granting of nobility that brings commoners into the government by the nobility (1270).

[In the margin: Equality penetrates finally into government by the nobility.]

Favoritism of the kings that brings men from nothing to power. Pierre de Brosse, minister after having been a barber (1275).

Laws of exclusive privileges that prevent vassals from becoming too powerful.

Introduction of towns into the Estates General (1304).

Taste for literature that opens up a new importance to men of all classes. Estab-

rich, to the commoner and to the lord; equality begins to penetrate through the Church into the government, and someone who would have vegetated as a serf in eternal slavery takes his place as a priest among nobles and often goes to take a seat above kings.

As society becomes more civilized and more stable with time, the different relationships among men become more complicated and more numerous. The need for civil laws is intensely felt. Then jurists arise; they emerge from the dark precinct of the courts and from the dusty recess of the clerks' offices, and they go to sit in the court of the prince, alongside feudal barons covered with ermine and iron.

Kings ruin themselves in great enterprises; nobles exhaust themselves in private wars; commoners enrich themselves in commerce. The influence of money begins to make itself felt in affairs of State. Trade is a new source of power, and financiers become a political power that is scorned and flattered.

Little by little, enlightenment spreads; the taste for literature and the arts reawakens; then the mind becomes an element of success; knowledge is a means of government; intelligence, a social force; men of letters reach public affairs.

As new roads to achieve power are found, however, we see the value of birth fall. In the XIth century, nobility had an inestimable value; it is pur-

lishment of floral games (1324).^{TN 1}

Discovery of firearms that equalizes the unprotected villein with the nobleman covered in iron (1328).

The *Jacquerie*. The uprising of the bourgeois of Paris (1358).

Wars with the English that destroy or ruin the nobility.

Factions of the Armagnacs and the Burgundians that give importance to the people. The nobles use them as instruments.

Beginning of heresies. Jan Huss (1414).

Institution of permanent armies that finishes undermining feudal power (1446).

Immense commercial and personal fortunes. Jacques Coeur.

End of the Eastern Empire. Increasing influence of letters in the West (1453).

Discovery of printing toward 1440. The post in . . .

Louis XI.

Discovery of America (1492) (YTC, CVh, I, pp. 18–20).

TRANSLATOR'S NOTE 1: Floral games were a literary competition held annually in Toulouse and elsewhere in France.

chased in the XIIIth; the first granting of nobility takes place in 1270,^j and equality is finally introduced into government by aristocracy itself.

During the seven hundred years that have just passed, it sometimes happened that, in order to struggle against royal authority, or to take power away from their rivals, the nobles gave political power to the people.

Even more often, you saw kings make the lower classes of the State participate in government in order to humble^k the aristocracy.

In France, kings showed themselves to be the most active and most constant of levelers. When they were ambitious and strong, they worked to raise the people to the level of the nobles, and when they were moderate and weak, they allowed^m the people to put themselves above kings. The former helped democracy by their talents, the latter by their vices. Louis XI and Louis XIV took care to equalize everything below the throne, and Louis XV himself finally descended into the dust with his court.ⁿ

As soon as citizens began to own the land in ways other than by feudal tenure, and as soon as personal wealth, once known, could in turn create influence and confer power, no discoveries were made in the arts, no further

j. The manuscript says "1370." The correct date is indeed 1270.

k. In the manuscript: "... in order to pull down the aristocracy."

Hervé de Tocqueville: "Aren't the words *pull down* too absolute here?"

Édouard de Tocqueville: "Perhaps *humble* would be better" (YTC, CIIb, I, p. 10).

m. Hervé de Tocqueville: "I would like better: *they suffered the people*, etc" (YTC, CIIb, I, p. 10).

n. Hervé de Tocqueville:

There is an error here; you undoubtedly wanted to put Louis XVI, for if Louis XV prepared the Revolution by his debaucheries, you cannot deny that he was an absolute king until his last moment and his court all powerful. I do not like the word *dust* which is not of a type elevated enough for the rest of the style; one says, moreover, *fall into the dust*, but one does not say *descend into the dust*.

Édouard de Tocqueville:

I also find this sentence leaves something to be desired. I will not, however, make the same criticism as my father. It is indeed Louis XV who lost the monarchy by depriving it of all of its moral force, of its dignity and of the prestige that surrounded the throne. Only *fall into the dust* expresses a physical abasement, but it is a moral abasement that must be expressed here, by observing that Louis XV succeeded in killing the aristocracy by discrediting it by the corruption of his court (YTC, CIIb, I, p. 11).

improvements were introduced into commerce and industry, without also creating as many new elements of equality among men. From this moment, all processes that are found, all needs that are born, all desires that demand to be satisfied, are progress toward universal leveling. The taste for luxury, the love of war, the sway of fashion, the most superficial passions of the human heart as well as the most profound, seem to work in concert to impoverish the rich and to enrich the poor.

From the time when works of the mind became sources of strength and wealth, each development of science, each new element of knowledge, each new idea had to be considered as a germ of power put within reach of the people. Poetry, eloquence, memory, mental graces, fires of the imagination, depth of thought, all these gifts that heaven distributes at random, profited democracy, and even when they were in the possession of democracy's adversaries, they still served its cause by putting into relief the natural grandeur of man; so democracy's conquests spread with those of civilization and enlightenment, and literature was an arsenal open to all, where the weak and the poor came each day to find arms.

When you skim the pages of our history you do not find so to speak any great events that for seven hundred years have not turned to the profit of equality.

The Crusades and the English wars decimate the nobles and divide their lands; the institution of the towns introduces democratic liberty into the feudal monarchy; [<the rigors enforced against the Jews bring about the invention of paper wealth^o>]; the discovery of firearms equalizes the villein and the noble on the field of battle; printing offers equal resources to their minds; the post comes to deposit enlightenment at the threshold of the hut of the poor as at the gate of palaces; Protestantism maintains that all men are equally able to find the way to heaven. America, which comes into sight, presents a thousand new paths to fortune and delivers the wealth and power [reserved to kings] to obscure adventurers.

If you examine what is happening in France from the XIth century every

o. In the margin: "<Letters of exchange, the most democratic of all wealth.>"

fifty years, at the end of each one of these periods, you will not fail to notice that a double revolution has taken place in the state of society. The noble will have slipped on the social ladder, the commoner will have risen; the one descends, the other ascends. Each half-century brings them closer together, and soon they are going to touch.

And this is not only particular to France. In whatever direction we cast our eyes, we notice the same revolution continuing in all of the Christian universe. [Let someone cite to me a republic or a kingdom in which the nobles of today can be compared, I would not say to the nobles of feudal times, but only to their fathers of the last century. {If France hastened the democratic revolution of which I am speaking, France did not give it birth}].

For seven hundred years, there is not a single event among Christians that has not turned to the profit of democracy, not a man who has not served its triumph. <#The clergy by spreading enlightenment and by applying within its bosom the principle of Christian equality, kings by opposing the people to nobles, nobles by opposing the people to kings; writers and the learned by creating intellectual riches for democracy's use; tradesmen by providing unknown resources for democracy's activity; the navigator by finding democracy new worlds.>#>]

Everywhere you saw the various incidents in the lives of peoples turn to the profit of democracy; all men aided it by their efforts:^p those who had in view contributing to its success and those who did not think of serving it; those who fought for it and even those who declared themselves its enemies; all were pushed pell-mell along the same path, and all worked in common, some despite themselves, others without their knowledge, blind instruments in the hands of God.

So the gradual development of equality of conditions [{democracy}] is a providential fact;^q it has the principal characteristics of one: it is universal,

p. In the manuscript: "The Catholic priest and the sectarian, the jurist and the poet, the financier and the learned man, the manufacturer and the navigator, kings, nobles themselves, each worked for the people. The people profited from all efforts. Those who had in view . . ."

q. This sentence has not failed to provoke numerous commentaries. From it certain commentators have been able to conclude a bit quickly that Tocqueville was fatalistic. Thus François Furet ("Le système conceptuel de la Démocratie en Amérique," in Mi-

chael Hereth and Jutta Höffken, *Alexis de Tocqueville. Zur Politik in der Demokratie*, Baden Baden: Nomos, 1981, pp. 19–52, especially pp. 23 and 28) sees in Tocqueville the development of the idea of inevitability already present in Chateaubriand. If it is incontestable that this paragraph acknowledges a destiny of a providential nature for the idea of equality, the rest of the book, and all of Tocqueville's work, is no less a plea in favor of liberty against all forms of fatalism. Marvin Zetterbaum (*Tocqueville and the Problem of Democracy*, Stanford: Stanford University Press, 1967, pp. 15–19) attempted to resolve this contradiction by attributing to Tocqueville, in this passage, motives of the kind for persuasion and pedagogy: the latter would have insisted on the providential character of democracy in order to take advantage of the religious sentiments of the French aristocracy of the period and thus to persuade the French aristocracy not to oppose the march of democracy. Other authors, in particular Wilhelm Hennis, used a similar argument to see in Tocqueville less of a political thinker than a rhetorician (in the positive sense of the term). Without getting into a discussion of the rhetorical value of Tocqueville's work (what political discourse is not rhetorical?), it is necessary, nonetheless, to point out that in other places in the book Tocqueville sees in the inevitable character of political equality the result of social equality and of the cartesian method. This time the argument has psychological bases. If one time, even if in the middle of revolutionary disorders, men have had the experience of equality or have thought of themselves as equal, it is very difficult afterward to make them accept social inequality and political differences. So social equality is inevitable if it has existed previously, if only for a short moment, and if you accept the principle according to which social conditions determine political life.

The development of social equality remains to be explained. To understand it, it is indispensable to refer to a little known text of Tocqueville, drafted when he worked on *Democracy*: "Mémoire sur le paupérisme" (*Mémoires de la société académique de Cherbourg*, 1835, pp. 293–344, reproduced in *Commentaire* XXIII (1983): 630–36; XXIV, pp. 880–88). There Tocqueville sketches a general history of civilization. Almost literally following the Rousseau of *Discours sur l'origine de l'inégalité*, he offers a picture according to which men are equal solely when, coming out of the forests, they seek to associate together with their fellow men in order to gain sufficient food and shelter against the elements. Inequality owes its origin to ownership of territory which, in turn, produces the aristocracy.

If you pay attention to what is happening in the world since the origin of societies, you will discover without difficulty that equality is found only at the two ends of civilization. Savages are equal to each other because they are all equally weak and ignorant. Very civilized men can all become equal because they all have at their disposal analogous means to attain comfort and happiness. Between these two extremes are found inequality of conditions, the wealth, enlightenment, power of some, the poverty, ignorance and weakness of all the others (p. 636).

The process of equality of conditions is dependent on the increase in intellectual and material needs. Tocqueville writes again:

it is lasting, it escapes every day from human power; all events, like all men, serve its development.^f

Men leave the plow to take up the shuttle and the hammer; from the cottage they pass into the factory; by acting in this way, they obey the immutable laws that preside over the growth of organized societies. So you can no more assign a stopping point to this movement than impose bounds on human perfectibility. The limit of the one like that of the others is known only to God (p. 634).

Equality is consequently the direct result of a law of the evolution of intelligence, and only intermediately, like all laws, a product of Providence. Finally, it must be recalled that Tocqueville is content to note here what the entire book will demonstrate and make convincing by the development of precise arguments. (See *Correspondance avec Kergorlay*, OC, XIII, 1, p. 375; according to André Jardin, this letter in reality would have been written to Eugène Stoffels.)

r. Democracy! Don't you notice that these are the waters of the flood? Don't you see them advance constantly by a slow and irresistible effort? <Already they cover the fields and the cities, they roll over the destroyed battlements of fortified castles and come to wash against the steps of thrones.> You withdraw, the waves continue their march. You flee, they run behind you. Here you are finally in your last refuge and scarcely have you sat down to take a breath when the waves have already covered the space that still separates you from them. So let us know how to face the future steadily and with open eyes. Instead of wanting to raise impotent dikes, let us seek rather to build the holy [v: tutelary] ark that must carry the human species over this ocean without shores.

But this is what hardly occupies us already placed in the middle . . .

It would be very insane to believe that we have seen the end of this great revolution. This movement continues, no one can say where it will stop. For we are already lacking terms of comparison. Conditions are more equal among us than they have ever been in any time and in any country of the world.

Thus the very grandeur of what is done prevents us from foreseeing what can still be done.

What will the probable consequences of this immense social revolution be? What new order will emerge from the debris of the one that is falling? Who can say? The men of the IVth century, witnesses to the barbarian invasions, gave themselves over, like us, to a thousand conjectures, but no one thought to foresee the universal establishment of the feudal system that followed the ruin of Rome in all of Europe. To discern effects without going back to causes, to judge what is without knowing what will be, isn't that moreover the whole of human destiny? We see that the sun changes place and that it advances constantly toward other heavens, we recognize that its movement is regulated, we feel that it obeys the hand of the Creator, but we will not be able to determine the force that makes it move and we are carried along with the sun toward a still unknown point in the universe.

In the middle of this impenetrable obscurity of the future, however, the eye sees some shafts of light. You can glimpse even now that the centuries of limited mon-

Would it be wise to believe that a social movement that comes from so far could be suspended by the efforts of a generation?²⁸ Do you think that

archy are rapidly passing and that modern societies are carried by a force superior to that of man either toward the republic or toward despotism and perhaps alternately from one to the other. As for me, I admit, in this century of liberty I fear for the future liberty of the human species. I [do not (ed.)] draw my fears from the past, which cannot be reproduced, but from the very nature of man, which does not change.

I see that by a strange oddity of our nature the passion for equality, which should decrease along with inequality of conditions, on the contrary increases as conditions become equal. In proportion [that (ed.)] the trace of hierarchies disappears, that passion alone seems to rule the human heart. Now, men [have (ed.)] two ways to be equal. They can all have the same rights or all be equally deprived of rights, and I tremble at the idea of the choice that they are going to make when I see the little care that is taken to (illegible word) [instruct? (ed.)] them, when I think how much more difficult it is to live free than to vegetate in slavery. I know that there are many honest men who are scarcely frightened by this idea and who would ask no better than to sleep peacefully in the arms of despotism while stammering some words about liberty. But my tastes, like my reason, distance me from them. Those who want thus to achieve order by way of despots hardly know what they desire. *Liberty* sometimes happens to make light of the existence of men, to be lavish with the resources of society, to disturb souls and to make beliefs waver, but despotism attacks all these things in their principle and in their [broken text (ed.)] (YTC, CVh, 3, pp. 27–30).

From the variant of this text (YTC, CVb, pp. 30–32, 26–31), the following details will be retained (pp. 29–30):

To claim to stop the march of democracy would be folly. God willing, there is still time to direct it and to prevent it from leading us to the despotism of one [v: military] man, that is to say to the most detestable form of government that the human mind has ever been able to imagine.

Sometimes liberty happens to make light of the existence of men, to be lavish with the resources of society, to disturb souls, to make beliefs waver.

But despotism attacks these very things in their principle and their essence. It prevents men from multiplying, it exhausts the source of wealth and of well-being, it confuses notions of good and evil and, by taking from man his independence [v: free will], it removes from him as much trace as it can of his divine origin. A free man often does things unworthy of himself, but a slave is less than a man.

To abhor despotism is not to do the work of a citizen, but the act of a man.

s. Hervé de Tocqueville: “The word *effort* that I advised deleting a bit above is found again here. Is the word *generation* suitable? It includes the idea of unanimity of action which will certainly not be found against democracy in the present generation” (YTC, CIIIb, 1, pp. 12–13).

after having destroyed feudalism and vanquished kings, democracy will retreat before the bourgeois and the rich?^t Will it stop now that it has become so strong and its adversaries so weak?

So where are we going? No one can say; for we are already lacking terms of comparison; conditions are more equal today among Christians than they have ever been in any time or in any country in the world; thus we are prevented by the magnitude of what is already done from foreseeing what can still be done.

The entire book that you are about to read has been written under the impression of a sort of religious terror produced in the soul of the author by the sight of this irresistible revolution that has marched for so many centuries over all obstacles, and that we still see today advancing amid the ruins that it has made.

It isn't necessary for God himself to speak in order for us to discover sure signs of his will; it is enough to examine the regular march of nature and the continuous tendency of events; I know, without the Creator raising his voice, that the stars in space follow the curves traced by his fingers.

If long observations and sincere meditations led men of today to recognize that the gradual and progressive development of equality is at once the past and the future of their history, this discovery alone would give this development the sacred character of the will of God. To want to stop democracy would then seem to be struggling against God himself, and it would only remain for nations to accommodate themselves to the social state that Providence imposes on them.^u

t. In the margin: "≠The democratic revolution that carries us along will not retreat after having triumphed for seven hundred years over so many obstacles.≠"

u. This paragraph and the preceding one do not exist in the manuscript. In their place, you find this: "If, to want to stop the development of democracy, is to struggle against God himself, what then remains for men to do if not to accommodate themselves to the social state that Providence imposes on them?"

The two new paragraphs were probably added following this suggestion by Louis de Kergorlay:

The thought enclosed in this paragraph is very beautiful and fundamental, but unfortunately little in fashion, little spread among the public which remains more matter of fact. I believe that to make the public see that it is a thought, that it is a sentiment,

Christian peoples seem to me to offer today a frightening spectacle.^v The movement that sweeps them along is already so strong that it cannot be suspended, and it is not yet so rapid as to despair of directing it. Their fate is in their hands; but soon it escapes them.^w

that it is something serious, it must be developed a bit more. It is one of the building blocks of your introduction. I have taken the risk of drafting the following three or four sentences as more or less encompassing what I understand as the development of your idea. So in my mind, I put this in place of your paragraph:

“Where would the hand of God be more visible than in the most immutable facts of nature? Where does man thus find other proofs of the existence and of *the will* of the divinity, than in the works of his creator, and what more sublime work could he examine than his own nature?

“So if sincere meditations led him one day to acknowledge that the progressive development of democracy is at once the past and the future of his history, this discovery alone would give to this development the sacred character of the will of our sovereign master, to all resistance against this march of our destiny that of a struggle against God himself, and that of a *duty* to the search for all that can accommodate humanity to the new social state imposed by Providence.”

I do not know if you will find these sentences clear or vague, but what I want to express to you is the need for a development that elevates the soul of the reader (YTC, CIIIb, I, pp. 23–24).

v. In the manuscript: “. . . offer today the most terrible of spectacles.”

Hervé de Tocqueville: “*The most terrible* here is too strong an expression, since the author says farther along that you must not yet despair of being able to direct the movement.”

Édouard de Tocqueville: “The word *terrible* does not seem to me very good either; this expression which prepares for something frightening is not justified by what follows” (YTC, CIIIb, I, p. 13).

w. It would be falling into a great error to believe that the period in which we live resembled any other and that the habitual routine of human passions could be applied to it equally. At the moment when I am speaking, the destinies of the Christian world are in suspense and nations find themselves in a position unique in their lives. The movement that carries them along is already too strong to be able to hope to stop it and not yet strong enough to despair of directing it.

At the period in which we are, what are the destinies of a man, the fortune of a law, the successes of a party? These interests of one day disappear before an interest a thousand times greater still, that touches all men and all parties equally and that must be the goal of all laws. Today the question is no longer only knowing what progress civilization will make, but what the fate of civilization will be, not what laws will regulate property, but what the very principle of property will be. It is no longer only a matter of regulating political rights, but civil rights, inheritance, paternity, marriage like the *right to vote* [v: property qualification].

To instruct democracy, to revive its beliefs if possible, to purify its mores, to regulate its movements, to substitute little by little the science of public affairs for its inexperience, knowledge of its true interests for its blind instincts; to adapt its government to times and places; to modify it according to circumstances and men; such is the first of duties imposed today on those who lead society.

A new political science^x is needed for a world entirely new^y [{for a unique situation, laws without precedents are needed}].

The time has passed when you struggled to conquer or to keep, not some liberty, but all liberties together, up to that of living.

Today, in a word, you must not forget, it is still much more a matter of the very existence of society than of the forms of the government.

You can no longer have anything except despotism or the *republic*.

Despotism such as our fathers never knew in any period of history, Roman or Byzantine despotism, mixture of corruption [v: plunder], barbarism, brutality and subtlety, of obsequiousness and of arrogance, no more collective resistance, no more *esprit de corps*, family *honor*, aristocratic (four illegible words). Honest men who want absolute power today do not know what they want. They will no longer have the good absolute power of the old monarchy, moderated by mores . . . but the absolute power of the Roman Empire . . . (YTC, CVh, 3, pp. 20–21, 21–22).

x. This affirmation is central and cannot be minimized. Criticism has too generally put the accent on Tocqueville as a traveler, observer of mores and institutions, historian foreshadowing the sociologist. Whereas, the objective that Tocqueville is fixed upon is above all *political*. The fact that this “science” is defined in terms that to us signal more sociology, history, or psychology must not diminish its importance. Like all political thinkers, like Montequieu or Rousseau, Tocqueville wants to try to rethink what he calls “political science” and to redefine it. He will not cease to come back to the question of the language used to designate concepts and new realities; he will introduce neologisms. It is also the meaning of the memorable speech delivered at the Academy of Moral and Political Sciences in which the author presents himself as a political theorist. It is precisely his talents as a theoretician, he thinks, that have prevented him from making a political career:

The art of writing suggests, in fact, to those who have practiced it for a long time habits of mind little favorable to the conduct of affairs. It subjugates them to the logic of ideas, when the crowd never obeys anything except that of passions. It gives them the taste for the fine, the delicate, the ingenious, the original, while it is the awful commonplaces that lead the world. (Speech delivered to the annual public meeting of the Academy of Moral and Political Sciences, *Séances et travaux de*

But that is what we scarcely consider; placed in the middle of a rapid river, we obstinately fix our eyes on some debris that we still see on the bank, while the current carries us away and pushes us backwards toward the abyss.

There is no people of Europe among whom the great social revolution^z that I have just described has made more rapid progress than among us; but here it has always marched haphazardly.

The heads of State [{legislator}] never thought to prepare anything in advance for it; it came about despite them or without their knowledge. The most powerful, most intelligent and most moral classes of the nation did

l'Académie des sciences morales et politiques, XXI, 1852, p. 303; this speech has been reproduced with some omissions in *OCB*, IX, pp. 116–33).

For Tocqueville, political science is a science based on the faculties and eternal instincts of human nature; it spreads from philosophy to the civil law, from theory to written laws and to facts. Such an upside down pyramid is conceived so that the closer you get to facts, the farther you get from generalities: “There is no commentator who does not often rely upon the abstract and general truths that writers on politics have found, and the latter need constantly to base their theory on particular facts and on the studied institutions that commentators have revealed or described” (*ibid.*, p. 305). Parallel to this science exists the art of governing, politics of the practical order, able to be modified constantly. The degree of civilization of a people is always proportional to the complexity of its political science. In other words, the more civilization, the more elaborate the political science; a new world demands as well a new political science:

Among all civilized peoples, the political sciences give birth or at least give form to general ideas, from which then follow particular facts, in the middle of which politicians agitate, and the laws that they think they invent. The political sciences form around each society something like a kind of intellectual atmosphere in which the minds of the governed and of those who govern breathe, and from which both, often without knowing, sometimes without wanting to know, draw the principles of their conduct. Barbarians are the only ones where only practice is recognized in politics (*ibid.*, p. 306).

y. Hervé de Tocqueville: “I do not know if you can use the expression *for a world entirely new* while speaking of old Europe. I know well that it is a matter of the political world, but the changes there are not so abrupt that *world entirely new* applies very exactly.”

Édouard de Tocqueville: “Current society is certainly entirely new by comparison with that of forty years ago” (YTC, CIIb, 1, p. 13).

z. “The French Revolution did the same good as the Nile that fertilizes the fields of Egypt by covering them with muck” (YTC, CVh, 3, p. 97).

not try to take hold of it in order to direct it. So democracy has been abandoned to its wild instincts; it has grown up like those children, deprived of paternal care, who raise themselves in the streets of our cities, and who know society only by its vices and miseries. We still seemed unaware of its existence, when it took hold of power without warning. Then each person submitted with servility to its slightest desires; it was adored as the image of strength; when later it was weakened by its own excesses, legislators conceived the imprudent plan of destroying it instead of trying to instruct and correct it, and not wanting to teach it to govern, they thought only about pushing it away from government.

The result was that the democratic revolution took place in the material aspect of society without happening in the laws, ideas, habits and mores,^a the change that would have been necessary to make this revolu-

a. This idea is found in the fourth lecture of Guizot's course on civilization in France. "The revolution that the last century caused to burst forth was a social revolution; it was much more concerned with changing the reciprocal situation of men than their internal and personal dispositions; it wanted to reform the society rather than the individual" (François Guizot, *Histoire de la civilisation en France in Cours d'histoire moderne*, Brussels: Hauman, 1839, p. 160). Tocqueville attended this course on the history of civilization in France taught by Guizot at the Sorbonne in 1829–1830. The notes for the course, from 11 April 1829 to 29 March 1830, are preserved. His correspondence indicates nonetheless that he attended the course before the month of April (see *Correspondance avec Beaumont*, OC, VIII, 1, pp. 76–77). Tocqueville, in a letter to Beaumont, dated 30 August 1829 (OC, VIII, 1, pp. 80–81), asserts that he has already read "most of Guizot" and that he found him so "prodigious" that he proposes to his friend to read Guizot with him during the winter. Reading Guizot enlightened him notably about the IVth century (note 1 from p. 12 bears a reference to the same century). Several times, furthermore, Tocqueville will allude in the *Democracy* to the eighth lecture of the *Cours*. Two years later, when he is in America, he writes to his friend and colleague Ernest de Chabrol: "We cannot find here a book that is very necessary to us for helping us analyze American society; this is the lectures of Guizot, including what he said and published three years ago on Roman society and the Middle Ages" (New York, 18 May 1831, YTC, B1a2). It is following Guizot, in the fourth lecture of the *Cours*, that Tocqueville divides his first notes on American society into civil state and social state.

Guizot did not fail to find himself in Tocqueville's work. In *De la démocratie en France* (janvier 1849) (Brussels: J. Petit, 1849), whose title alone makes explicit reference to Tocqueville, he seems to blame the latter for having taken the concept of equality and having transformed it into a universal process that pushes irremediably toward popular sovereignty while making the dominion of the middle classes disappear by its momen-

tion^b useful. We therefore have democracy, minus what must attenuate its vices and bring out its natural advantages; and seeing already the evils that it brings, we are still unaware of the good that it can give.

When royal power, supported by the aristocracy, peacefully governed the peoples of Europe, society, amid its miseries, enjoyed several kinds of happiness, which are difficult to imagine and appreciate today.

The power of some subjects raised insurmountable barriers to the tyranny of the prince; and kings, feeling vested in the eyes of the crowd with a nearly divine character, drew, from the very respect that they caused, the will not to abuse their power.

Placed an immense distance from the people, the nobles nonetheless took the type of benevolent and tranquil interest in the fate of the people that the shepherd^c gives to his flock; and without seeing the poor man as their equal, they watched over his lot as a trust put in their hands by Providence.

Not having conceived the idea of a social state other than their own, not imagining that they could ever be equal to their rulers, the people accepted the benefits and did not question the rights of their rulers. They loved them when they were lenient and just and submitted without difficulty and without servility to their rigors as to inevitable evils sent to them by the hand of God. Custom and mores had, moreover, established limits to tyranny and founded a kind of right in the very midst of force.

Since the noble did not think that someone would want to wrest from him the privileges that he believed legitimate, and the serf regarded his

tum. It is not the only time, as we will see, that Tocqueville repeats an idea of Guizot for his particular ends.

See Luis Díez del Corral, *El pensamiento político de Tocqueville* (Madrid: Alianza Universidad, 1989), pp. 353–91; Aurelian Craiutu, *Liberalism Under Siege: The Political Thought of the French Doctrinaires* (Lanham, Md.: Lexington Books, 2003), pp. 87–122.

b. Édouard de Tocqueville: “How can a revolution take place in the *material aspect* of society without the ideas, laws, habits and mores seconding it? So what then do you call the material aspect of society?” (YTC, CIIb, 1, p. 14).

c. Hervé de Tocqueville: “I am afraid that some might respond to the author that these shepherds were really wolves. You will avoid this disadvantage by generalizing less, by putting *a portion of the nobles*” (YTC, CIIb, 1, p. 14).

inferiority as a result of the immutable order of nature, it is conceivable that a kind of reciprocal benevolence could be established between these two classes sharing so different a fate. You then saw in society inequality, miseries, but souls were not degraded.

It is not the use of power or the habit of obedience that depraves men; it is the use of a power that they consider as illegitimate and obedience to a power that they regard as usurped and oppressive.

On one side were wealth, force, leisure and with them the pursuit of luxury, refinements of taste, pleasures of the mind, devotion to the arts; on the other, work, coarseness and ignorance.

But within this ignorant and coarse crowd, you met energetic passions, generous sentiments, profound beliefs and untamed virtues.

The social body organized in this way could have stability, power, and above all glory.

But ranks are merging; barriers raised between men are falling; estates are being divided; power is being shared, enlightenment is spreading, intellects are becoming equal; the social state is becoming democratic, and the dominion of democracy is finally being established peacefully in institutions and in mores.

Then I imagine a society where all, seeing the law as their work, would love it and would submit to it without difficulty; where since the authority of the government is respected as necessary and not as divine, the love that is felt for the head of State would be not a passion, but a reasoned and calm sentiment. Since each person has rights and is assured of preserving his rights, a manly confidence and a kind of reciprocal condescension, as far from pride as from servility, would be established among all classes.

Instructed in their true interests, the people would understand that, in order to take advantage of the good things of society, you must submit to its burdens. The free association of citizens would then be able to replace the individual power of the nobles, and the State would be sheltered from tyranny and from license.

I understand that in a democratic State, constituted in this manner, society will not be immobile; but the movements of the social body will be

able to be regulated and progressive; if you meet less brilliance there than within an aristocracy, you will find less misery; pleasures will be less extreme and well-being more general; knowledge not as great and ignorance more rare; sentiments less energetic and habits more mild; there you will notice more vices and fewer crimes.^d

If there is no enthusiasm and fervor of beliefs, enlightenment and experience will sometimes obtain great sacrifices from citizens; each man, equally weak, will feel an equal need for his fellows; and knowing that he can gain their support only on condition of lending them his help, he will discover without difficulty that for him particular interest merges with the general interest.

The nation taken as a body will be less brilliant, less glorious, less strong perhaps; but the majority of citizens there will enjoy a more prosperous lot, and the people will appear untroubled, not because they despair of being better, but because they know they are well-off.^e

If everything was not good and useful in such an order of things, society at least would have appropriated everything useful and good that such an order can present; and men, while abandoning forever the social advantages that aristocracy can provide, would have taken from democracy all the good that the latter can offer to them.

d. "For nearly ten years I have been thinking a part of the things that I revealed to you just now. I was in America only to enlighten myself on this point," Tocqueville mentions to Kergorlay (?) in a letter dated from 1835 (?) (*OC*, XIII, 1, p. 374). See note q for p. 12.

A certain number of the constituent ideas of the *Democracy* already appear in a letter from Tocqueville to Charles Stoffels, dated Versailles, 21 April 1830 (that is, nearly a year before the departure for the United States). This letter is reproduced in appendix V.

e. Mass floating in the middle, inert, egoistic, without energy, without patriotism, sensual, sybaritic, that has only instincts, that lives from day to day, that becomes in turn the plaything of all the others./

Moderation without virtue, nor courage; moderation that is born from cowardice of the heart and not from virtue, from exhaustion, from fear, from egoism; tranquillity, that does not come about because you are well-off, but because you do not have the courage and the energy necessary to seek something better. Debasement of souls.

The passions of old men that end in impotence (YTC, CVh, 3, pp. 36–37).

But we, while giving up the social state of our ancestors, while throwing pell-mell their institutions, their ideas, and their mores behind us, what have we put in their place?

The prestige of royal power has vanished, without being replaced by the majesty of laws; today the people scorn authority, but they fear it, and fear extracts more from them than respect and love formerly yielded.

I notice that we have destroyed the individual existences that could struggle separately against tyranny [{but I do not see that we have created a collective strength to fulfill their function}], but I see the government that alone inherits all the prerogatives wrenched from families, from corporations or from men; so, to the sometimes oppressive but often conservative strength of a small number of citizens, the weakness of all has succeeded.

The division of fortunes has reduced the distance that separated the poor from the rich; but by coming closer together, they seem to have found new reasons to hate each other, and, eyeing one another with looks full of terror and envy, they mutually push each other away from power; for the one as for the other, the idea of rights does not exist, and force appears to them both as the only reason for the present and the sole guarantee of the future.

The poor man has kept most of the prejudices of his fathers, without their beliefs; their ignorance, without their virtues; he has accepted, as the rule for his actions, the doctrine of interest, without knowing the science of interest, and his egoism is as wanting in enlightenment as his devotion formerly was.

Society is tranquil, not because it is conscious of its strength and its well-being, but on the contrary because it believes itself weak and frail; it is afraid of dying by making an effort. Everyone feels that things are going badly, but no one has the necessary courage and energy to seek something better; we have desires, regrets, sorrows and joys that produce nothing visible or lasting, similar to the passions of old men that end in impotence.

Thus we have abandoned what the old state could present of the good, without acquiring what the current state would be able to offer of the useful; we have destroyed an aristocratic society, [and we do not think about organizing on its ruins a moral and tranquil democracy] and, stopping out

of complacency amid the debris of the former edifice, we seem to want to settle there forever.^f

What is happening in the intellectual world is no less deplorable.

f. There are two states of society that I imagine without difficulty, the one that has been, the other that could be.

We have left the virtues of the old order without taking the ideas of the new order.

We have thrown pell-mell behind us the vices and the virtues of our ancestors, their habits, their ideas, their mores, and we have put nothing in their place (YTC, CVh, 3, pp. 106–107).

ARISTOCRATIC AND MONARCHICAL SYSTEM. OUR FATHERS.

1. Love of the King.
2. (illegible word) aristocracy.
3. Individual strength against tyranny.
4. Beliefs, devotion, wild virtues, instincts.
5. Idea of duty.
6. Tranquillity of the people that arises from their not seeing anything better.
7. Monarchical immobility.
8. Strength and grandeur of the state which you reach by the constant efforts of some.

DEMOCRATIC AND REPUBLICAN SYSTEM.

1. Respect for law, idea of rights.
2. Benevolence arising from equality of rights.
3. Association.
4. Interest well understood, enlightenment.
5. Love of liberty.
6. That they know that they are well-off.
7. Orderly and progressive movement of democracy.
8. Id. by the simultaneous efforts of all.

CURRENT STATE.

1. Fear of authority that is scorned.
2. War of the poor and the rich, individual egoism without strength.
3. Equal weakness without collective power {of association}.
4. Prejudices without beliefs, ignorance without virtues, the doctrine of interest without the science, stupid egoism.
5. Taste for license.
6. Who do not have the courage to change, passions of old men (YTC, CVh, 3, pp. 110–11).

Hindered in its march or abandoned without support to its disorderly passions, democracy in France has overturned everything that it met on its way, weakening what it did not destroy. You did not see it take hold of society little by little in order to establish its dominion peacefully; it has not ceased to march amid the disorders and the agitation of battle. Animated by the heat of the struggle, pushed beyond the natural limits of his opinion by the opinions and excesses of his adversaries, each person loses sight of the very object of his pursuits and uses a language that corresponds badly to his true sentiments and to his secret instincts.

From that results the strange confusion that we are forced to witness.

I search my memory in vain; I find nothing that deserves to excite more distress and more pity than what is happening before our eyes;^g it seems that today we have broken the natural bond that unites opinions to tastes and actions to beliefs; the sympathy that has been observed in all times between the sentiments and the ideas of men seems to be destroyed, and you would say that all the laws of moral analogy are abolished.

You still meet among us Christians full of zeal, whose religious souls love to be nourished by the truths of the other life; they are undoubtedly going to become active in favor of human liberty, source of all moral grandeur. [<Their hearts will open without difficulty to the holy love of country, this religion of the political world so fruitful in generous devotions.>] Christianity, which has made all men equal before God, will not be loath to see all citizens equal before the law. But, by a combination of strange events, religion is at the moment involved amid the powers that democracy is overturning, and it often happens that religion rejects the equality that it loves and curses liberty as an adversary, while, by taking liberty by the hand, religion could be able to sanctify its efforts.

Next to these religious men, I find others whose sights are turned toward the earth rather than toward heaven; partisans of liberty, not only because

g. Hervé de Tocqueville:

This expression is too strong. It takes the thought beyond the truth. What happened at the time of the imprisonment of King Jean and under the last of the Valois was of a nature to cause more distress than what is happening currently. So I would delete the words *more distress* in the sentence and I would put only: *I find nothing that deserves to excite more pity* (YTC, CIIb, 1, pp. 15–16).

they see in it the origin of the most noble virtues, but above all because they consider it as the source of the greatest advantages, they sincerely desire to secure its dominion and to have men taste its benefits. I understand that the latter are going to hasten to call religion to their aid, for they must know that you cannot establish the reign of liberty without that of mores, nor found mores without beliefs; but they have seen religion in the ranks of their adversaries; that is enough for them; some attack religion and the others dare not defend it [all lack enlightenment or courage].

Past centuries saw base and venal souls advocate slavery, while independent spirits and generous hearts struggled without hope to save human liberty. But today you often meet men naturally noble and proud whose opinions are in direct opposition to their tastes, and who speak in praise of the servility and baseness that they have never known for themselves. There are others, in contrast, who speak of liberty as if they could feel what is holy and great in it and who loudly claim on behalf of humanity rights that they have always disregarded.

I notice virtuous and peaceful men placed naturally by their pure morals, tranquil habits, prosperity and enlightenment at the head of the populations that surround them. Full of a sincere love of country, they are ready to make great sacrifices for it. Civilization, however, often finds them to be adversaries; they confuse its abuses with its benefits, and in their minds the idea of evil is indissolubly united with the idea of the new [and they seem to want to establish a monstrous bond between virtue, misery and ignorance so that all three may be struck with the same blow^h].

Nearby I see other men who, in the name of progress, try hard to materialize man, wanting to find the useful without attending to the just, want-

h. Hervé de Tocqueville: "This last thought is not very clear. Would it perhaps seem a bit gigantesque? It is a kind of irony. But is it very accurate? Who would want to strike virtue? No one, I think."

Édouard de Tocqueville: "This sentence did not fully satisfy me either. I do not see clearly why the persons in question here would desire that virtue, misery and ignorance be struck with the same blow" (YTC, CIIb, 1, p. 16).

ing to find knowledge far from beliefs and well-being separate from virtue. These claim to be champions of modern civilization and they arrogantly put themselves at its head, usurping a place that is abandoned to them and that their unworthiness denies to them.^j

So where are we?

Religious men combat liberty, and the friends of liberty attack religion; noble and generous spirits speak in praise of slavery, and base and servile souls advocate independence; honest and enlightened citizens are enemies of all progress, while men without patriotism and without mores become the apostles of civilization and enlightenment!

Have all centuries resembled ours then? Has man always had before his eyes, as today, a world where nothing is connected, where virtue is without genius,^k and genius without honor; where love of order merges with the taste for tyrants and the holy cult of liberty with scorn for human laws; where conscience throws only a doubtful light upon human actions; where nothing any longer seems either forbidden, or permitted, or honest, or shameful, or true, or false?

Will I think that the Creator made man in order to leave him to struggle endlessly amid the intellectual miseries that surround us? I cannot believe it; God is preparing for European societies a future more settled and more calm; I do not know his plans, but I will not cease to believe in them because I cannot fathom them, and I will prefer to doubt my knowledge than his justice.

There is a country in the world where the great social revolution that I am speaking about seems more or less to have reached its natural limits; it came about there in a simple and easy way, or rather it can be said that this

j. In the margin: “#Thus some wanted virtue and misery; others, well-being without virtue.#”

k. Hervé de Tocqueville: “This whole sentence is very beautiful and I would very much like to let the word *genius* go by. But I cannot do so, because it expresses more than is necessary. It will be asked where is the genius in France and each person will answer: I do not know.”

Édouard de Tocqueville: “After long and careful reflection, I do not share the opinion of my father. *Genius* here means intellectual superiorities and there are always some in a country” (YTC, CIIb, 1, p. 17).

country sees the results of the democratic revolution that is taking place among us, without having had the revolution itself.

The emigrants who came to settle in America at the beginning of the XVIIth century in a way freed the principle of democracy from all those principles that it struggled against within the old societies of Europe, and they transplanted it alone to the shores of the New World. There it was able to grow in liberty and, moving ahead with mores, to develop peacefully in the laws.

It seems to me beyond doubt that sooner or later, we will arrive, like the Americans, at a nearly complete equality of conditions. From that, I do not conclude that one day we are necessarily called to draw from such a social state the political consequences that the Americans have drawn from it.^m I am very far from believing that they have found the only form of government that democracy may take; but in the two countries the generating cause of laws and mores is the same; that is enough for us to have an immense interest in knowing what that generating cause has produced in each of them.

So it is not only to satisfy a curiosity, legitimate for that matter, that I examined America; I wanted to find lessons there from which we would be

m. Hervé de Tocqueville:

I would like the author to have added a sentence here to bring out clearly that he does not mean that the forms of the American government can be adapted to the old European societies whose conditions are so different. Alexis thinks that democracy will end by dominating everywhere, while keeping at the head of government an executive power more or less strong, more or less concentrated. He must, I think, make that understood very clearly by his reader.

Édouard de Tocqueville:

I find a great deal of accuracy in this observation. You must above all inculcate clearly in the reader the conviction that you have not returned from America with the fixed idea of adapting American institutions to Europe. So it would be good to say that you foresee the establishment of democracy and of equality of conditions which is the consequence of democracy, but *very often* with other forms and a different social organization; the character, habits and mores of the two countries being eminently dissimilar (YTC, CIIb, I, p. 18).

The phrase "I am very far . . . that democracy may take" does not appear in the manuscript.

able to profit. You would be strangely mistaken if you thought that I wanted to do a panegyric; whoever reads this book will be clearly convinced that such was not my purpose;ⁿ nor was my goal to advocate any particular form of government in general; for I am among those who believe that there is hardly ever absolute good in laws; I did not even claim to judge if the social revolution, whose march seems irresistible to me, was advantageous or harmful to humanity. I have acknowledged this revolution as an accomplished or nearly accomplished fact, and, from among the peoples who have seen it taking place among them, I sought the people among whom it has reached the most complete and most peaceful development, in order to discern clearly its natural consequences and, if possible, to see the means to make it profitable to men. I admit that in America I saw more than America;^o I sought there an image of democracy itself, its tendencies, its character, its prejudices, its passions; I wanted to know democracy, if only to know at least what we must hope or fear from it.

In the first part of this work, I tried to show the direction that democracy, delivered in America to its tendencies and abandoned almost without con-

n. "That governments have relative goodness. When Montesquieu . . . I admire him. But when he portrays to me the English constitution as the model of perfection, it seems to me that, for the first time, I see the limit of his genius. This constitution today falls in the same [interrupted text (ed.)]" (YTC, CVh, 4, p. 91).

o. Why would I be afraid to say so? While I had my eyes fixed on America, I thought about Europe. I thought about this immense social revolution that is coming to completion among us while we are still discussing its legitimacy and its rights. I thought about the irresistible slope where [we (ed.)] are running, who knows, perhaps toward despotism, perhaps also toward the republic, but definitely toward democracy. There are men who see in the Revolution of 1789 a pure accident and who, like the traveler in the fable, sit down waiting for the river to pass. Vain illusion! Our fathers did not see it being born and we will not see it end. Its turbulent currents will flow for still many generations. More than six hundred years ago the first impulse was given.

[In the margin] Some among us consider the present state as a beginning; others, as an end. It is neither the one nor the other; it is an incident in an immense revolution that began before it and has continued since (YTC, CVh, 3, pp. 22–23; see a more or less identical fragment in YTC, CVh, 4, p. 1, and *Souvenirs*, OC, XII, p. 30).

straint to its instincts, gave naturally to laws, the course that it imparted to government, and in general the power that it gained over public affairs. I wanted to know what good and bad it produced. I sought out what precautions the Americans have used to direct it and what others they have omitted, and I undertook to discern the causes that allow it to govern society.

My goal was to portray in a second part [{third volume}] the influence that equality of conditions and the government of democracy exercise in America on civil society, on habits, ideas and mores;^p but I begin to feel less enthusiasm^q about accomplishing this plan. Before I can complete in this way the task that I proposed for myself, my work will have become nearly useless. Someone else will soon show readers the principal features of the American character and, hiding the seriousness of the descriptions behind a light veil, will lend truth charms with which I would not be able to adorn it.¹

p. Although the second part had been published, probably on the recommendation of Gosselin, the publisher, with the title of the first part, Tocqueville had at one moment wanted to entitle it *Influence of Equality on the Ideas and Feelings of Men* (See letter to Mill of 14 November 1839, *Correspondance anglaise*, OC, VI, 1, p. 326).

q. In the manuscript: “. . . but each day I feel less enthusiasm . . .”

Hervé de Tocqueville: “This turn of phrase seems too explicit to me; it removes in too absolute a way the hope for a 3rd volume.”

Édouard de Tocqueville: “That is very true; a sentence more or less like this would be needed: *and I give up at least at present*.”

“I also do not like *my work will have become useless*. We do not know if you are speaking about the future work or this one. At least *would become useless* would be necessary” (YTC, CIIb, 1, p. 19). The manuscript says: “. . . will have become nearly useless.”

1. *At the time when I published the first edition of this work, M. Gustave de Beaumont, my traveling companion in America, was still working on his book entitled Marie, or Slavery in the United States, which has since appeared. The principal goal of M. de Beaumont was to bring out and make known the situation of Negroes within Anglo-American society. His work will throw a bright and new light on the question of slavery, a vital question for the united republics. I do not know if I am wrong, but it seems to me that the book of M. de Beaumont, after deeply interesting those who want to gather emotions and find descriptions there, will gain a still more solid and more lasting success among readers who, above all, desire true insights and profound truths.*^r

r. For obvious reasons, the beginning of this note was a bit different in the first edition: “M. Gustave de Beaumont, my traveling companion in America, intends to publish during the first days of 1835, a book entitled *Marie, or Slavery in the United States*. The principal goal . . .”

I do not know if I have succeeded in making known what I saw in America, but I am sure that I sincerely desired to do so, and that I never yielded, except unknowingly, to the need to adapt facts to ideas, instead of subjecting ideas to facts.

When a point could be established with the help of written documents, I have taken care to turn to original texts and to the most authentic and most respected works.² I have indicated my sources in notes, and everyone will be able to verify them. When it was a matter of opinions, of political customs, of observations of mores, I sought to consult the most enlightened men. If something happened to be important or doubtful, I was not content with one witness, but decided only on the basis of the body of testimonies.

Here the reader must necessarily take me at my word. I would often have been able to cite in support of what I advance the authority of names that are known to him, or that at least are worthy to be; but I have refrained from doing so. The stranger often learns by the hearth of his host important truths, that the latter would perhaps conceal from a friend; with the stranger you ease the burden of a forced silence; you are not afraid of his indiscretion because he is passing through. Each one of these confidences was recorded by me as soon as received, but they will never emerge from my manuscripts; I prefer to detract from the success of my accounts than to add my name

2. *Legislative and administrative documents have been provided to me with a kindness the memory of which will always stir my gratitude. Among the American officials who have thus favored my research, I will cite above all Mr. Edward Livingston, the Secretary of State (now ambassador plenipotentiary to Paris). During my stay at the Congress, Mr. Livingston was nice enough to have sent to me most of the documents that I possess relating to the federal government. Mr. Livingston is one of those rare men whom you like by reading their writings, whom you admire and honor even before knowing them and to whom you are happy to owe acknowledgement.*⁵

s. This note does not appear in the manuscript of the book and no reference to it is found in the other papers of Tocqueville. At the end of the year 1834, Livingston was in Paris in a very delicate situation because of the famous affair of the American indemnities. It is possible that the note had been written in sympathy with the man whose name appears several times in the drafts as a source of information. On the affair of the indemnities and Edward Livingston, see Richard A. McLemore, *Franco-American Diplomatic Relations, 1816–1836* (Baton Rouge: Louisiana State University Press, 1941).

to the list of those travelers who send sorrows and troubles in return for the generous hospitality that they received.

I know that, despite my care, nothing will be easier than to criticize this book, if anyone ever thinks to examine it critically.

Those who will want to look closely at it will find, I think, in the entire work, a generative thought that links so to speak all its parts. But the diversity of the subjects that I had to treat is very great, and whoever will undertake to contrast an isolated fact to the whole of the facts that I cite, a detached idea to the whole of the ideas, will succeed without difficulty. So I would like you to grant me the favor of reading me with the same spirit that presided over my work, and would like you to judge this book by the general impression that it leaves, as I myself came to a decision, not due to a particular reason, but due to the mass of reasons.

Nor must it be forgotten that the author who wants to make himself understood is obliged to push each of his ideas to all of their theoretical consequences, and often to the limits of what is false and impractical;^t for if it is sometimes necessary to step back from the rules of logic in actions, you cannot do the same in discourses, and man finds it almost as difficult to be inconsistent in his words as he normally finds it to be consistent in his actions. [<This, to say in passing, brings out one of the great advantages of free governments, an advantage about which you scarcely think. In these

t. Tocqueville is eager to emphasize that the goal of his book is the description of models, of *ideal types* that, by definition, do not perfectly coincide with reality. He probably borrows the concept from Montesquieu, even if from Montesquieu to Tocqueville, and later to Max Weber, differences are perceptible. The use of the idea of ideal types (aristocracy and democracy) is of a hermeneutical nature; all attempts to make it a mechanical and automatic process would destroy one of the most remarkable aspects of Tocqueville's theory. For the latter, the good political regime is characterized by an eternal tension between the two types, idea that points at the very same time to Pascal and to the romanticism of the period. (See in this regard Auguste Comte, *Cours de philosophie positive*, lesson 47; Emile Durkheim, *Montesquieu et Rousseau, précurseurs de la sociologie*, Paris: Marcel Rivière, 1953, ch. III; Melvin Richter, "Comparative Political Analysis in Montesquieu and Tocqueville," *Comparative Politics* 1, no. 2 (1969): 129–60; Pierre Birnbaum, *Sociologie de Tocqueville*, Paris: PUF, 1970, pp. 29–39; Gianfranco Poggi, *Images of Society*, Stanford: Stanford University Press, 1972, pp. 2–82). Cf. note m of p. 694 of volume III.

governments, it is necessary to talk a great deal. The need to talk forces men of State to reason, and from speeches a bit of logic is introduced into public affairs.>]

I finish by pointing out myself what a great number of readers^u will consider as the capital defect of the work.^v This book follows in no one's train exactly; by writing it I did not mean either to serve or to combat any party; I set about to see, not differently, but farther than parties;^w and while they are concerned with the next day, I wanted to think about the future.^x

u. In the manuscript: "... what most readers . . ."

Hervé de Tocqueville: "You must not put *most readers*. That would shock them because you seem to doubt their intelligence too much. So put *some readers* in place of *most readers*."

Édouard de Tocqueville (?): "Very right" (YTC, CIIb, 1, pp. 19–20).

v. In the margin: "≠Why I have not put many figures and statistics. Change so rapidly. Insignificant.≠"

w. "I believe what I say, only advantage that I have over most of my contemporaries. Nothing more common than to talk of liberty, but nearly everyone wants something more or less than liberty. But I really love it and want it" (YTC, CVh, 3, p. 97).

"I am sure that my subject does not lack grandeur. If I fail it will be my fault and not the fault of my subject. In any case, I will have pointed out the path" (YTC, CVh, 3, p. 98).

x. "To point out if possible to men what to do to escape tyranny and debasement while becoming *democratic*. Such is, I think, the general idea by which my book can be summarized and which will appear on every page of the one I am writing at this moment. To work in this direction is, in my eyes, a *holy* occupation and one for which you must spare neither your money, nor your time, nor your life," writes Tocqueville to Kergorlay. 26 December 1836 (*Correspondance avec Kergorlay*, OC, XIII, 1, pp. 431–32).



CHAPTER I

Exterior Configuration of North America

North America divided into two vast regions, the one descending toward the pole, the other toward the equator.—Valley of the Mississippi.—Traces found there of global upheavals.—Coast of the Atlantic Ocean where the English colonies were founded.—Different appearance that South America and North America presented at the time of discovery.—Forests of North America.—Prairies.—Wandering tribes of natives.—Their outward appearance, their mores, their languages.—Traces of an unknown people.

North America, in its exterior configuration, presents general features that are easy to distinguish at first glance.

A kind of methodical order presided over the separation of land and waterways, mountains and valleys. A simple and majestic arrangement is revealed even in the midst of the confusion of objects and among the extreme variety of scenes.

Two vast regions divide North America almost equally.*

One is limited, in the North, by the Arctic pole; in the East, in the West, by the two great oceans. Then it advances southward and forms a triangle whose sides, irregularly drawn, finally meet below the Great Lakes of Canada.

* See the map placed at the end of the volume. [See volume II, following p. 687. This map was deleted after the first editions. (ed.)]

The second begins where the first finishes and extends over the entire remainder of the continent.

The one inclines slightly toward the pole; the other, toward the equator.

The lands included in the first region descend toward the north in a slope so slight that they could almost be said to form a plateau. In the interior of this immense flatland, there are neither high mountains nor deep valleys.

There the waterways wind as if haphazardly. The rivers mingle, join together, part, meet again, vanish in a thousand swamps, are lost continually within a watery labyrinth that they have created, and only after innumerable twists and turns do they finally reach the polar seas. The Great Lakes, where this first region terminates, are not, like most of the lakes of the Old World, steeply embanked by hills and rocks; their shores are flat and rise only a few feet above sea level. So each of them forms something like a vast basin filled to the brim: the slightest changes in the structure of the globe would hurl their waters toward either the pole or the tropical sea.

The second region is more uneven and better prepared to become the permanent dwelling place of man; two long mountain ranges divide it along its length: one, named the Allegheny Mountains, follows the shores of the Atlantic Ocean; the other parallels the Pacific Ocean.

The space enclosed between these two mountain ranges includes 228,843 square leagues.¹ So its area is about six times greater than that of France.²

Yet this vast territory forms only a single valley that descends from the rounded summits of the Allegheny Mountains, and, without meeting any obstacles, climbs again to the peaks of the Rocky Mountains.

At the bottom of the valley flows an immense river. From all directions, waterways descending from the mountains are seen to rush toward it.

1. 1,341,649 miles. See Darby's *View of the United States*, p. 469. *I have converted miles into leagues of 2,000 toises.*^a

a. A *toise* equals 1,949 millimeters.

2. France measures 35,181 square leagues.

Formerly the French called it the Saint Louis River, in memory of the absent homeland; and the Indians, in their pompous language, named it the Father of Waters, or the Mississippi.

The Mississippi has its source at the boundaries of the two great regions that I spoke about above, near the top of the plateau that separates them.

Near the source of the Mississippi another river³ arises that empties into the polar seas. Sometimes even the Mississippi seems uncertain of the path it should take; several times it retraces its steps, and only after slowing its pace amidst lakes and marshes does it finally settle upon its route and set its course slowly toward the south.

Sometimes calm within the clayey bed that nature has dug for it, sometimes swollen by storms, the Mississippi waters more than a thousand leagues along its way.⁴

Six hundred leagues⁵ above its mouth, the river already has an average depth of 15 feet, and vessels of 300 tons go up for a distance of nearly two hundred leagues.

Fifty-seven large navigable rivers flow into it. The tributaries of the Mississippi include a river with a length of 1,300 leagues,⁶ one of 900,⁷ one of 600,⁸ one of 500,⁹ four of 200,¹⁰ without considering an innumerable multitude of streams that rush from all directions to become lost within it.

The valley watered by the Mississippi seems to have been created for it alone; there the river dispenses good and evil at will, and seems like a god. Near the river, nature displays an inexhaustible fecundity. As you move away from its banks, plant energies fail; the soil thins; everything languishes

3. *The Red River.*

4. 2,500 miles, 1,032 leagues. See *Description of the United States, by Warden, vol. I, p. 166.*

5. 1,364 miles, 563 leagues. See *id.*, vol. I, p. 169.

6. *The Missouri.* See *id.*, vol. I, p. 132 (1,278 leagues).

7. *The Arkansas.* See *id.*, vol. I, p. 188 (897 leagues).

8. *The Red River.* See *id.*, vol. I, p. 190 (598 leagues).

9. *The Ohio.* See *id.*, vol. I, p. 192 (490 leagues).

10. *The Illinois, the Saint Peter [the Minnesota (ed.)], the Saint Francis, the Des Moines.* In the measurements above, I have taken as a measure the legal mile (statute mile) and the postal league of 2,000 toises.

or dies. Nowhere have the great convulsions of the earth left clearer traces than in the Mississippi Valley. The whole appearance of the country attests to the action of water. Its sterility, like its abundance, is the work of water. At the bottom of the valley, the waves of the early ocean built up huge layers of vegetable matter and then wore them down over time. On the right bank of the river you find immense plains, made smooth like the surface of a field worked over by the farmworker's roller. In contrast, the closer you get to the mountains, the more and more broken and sterile the ground becomes; the soil is pierced, so to speak, in a thousand places; and here and there primitive rocks appear, like the bones of a skeleton after time has consumed the surrounding muscles and flesh. Granite sand and stones of irregular size cover the surface of the earth; the shoots of a few plants grow with great difficulty among these obstacles; it seems like a fertile field covered by the ruins of some vast edifice. By analyzing these stones and this sand, it is in fact easy to notice a perfect analogy between their materials and those that form the dry and broken peaks of the Rocky Mountains. After pushing the earth headlong into the bottom of the valley, the water almost certainly ended up carrying along a portion of the rocks themselves; it rolled them along the nearest slopes; and, after grinding them against each other, it scattered these fragments, torn from the summits, at the base of the mountains.^{b A}

All in all, the Mississippi Valley is the most magnificent dwelling place ever prepared by God for human habitation;^c and yet, it can be said that it is still only a vast wilderness.^d

On the eastern slope of the Allegheny Mountains, between the foot of the mountains and the Atlantic Ocean, stretches a long band of rocks and

b. In the margin: "For more exactitude in this picture consult and *cite* Volney. Examination of trees, nature of lands, shape of the country. #"

c. "The general population doubles in 22 years, that of the Mississippi Valley in 10 years. 3.25% for the whole, 5% in the valley. Darby, p. 446, calculates that in 1865 the preponderance will be in the Mississippi Valley" (YTC, CVh, 1, p. 63).

d. Here Tocqueville tries to convey the sense of the English word *wilderness*, for which Beaumont had proposed *sauvagerie*. For him, throughout his book, *désert* designates the virgin forest, unexplored and not cultivated. See Roderick Nash, *Wilderness and the American Mind*, New Haven, Ct.: Yale University Press, 1973, pp. 1–7.

sand that the sea seems to have forgotten as it withdrew. This territory is, on average, only 48 leagues wide,¹¹ but it is 390 leagues long.¹² The soil, in this part of the American continent, lends itself to cultivation only with difficulty. Vegetation there is sparse and uniform.

On this inhospitable coast the efforts of human industry were first concentrated. On this strip of arid land were born and grew the English colonies, which would one day become the United States of America. Still today the center of power is found there, while behind, almost in secret, gather the true elements of a great people to whom the future of the continent no doubt belongs.

When Europeans landed on the shores of the Antilles and later on the coasts of South America, they thought themselves transported into the fabled regions celebrated by poets.^e The sea sparkled with the fiery glow of the tropics. For the first time, the extraordinary transparency of the waters exposed the depth of the ocean bottom to the eyes of the navigator.¹³ Here and there small perfumed islands appeared, seeming to float like baskets of flowers on the calm surface of the Ocean. In these enchanted places, all that came into view seemed prepared for the needs of man or planned for his pleasures. Most of the trees were laden with nourishing fruits, and those least useful to man charmed his vision with the vividness and variety of their colors. In a forest of fragrant lemon trees, of wild figs, of myrtle oaks, of acacias and of oleanders, all intertwined by flowering creepers, a multitude of birds unknown in Europe flashed their wings of crimson and

11. 100 miles.

12. About 900 miles.

e. Hervé de Tocqueville: "Alexis thinks correctly that the description of South America must be shortened a great deal, perhaps even removed entirely. 1. Because he was not there. 2. Because South America is entirely outside of his subject" (YTC, CIIb, 3, p. 45).

13. *The waters are so transparent in the Caribbean Sea, says Malte-Brun, vol. V, p. 726, that corals and fish are distinguishable at a depth of 60 fathoms. The ship seems to glide on air; a kind of vertigo grips the traveler whose view plunges beyond the crystalline fluid into the midst of underground gardens where shellfish and gilded fish shimmer among the clumps of fucus and the thickets of marine algae.*

azure and mingled the chorus of their songs with the harmonies of a nature full of movement and life.^f B

Death was hidden under this brilliant cloak; but it was not noticed at all at that time. Moreover, in the air of these regions, there reigned I do not know what enervating influence, attaching man to the present and rendering him unmindful of the future.

North America presented another appearance; everything there was grave, serious, solemn. You could have said that it had been created to become the domain of the mind, as the other was to be the dwelling place of the senses.

A turbulent and foggy ocean enveloped its coasts; granite rocks or sandy shores girdled it; the forests that covered its banks displayed a somber and melancholy foliage; hardly anything other than pine, larch, holm oak, wild olive and laurel grew there.

After penetrating this first barrier, people entered into the shade of the central forest; there the largest trees that grow in the two hemispheres were found mixed together. The plane tree, catalpa, sugar maple, and Virginia poplar [eastern poplar]^[*] intertwined their branches with those of the oak, the beech and the linden.

As in forests subjected to the dominion of man, death struck here without respite; but no one took responsibility for clearing the remains that death had caused. So they piled up; time could not reduce them to dust

f. In the manuscript: "The objects that caught the eye in these enchanted places appeared destined to satisfy needs or to give rise to pleasures. Most of the trees produced fruits; and all of them, flowers. (The wild fig, the lemon tree, the myrtle oak and the oleander grew in dense groves. The acacia arose from the middle of the beach and scattered its fragrant remains over the shores.

The bignonias, the granadillas [passion fruit], the acacias with large pods, fifty species of creepers were thrown as) species of garlands thrown from tree to tree or branch to branch, repeating the image of the works of man in the middle of the inimitable charms of nature. A multitude of birds unknown to Europe made these flowery arches and domes of greenery sparkle with their many colors. There you heard resounding from all directions the sound of a thousand living creatures.

Death was . . ."

The published version is in Gustave de Beaumont's hand (YTC, CIIIb, 3, pp. 42–43). See note e supra, in which Tocqueville's desire to shorten this description is clear.

[*]. See *Tableau des Etats-Unis*, by Volney, p. 9.

quickly enough to prepare new places. But in the very midst of these remains, the work of reproduction went on without ceasing. Climbing plants and weeds of all types grew up through the obstacles; they crept along the fallen tree trunks, wormed into their dust, lifted up and broke the withered bark that still covered them, and cleared a path for their young offshoots. Thus, in a way, death there came to the aid of life. They were face to face, and seemed to want to mix and mingle their work.^g

These forests concealed a profound darkness. A thousand small streams, not yet channeled by human effort, maintained an unending humidity. Scarcely any flowers, wild fruits, or any birds were seen.

Only the fall of a tree toppled by age, the cataract of a river, the bellowing of the buffalo and the whistling of the winds disturbed the silence of nature.^h

East of the great river, the woods partially disappeared; in their place spread limitless prairies. Had nature, in its infinite variety, denied the seeds of trees to these fertile fields, or had the forest that once covered them been destroyed long ago by the hand of man? This is something that neither tradition nor scientific research has been able to discover.

These immense wilderness areas were not entirely without the presence of man however; for centuries, a few small tribes wandered in the shade of the forest or across the prairie lands. From the mouth of the Saint Lawrence to the delta of the Mississippi, from the Atlantic to the Pacific Ocean, these savages shared certain similarities that testified to their common origin. But they also differed from all known races.¹⁴ They were neither white like the

g. Cf. *Journey to Lake Oneida*, pp. 1295–1302, in the fourth volume.

h. In this paragraph as in the preceding one, Tocqueville took into account the stylistic modifications suggested by Beaumont (YTC, CIIb, 3, p. 44).

14. *Some similarities have since been discovered between the physical structure, the language and the habits of the Indians of North America and those of the Tungus, Manchus, Mongols, Tartars and other nomadic tribes of Asia. The latter occupy a position near the Bering Strait, which allows the supposition that, at a period long ago, they were able to come to people the empty American continent. But science has not yet succeeded in clarifying this*

Europeans, nor yellow like most of the Asians, nor black like the Negroes. Their skin was reddish; their hair, long and lustrous; their lips, thin; and their cheekbones, very prominent. The languages spoken by the savage tribes of America differed from each other in words, but all were bound by the same grammatical rules. On several points, these rules deviated from those that, until then, had seemed to govern the formation of human language.

The idiom of the Americans seemed to result from new combinations; it indicated on the part of its inventors an exercise of intelligence of which the Indians of today seem little capable.^C

The social state of these peoples also differed in several respects from what was seen in the Old World: it could have been said that they multiplied freely in their wilderness, without contact with more civilized races. So among them, you found none of those doubtful and incoherent notions of good and evil, none of that profound corruption which is usually combined with ignorance and crudeness of mores among civilized nations who have descended into barbarism again. The Indian owed nothing to anyone except himself. His virtues, his vices, his prejudices were his own work; he grew up in the wild independence of his own nature.

The coarseness of common men, in civilized countries, comes not only from their ignorance and poverty, but also from their daily contact, as ignorant and poor men, with those who are enlightened and rich.

The sight of their misfortune and weakness, which is in daily contrast to the good fortune and power of certain of their fellows, excites anger and fear simultaneously in their heart; the feeling of their inferiority and dependence irritates and humiliates them. This inner state of soul is reproduced in their mores, as well as in their language; at the very same time, they are insolent and servile.

point. On this question, see Malte-Brun, vol. V; the works of Humboldt; Fischer, Conjectures sur l'origine des Américains; Adair, History of the American Indians.

The truth of this is easily proved by observation. The people are more coarse in aristocratic countries than anywhere else, and in opulent cities more than in the countryside.^j

In these places, where men so rich and powerful are found, the weak and poor feel as though overwhelmed by their low condition; finding no point by which they can regain equality, they completely lose hope in themselves and allow themselves to fall below the dignity of human nature.

This unfortunate effect of the contrast in conditions is not found in savage life; the Indians, at the same time that they are all ignorant and poor, are all equal and free.^k

At the time of the arrival of the Europeans, the native of North America was still unaware of the value of wealth and showed himself indifferent to the material well-being that civilized man obtains from it. He exhibited no coarseness however; on the contrary, an habitual reserve and a kind of aristocratic courtesy governed the way he behaved.

In peace, mild and hospitable, in war, merciless even beyond the known limits of human ferocity, the Indian risked death by starvation in order to aid a stranger who knocked at night on the door of his hut and, with his own hands, tore apart the quivering limbs of his prisoner. The most famous republics of antiquity never admired firmer courage, prouder souls, a more uncompromising love of independence than what was then hidden in the

j. Hervé de Tocqueville: "This entire paragraph is well thought out and strikingly true. But isn't it a little long? You could perhaps delete the section from the words cited above [*The truth of this*, etc. . . . (ed.)] to these: *This unfortunate effect*. It seems to me that the expression of the thought would gain in precision."

Édouard de Tocqueville: "This thought is excellent. I do not know what must be deleted or cut, but it seems to me that you must revise and rework this entire passage, perfect in thought and uneven and not very refined in style" (YTC, CIIb, 3, p. 46). Nonetheless, Tocqueville did not modify the passage, identical in the manuscript and in the published version.

k. Note in the margin: "≠Idea of K[ergorlay (ed.)]. What makes the lower classes coarse is contact with the upper classes and the feeling of their low condition. All the savages are equal and free.≠"

wild forests of the New World.¹⁵ The Europeans made only a small impression when landing on the shores of North America; their presence gave rise to neither envy nor fear. What hold could they have over such men? The Indian knew how to live without needs, how to suffer without complaint, and how to die singing.¹⁶ Like all the other members of the great human family, moreover, these savages believed in the existence of a better world, and under different names worshipped God, creator of the universe. Their notions about the great intellectual truths were generally simple and philosophical.^D

15. *Among the Iroquois, attacked by superior forces, says President Jefferson* (Notes sur la Virginie, p. 148), *one saw old men disdain to flee or to outlive the destruction of their country and to brave death, like the old Romans during the sack of Rome by the Gauls. Further along, p. 150: "There never was an instance known, he says, of an Indian begging his life when in the power of his enemies; on the contrary, that he courts death by every possible insult and provocation."*

[Documents on the Indians.]

See the work entitled Historical Collections of the Indians in New England, by Daniel Gookin, printed in 1792. It is found in the historical collections of Massachusetts, vol. 1, p. 141 [-226 (ed.)].

Gookin says that there are people who believe that the Indians are the descendents of the ten tribes of Israel, which explains the state of barbarism and darkness in which they are found. "But this opinion [. . . (ed.) . . .], says Gookin, doth not greatly obtain. [But (ed.)] surely it is not impossible and perhaps not so improbable as many learned men think" [p. 145 (ed.)].

See as well a work entitled Key into the Language of the Indians of New England by Roger Williams, printed in London in 1643. It is found reprinted in the collection of the historical society of Massachusetts, vol. 3, p. 203 [-238 (ed.)].

16. *See Histoire de la Louisiane, by Lepage-Dupratz; Charlevoix, Histoire de la Nouvelle France; Letters of R. Hecwelder [Heckewelder (ed.)], Transactions of the American Philosophical Society, vol. 1 [the Voyages du baron de la Hontan; General History of Virginia, by Captain John Smith; id., by Beverley; History of Carolina, by John Lawson; and History of New York, by William Smith];^m Jefferson, Notes sur la Virginie, pp. 135–90. What Jefferson says carries an especially great weight, because of the personal merit of the writer, of his particular position and of the positive and exact century in which he wrote.*

[{Perhaps put in a note here the most striking features of this portrait and the discourse of Logan.}]

m. These works, included only in certain editions, do not appear at this place in the manuscript. They are, however, cited elsewhere.

Yet, no matter how primitive the people whose character we are describing may appear, it cannot be doubted that they had been preceded in the same regions by another people, more civilized and advanced in all ways.

An obscure tradition, but one widespread among most of the Indian tribes along the Atlantic coast, teaches us that long ago the dwelling place of these very bands was located west of the Mississippi. Mounds raised by human hands are still found every day along the banks of the Ohio and throughout the central valley. We are told that when you dig into the center of these monuments, you hardly ever fail to find human bones, strange instruments, weapons, implements of all sorts that are made of a metal or that recall uses unknown to the present races.¹¹

The Indians of today can give no information at all about the history of this unknown people. Nor did those who lived three hundred years ago, at the time of the discovery of America, say anything from which even an hypothesis could be inferred. Traditions, those perishable and constantly recurring memorials of the primitive world, furnish no light whatsoever. It cannot be doubted, however, that thousands of people similar to us lived there. When did they come there; what was their origin, their destiny, their history? When and how did they perish? No one could say.

Strange thing! Some peoples have so completely disappeared from the earth that even the memory of their name has been blotted out; their languages are lost; their glory has faded like a sound without an echo. But I do not know if there is even one who has not at least left one tomb to mark its passage. Thus, of all the works of man, the most durable is still the one that best recounts his nothingness and his woes!

Although the vast country just described was inhabited by numerous tribes of natives, you could justly say that, at the time of discovery, it was still only a wilderness. The Indians occupied, but did not possess it. Man appropriates the soil by agriculture, and the first inhabitants of North America lived by the hunt. Their implacable prejudices, their untamed pas-

n. Cf. Conversation with Mr. Houston, December 31, 1831 (Notebook E, YTC, BIIa, and *Voyage*, OC, V, 1, p. 264). This fragment also recalls the "journal sans date" of the *Voyage en Amérique* of Chateaubriand (*Oeuvres romanesques et voyages*, Paris: Pléiade, 1969, I, pp. 710–13).

sions, their vices, and perhaps even more their wild virtues delivered them to an inevitable destruction. The ruin of these people began the day Europeans landed on their shores; it has continued constantly since then; to-day it reaches completion. Providence, while placing them in the midst of the riches of the New World, seemed to have given them only a short usufruct; in a way, these people were there only *waiting*. These coasts, so well prepared for commerce and industry; these rivers, so deep; this inexhaustible Mississippi Valley; this entire continent, appeared at that time as the still empty cradle of a great nation.^o

That is where civilized men had to try to build society on new foundations. Applying, for the first time, theories until then unknown or considered inapplicable, civilized men were going to present a spectacle for which past history had not prepared the world.^p

o. Cf. *A Fortnight in the Wilderness* (appendix II, especially p. 1354 of the fourth volume).

p. In this place are found remarks on the Governor, reproduced in note b of pp. 140–42.



CHAPTER 2

Of the Point of Departure and Its Importance for the Future of the Anglo-Americans^a

Usefulness of knowing the point of departure of peoples in order to understand their social state and their laws.—America is the only country where the point of departure of a great people could clearly be seen.—How all the men who came to populate English America were similar.—How they differed.—Remark applicable to all the Europeans who came to settle on the shores of the New World.—Colonization of Virginia.—Id. of New England.—Original character of the first inhabitants of New England.—Their arrival.—Their first laws.—Social contract.—Penal code taken from the law of Moses.—Religious fervor.—Republican spirit.—Intimate union of the spirit of religion and the spirit of liberty.

A man is newly born; his first years pass obscurely amid the pleasures or occupations of childhood. He grows up; manhood begins; finally the doors

a. *Point of departure.*

Influence of the point of departure on the future of society.

Homogeneous ideas, mores, needs, passions of the founders of American society.

Influence of the extent of the territory, of the nature of the country, of its geographic situation, of its ports, of its population, immigration from Europe, and in the West, from America itself.

The point of departure gave birth to the society as it is organized today, *primitive fact* after which come the consequences, formulated as principles (YTC, CVh, 1, p. 23).

of the world open to receive him; he enters into contact with his fellow men. Then, for the first time, you study him and think that the seeds of the vices and virtues of his mature years can be seen developing in him.^b

If I am not mistaken, that is a great error.^c

Go back to the beginning; examine the child even in the arms of his mother; see the exterior world reflected for the first time in the still dark mirror of his intellect; contemplate the first examples that catch his eye; listen to the first words that awaken his slumbering powers of thought; finally, witness the first struggles that he has to sustain. And only then will you understand the origin of the prejudices, the habits and the passions that are going to dominate his life. The whole man is there, so to speak, in the infant swaddled in his cradle.

Something similar happens among nations. Peoples always feel the effects of their origin. The circumstances that accompanied their birth and were useful to their development influence all the rest of their course.

If it were possible for us to go back to the elements of societies and examine the first memorials of their history, I am certain that we would be able to discover there the first cause of the prejudices, habits, dominant passions, of all that ultimately composes what is called the national character. [{There, no doubt, we would find the key to more than one historical enigma}]. There we would happen to find the explanation for customs that today seem contrary to the reigning mores; for laws that seem opposed to recognized principles; for incoherent opinions found here and there in society like fragments of broken chains that are sometimes seen still hanging

b. In the margin: “#It must be very much remembered that this chapter still requires research on the laws of New England, Massachusetts, Rhode Island. See especially the *Town Officer* [Isaac Goodwin, *Town Officer: or Laws of Massachusetts Relative to the Duties of Municipal Officers*, second edition, Worcester: Dorr and Howland, 1829. (ed.)]. #”

c. In the margin:

#Point common to all parts of the Union.

South.

West.

North. New England, sun, which is the source of all the rays that heat, light or at least color everything else. #

from the vaults of an old edifice and that no longer hold up anything. Thus would be explained the destiny of certain peoples who seem to be dragged by an unknown force toward an end unknown even to themselves. But until now facts have been lacking for such a study. The spirit of analysis came to nations only as they grew older, and when, at last, they thought to contemplate their birth, time had already enveloped it in a mist; ignorance and pride had surrounded it with fables that hid the truth.

[Human remains are said to volatilize after death. Separated from each other, these human molecules are incorporated with other living substances. Each of us can therefore consider himself as the summary of many other individuals of the same species who have lived before him. An analogous phenomenon occurs again in the history of the formation of peoples. Moreover, since the time when the various human races began to succeed one another and to graft together, what people of the Old World is not today composed of the remnants of older nations? It is true that, in place of peoples who have ceased to exist, we have seen new peoples arise who have borrowed something from each of their precursors. From this one, its tongue; from that one, its laws; from another, its mores; from a fourth, certain opinions and prejudices. Because these elements already exist, only their combination is new. Amid all this debris of societies that slides haphazardly over the earth, there is no one who could now recapture an original type, or who would dare to trace how time has subjected an original type to changes by combining it with strange elements. Science, in such a labyrinth, provides only incomplete conclusions and vague hypotheses.]

America is the only country where we have been able to witness the natural and tranquil development of a society and where it has been possible to clarify the influence that the point of departure exercised on the future of States.^d

d. Tocqueville seems not to have been satisfied with the draft of this paragraph. At the time of the correction of proofs in October 1834, he writes expressly to Beaumont to ask him what he thinks of it (*Correspondance avec Beaumont*, OC, VIII, 1, p. 144). Two corrections concerning the style were certainly suggested by Beaumont (the original version said *discern the influence* and spoke only of *tranquil development*). In relation to the same subject, Tocqueville notes in a rough draft:

At the time when European peoples descended upon the shores of the New World, the features of their national character were already well fixed; each of them had a distinct physiognomy. And since they had already reached the level of civilization that leads men to self-study, they have handed down to us a faithful picture of their opinions, mores, and laws. The men of the fifteenth century are almost as well-known to us as those of our own. So America shows us in full light what the ignorance and the barbarism of the first ages concealed from our view.

Close enough to the era of the founding of the American societies to know their elements in detail, far enough from that time to be able already to judge what these seeds produced, men in our time seem destined to see further into human events than their predecessors. Providence has put within our reach a light that our fathers lacked and has allowed us to discern the first causes of the destiny of nations that the obscurity of the past hid from them.

When, after attentively studying the history of America, you carefully

When the earth was given to man by the Creator, it was young, fertile, inexhaustible, but man was weak and ignorant. When he had learned to make use of the treasures that the earth enclosed in its bosom, he already covered the entire surface of the land, and he had to fight to acquire the right to have a refuge and to rest there. Then he was civilized, but the earth, like him, was old . . . Such was not the (illegible word) destiny of the men who in the fourteenth [*sic*] century found America. For them this land was like a new creation of a new universe suddenly emerging from the sea, all shining with life, youth and spring-like beauty. This new creation was being offered not to the isolated, ignorant and barbaric man of the first ages, but to men already (illegible word) with all the secrets of nature and art, united among themselves and entrusted with a civilization of fifty centuries (The copyist indicates that this page is not in the handwriting of Alexis de Tocqueville. YTC, CVh, 3, pp. 50–51).

In America Tocqueville found the history of the establishment of a people that Rousseau lacked:

In general, the most instructive part of the annals of peoples, which is the history of their establishment, is what we lack the most. Experience teaches us every day which causes give birth to the revolutions of empires, but because peoples are no longer being formed, we have hardly anything except conjectures to explain how they were formed (*Du contrat social, Œuvres complètes*, Paris: Pléiade, 1964, I, book IV, chapter IV, p. 444).

examine its political and social state, you feel deeply convinced of this truth: there is not an opinion, not a habit, not a law, I could say not an event, that the point of departure does not easily explain. So those who read this book will find in the present chapter the germ of what must follow and the key to nearly the whole book.^e

The emigrants who came at different times to occupy the territory that the American Union covers today differed from each other in many ways; their aim was not the same, and they governed themselves according to various principles.

These men shared common features, however, and they all found themselves in an analogous situation.

The bond of language is perhaps the strongest and most durable that can unite men. All the emigrants spoke the same language; they were all children of the same people. They were born in a country troubled, for centuries, by the struggle of parties, and where the factions had been obliged, one by one, to place themselves under the protection of the laws. Their political education was shaped in this rude school, and you saw more notions of rights, more principles of true liberty spread among them than among most of the peoples of Europe. At the time of the first migrations, town government, this fertile seed of free institutions, had already entered

e. Circumstances without number, theory to make.

Point of departure. The most important of all in my eyes, because it is the one that has had the most influence on mores; I regard mores as by far the most powerful of the three general causes. Equality. Democracy introduced in germ. *Comfort*, result of the small population and the immense resources of the country.

Emigration, new resources equal to new needs.

The absence of neighbors, no war, no permanent army.

New country, no large cities, no manufacturing districts, no capital. *Men are not pressed* one against the other; popular movements less electric and less destructive./

It is a land that presents itself with all the strength and fertility of youth.

The discovery of America is like the complement of creation.

America.

In this state it is presented to man, not to the ignorant and barbaric man of the first centuries of the world, but to man already educated by an experience of 6,000 years (YTC, CVj, 2, pp. 20–21).

deeply into English habits; and with it, the dogma of the sovereignty of the people was introduced even within the Tudor monarchy.

People were then in the middle of the religious quarrels that troubled the Christian world. England had thrown itself into this new course with a sort of fury. The character of the inhabitants, which had always been grave and thoughtful, had become austere and argumentative. These intellectual struggles had greatly increased education and had stimulated deeper cultivation of the mind. While people were occupied with talk of religion, mores became more pure. All these general features of the nation were found more or less in the physiognomy of those of its sons who had come to seek a new future on the opposite shores of the ocean.

Moreover, a remark, which we will have the occasion to return to later, is applicable not only to the English but also to the French, to the Spanish, and to all the Europeans who came successively to settle the shores of the New World. All the new European colonies contained, if not the development, at least the germ, of a complete democracy. Two causes led to this result. [Among the emigrants, unlike in the old societies of Europe, neither conquerors nor conquered were seen.] It can be said in general, that, at their departure from the mother country, the emigrants had no idea whatsoever of any kind of superiority of some over others. It is hardly the happy and the powerful who go into exile, and poverty as well as misfortune are the best guarantees of equality that are known among men. It happened, however, that on several occasions great lords went to America following political or religious quarrels. Laws were made in order to establish a hierarchy of ranks there, but it was soon noticed that the American soil absolutely rejected territorial aristocracy. To clear that intractable land nothing less was required than the constant and interested efforts of the proprietor himself. The ground prepared, it was found that production was not great enough to enrich both a master and a tenant at the same time. So the land was naturally divided into small estates that the proprietor cultivated alone.^f Now, aristocracy clings to the land; it is attached to the soil and relies upon the soil for support. It is not privileges alone that establish it; it is not birth

f. In the margin: "Put the details of this idea further along at democracy."

that constitutes it; it is landed property handed down by inheritance. A nation may exhibit immense fortunes and great misery; but if these fortunes are not territorial, you see poor and rich in its bosom; truly speaking, there is no aristocracy.^g

So all the English colonies, at the time of their birth, shared a great family resemblance. All, from their beginning, seemed destined to present the development of liberty, not the aristocratic liberty of their mother country, but the bourgeois and democratic liberty of which the history of the world did not yet offer a complete model.^h

Noticeable in the midst of this general coloration, however, were some very strong nuances that must be pointed out.

In the great Anglo-American family, two principal branches can be distinguished, one in the South, one in the North; until now, they have grown up without being completely merged.

Virginia received the first English colony. The emigrants arrived there in 1607. At this time, Europe was still singularly preoccupied with the idea that mines of gold and silver constituted the wealth of peoples. This destructive idea has done more to impoverish the European nations that embraced it and, in America, has destroyed more men than war and all bad laws put together. So it was gold seekers who were sent to Virginia,¹ men without resources and without proper behavior, whose restless and turbulent spirit troubled the early years of the colony² and made its progress

g. To the side, with a bracket that includes the last three sentences of the paragraph: “{Hasn’t this been said a hundred times?}”

h. In the margin: “≠The great point of view of America is the development of democracy≠”

1. *The charter granted by the English crown in 1609 included, among others, the clause that the colonists would pay one-fifth of the production of gold and silver mines to the crown. See Life of Washington, by Marshall, vol. I, pp. 18–66.*

2. *A great portion of the new settlers, says Stith (History of Virginia) [pp. 167–68 (ed.)], were dissolute young men of good families, shipped off by their relatives to save them from an ignominious fate. Former servants, fraudulent bankrupts, the debauched, and other people of this type, more appropriate for pillage and destruction than for consolidating the settlement, formed the rest. Seditious leaders easily led this troop into all sorts of extravagances and excesses. See, relative to the history of Virginia, the following works:*

uncertain. Afterwards came the manufacturers and farmers, a more moral and quieter breed, but one that in hardly any ways rose above the level of the lower classes of England.³ No noble thought, no plans that were not material, directed the foundation of these new establishments. The colony was scarcely established before slavery was introduced there;⁴ that was the capital fact that would exercise an immense influence on the character, the laws and the entire future of the South.

Slavery, as we will explain later, dishonors work; into society, it introduces idleness, along with ignorance and pride, poverty and luxury. It enervates the forces of the mind and puts human activity to sleep. The influence of slavery, combined with the English character, explains the mores and the social state [{the character}] of the South.^j

[≠Even the outward appearance of the settlers assumed the imprint of the habits of their life. The Virginian race is recognizable everywhere by its height and by the air of nobility and command that prevails among its features.≠]

In the North, completely opposite nuances were painted on this same English background. Allow me some details here.

In the English colonies of the North, better known as the New England states,⁵ were combined the two or three principal ideas that today form the foundations of the social theory of the United States.

The principles of New England first spread into neighboring states;

History of Virginia from the First Settlements to the Year 1624, *by Smith*.

History of Virginia, *by William Stith*.

History of Virginia from the Earliest Period, *by Beverley, translated into French in 1707*.

3. *It is only later that a certain number of rich English proprietors came to settle in the colony.*

4. *Slavery was introduced about the year 1620 by a Dutch vessel that disembarked twenty Negroes on the banks of the James River. See Chalmer.*

j. In the travel notes and early drafts, as well as in the first drafts of the manuscript, Tocqueville's thinking tends to be oriented toward a North-South division of the United States. This understanding is modified further, particularly following the observations made by his family. Compare this note with note h of p. 77 and p. 602.

5. *The states of New England are those situated east of the Hudson; today they number six: 1. Connecticut; 2. Rhode Island; 3. Massachusetts; 4. Vermont; 5. New Hampshire; 6. Maine.*

then, one by one, they reached the most distant states and finished, if I can express myself in this way, by *penetrating* the entire confederation. Now they exercise their influence beyond its limits, over the entire American world. The civilization of New England has been like those fires kindled on the hilltops that, after spreading warmth around them, light the farthest bounds of the horizon with their brightness.

The founding of New England offered a new spectacle; everything there was singular and original.

[≠You would search the entire history of humanity in vain for an event that presented some analogy to what we are describing.^{k≠}]

Nearly all colonies have had as first inhabitants either men without education and without resources, who were pushed out of the country where they had been born by poverty and misconduct, or avid speculators and business agents. There are some colonies that cannot claim even such an origin. Santo Domingo was founded by pirates; and today the English courts of justice are in charge of peopling Australia.^m

The emigrants who came to settle the shores of New England all belonged to the comfortable classes of the mother country. Their gathering on American soil presented, from the beginning, the singular phenomenon of a society in which there were neither great lords,ⁿ nor lower classes, neither poor, nor rich, so to speak. [I have already said that, among the Europeans who went to America, conditions were in general largely equal, but it can be said that, in a way, these emigrants {the Puritans} carried democracy even within democracy.] In proportion, there was a greater amount of

k. In the margin: “≠Their birth has no more precedents in world history than the social and political state that we see among them today.≠”

m. To the side: “≠Union of liberty and of religion, of independence of individuals and of austerity of mores.≠”

John Quincy Adams had conversed with Tocqueville about the differences between the colonization of New England and of the states in the West and had also mentioned the importance of the “point of departure,” of the way in which the United States was born (non-alphabetic notebooks 2 and 3, YTC, BIIa, and *Voyage, OC*, V, 1, p. 152).

n. Hervé de Tocqueville: “It has been said above that great lords had come to settle in America. Farther along, in chapter 4, it will be said that they founded the colony of Maryland. Beware of apparent contradictions. They will be avoided by developing the thought. This is often necessary. The author is too brief, *sometimes*” (YTC, CIIIb, 2, p. 104).

learning spread among these men than within any European nation of the present day. All, perhaps without a single exception, had received a rather advanced education; and several among them had made themselves known in Europe by their talents and knowledge. The other colonies had been founded by adventurers without families; the emigrants of New England brought with them admirable elements of order and morality; they went to the wilderness accompanied by their wives and children. But what distinguished them, above all, from all the others was the very aim of their enterprise. It was not necessity that forced them to abandon their country; there they left a social position worthy of regret and a secure livelihood. Nor did they come to the New World in order to improve their situation or to increase their wealth; they tore themselves from the comforts of their homeland to obey a purely intellectual need. By exposing themselves to the inevitable hardships of exile, they wanted to assure the triumph of *an idea*.

The emigrants, or, as they so accurately called themselves, the *pilgrims*, belonged to that English sect given the name Puritan because of the austerity of its principles. Puritanism was not only a religious doctrine, but also at several points it was mingled with the most absolute democratic and republican theories. From that had come its most dangerous adversaries. The Puritans, persecuted by the government of the mother country and, in the strictness of their principles, offended by the daily course of the society in which they lived, sought a land so barbarous and so abandoned by the world that they would still be allowed to live there as they wished and to pray to God in liberty.

A few citations will show the spirit of these pious adventurers better than anything that we could add.

Nathaniel Morton, historian of the first years of New England, begins in this way:⁶

6. New England's Memorial, p. 13 [13–14 (ed.)], Boston, 1826. Also see the History of Hutchinson,^o vol. II [I (ed.)], p. 440. [Also see the work entitled An Account of the Church of Christ in Plymouth. Collection of the Historical Society of Massachusetts, vol. IV, p. 107 [107–41 (ed.)].]

o. Probably the appendix, *A Summary of the Affairs of the Colony of New-Plymouth*,

I have always believed, he says, that it was a sacred duty for us, whose fathers received such numerous and memorable demonstrations of divine goodness in the settlement of this colony, to perpetuate the memory of them in writing. What we have seen and what we have been told by our fathers, we must make known to our children, so that the generations to come learn to praise the Lord [(Psalms LXXVIII, 3, 4) (ed.)]; so that the lineage of Abraham, his servant, and the sons of Jacob, his chosen, keep forever the memory of the miraculous works of God (Ps. CV, 5, 6). [. . . (ed.)P . . .] They must know how the Lord brought his vine into the wil-

from the First Settlement until the incorporation with Massachusetts-Bay &c. in one Province, pp. 449–81.

p. Tocqueville cites texts more or less freely as his times allowed. Deletions of words or sentences are not indicated. The editor has carefully corrected most of these citations; in certain cases judged to be of little importance, he has simply noted the deletions made by the author.

The first fragment from Morton says:

I have for some length of time looked upon it as a duty incumbent, especially on the immediate successors of those that have had so large experience of those many memorable and signal demonstrations of God's goodness, viz. The first beginners of this plantation in New England, to commit to writing his gracious dispensations on that behalf; having so many inducements thereunto, not only otherwise, but so plentifully in the sacred Scriptures, that so, what we have seen, and what our fathers have told us, we may not hide from our children, shewing to the generations to come the praises of the Lord. Psal. 78.3, 4. That especially the seed of Abraham his servant, and the children of Jacob his chosen, may remember his marvelous works (Psal. 105. 5, 6) [. . . (ed.) . . .] how that God brought a vine into this wilderness; that he cast out the heathen and planted it; and he also made room for it, and he caused it to take deep root, and it filled the land; so that it hath sent forth its boughs to the sea, and its branches to the river. Psal. 80, 8, 9. And not only so, but also that He hath guided his people by his strength to his holy habitation, and planted them in the mountain of his inheritance (Exod. 15. 13.) [. . . (ed.) . . .], God may have the glory of all, unto whom it is most due; so also some rays of glory may reach the names of those blessed saints that were the main instruments of the beginning of this happy enterprise.

The second text from Morton reads:

And the time being come that they must depart, [. . . (ed.) . . .] a town called Delft Haven, [. . . (ed.) . . .] which had been their resting place [. . . (ed.) . . .] but they knew that they were pilgrims and strangers here below, and looked not much on these things, but lifted up their eyes to heaven, their dearest country, where God hath prepared for them a city, Heb. Xi, 16, and therein quieted their spirits.

When they came to the place, they found the ship and all things ready; and such

derness; how he planted it and removed the pagans; how he prepared a place for it, put its roots down deeply, and then allowed it to spread and cover the earth (Ps. LXXX, 15, 13 [Psalms LXXX, 8, 9 (ed.)]; and not only that, but also how he led his people toward his holy tabernacle, and established them on the mountain of his heritage (Exod. XV, 13). [. . . (ed.) . . .] These facts must be known, so that [. . . (ed.) . . .] God receives the honor he is due, and so that some rays of his glory can fall on the venerable names of the saints who served as his instruments.

It is impossible to read this beginning without being imbued, despite yourself, with a religious and solemn impression; you seem to inhale an air of antiquity and a kind of biblical perfume.

The conviction that animates the writer elevates his language. In your eyes, as in his, it no longer concerns a small band of adventurers going to seek their fortune across the seas; it is the seed of a great people that God comes to set down with his own hands in a predestined land.

The author continues and depicts the departure of the first emigrants in this way:⁷

Thus, he says, they left this city (Delft-Haven) [. . . (ed.) . . .] which had been for them a place of rest; but they were calm; they knew that they were pilgrims and strangers here below. They were not attached to the

of their friends as could not come with them, followed after them [. . . (ed.) . . .]. One night was spent with little sleep with the most, but with friendly entertainment, and Christian discourse, and other real expressions of true Christian love. The next day [. . . (ed.) . . .] they went on board, and their friends with them, where truly doleful was the sight of that sad and mournful morning, to hear what sighs and sobs, and prayers did sound amongst them; what tears did gush from every eye, and pithy speeches pierced each others heart, that sundry of the Dutch strangers, that stood on the Keys as spectators, could not refrain from tears. [. . . (ed.) . . .] But the tide (which stays for no man) calling them away, that were thus loth to depart, their reverend pastor falling down on his knees, and they all with him, with watery cheeks commended them with most fervent prayers unto the Lord and his blessing; and then with mutual embraces, and many tears, they took their leave one of another, which proved to be the last leave to many of them.

7. New England's Memorial, p. 23 [-24 (ed.)].

things of the earth, but raised their eyes toward heaven, their dear homeland, where God had prepared for them his holy city. [Heb. XI, 16 (ed.)] [. . . (ed.) . . .] They finally arrived at the port where the vessel awaited them. A great number of friends who could not leave with them had at least wanted to follow them to this port. The night went by without sleep; it passed with outpourings of friendship, with pious speeches, with expressions full of a true Christian tenderness. The next day they went aboard; their friends still wanted to accompany them; then you heard deep sighs, you saw tears running from all eyes, you heard long hugs and kisses and fervent prayers that made strangers themselves feel moved. [. . . (ed.) . . .] Once the signal for departure was given, they fell on their knees, and their pastor, raising eyes full of tears toward heaven, commended them to the mercy of the Lord. Finally they took leave of each other, and pronounced this farewell that, for many among them, was to be the last.

The emigrants numbered about one hundred and fifty, men as well as women and children. Their goal was to found a colony on the banks of the Hudson, but, after wandering a long time on the ocean, they were finally forced to land on the arid coasts of New England, at the place where the town of Plymouth is found today. The rock where the pilgrims landed is still displayed.⁸

Says the historian I have already quoted:

But before going further, let us consider for an instant the present condition of these poor people and let us marvel at the goodness of God who saved them.⁹

They had now crossed the vast ocean, they were reaching the end of their journey, but they saw no friends to receive them, no dwelling to offer them shelter [. . . (ed.) . . .]; it was the middle of winter; and those who know our climate know how harsh the winters are and what furious storms then devastate our coasts. In this season, it is difficult to traverse known

8. *This rock has become an object of veneration in the United States. I saw fragments of it carefully preserved in several cities of the Union. Doesn't this show quite clearly that the power and greatness of man is entirely in his soul? Here is a rock touched for a moment by the feet of a few wretched individuals, and this rock becomes famous; it attracts the attention of a great people; the remains are venerated; far away, tiny pieces are shared. What has become of the threshold of so many palaces? Who worries about it?*

9. New England's Memorial, p. 35 [–36 (ed.)].

places, even worse to settle on new shores. Around them appeared only a hideous and desolate wilderness, full of animals and savage men whose level of ferocity and number they did not know. [. . . (ed.) . . .] The earth was frozen; the land was covered with woods and thickets. Everything had a barbarous appearance. Behind them, they saw only the immense ocean that separated them from the civilized world. To find a little peace and hope, they could only turn their faces toward heaven.⁹

You must not believe that the piety of the Puritans was only speculative, or that it proved to be unfamiliar with the course of human concerns. Puritanism, as I said above, was almost as much a political theory as a religious doctrine. So, scarcely are these emigrants disembarked on this inhospitable coast that Nathaniel Morton has just described than their first concern is to organize themselves as a society. They immediately enact an agreement [It is the social contract in proper form that Rousseau dreamed of in the following century] which* reads:¹⁰

q. The original text says:

But before we pass on, let the reader, with me, make a pause, and seriously consider this poor people's present condition, the more to be raised up to admiration of God's goodness towards them in their preservation: For being now passed the vast ocean, and a sea of troubles before in their preparation, they had now no friends to welcome them, no inns to entertain or refresh them [. . . (ed.) . . .] and, for the season it was winter, and they that know the winters of the country, know them to be sharp and violent, subject to cruel and fierce storms, dangerous to travel to known places, much more to search unknown coasts. Besides, what could they see but a hideous and desolate wilderness, full of wild beasts and wild men? And what multitudes of them there were, they then knew not; [. . . (ed.) . . .] all things stand in appearance with a weather-beaten face, and the whole country full of woods and thickets, represented a wild and savage hue; if they looked behind them, there was the mighty ocean which they had passed, and was now a main bar and gulf to separate them from all the civil parts of the world.

* *New England's Memorial*, p. 37 [–38. Note omitted in certain editions. (ed.)].

10. *The emigrants who created the state of Rhode Island in 1638, those who established New Haven in 1637, the first inhabitants of Connecticut in 1639, and the founders of Providence in 1640, also began by drawing up a social contract that was submitted for approval to all those affected*, Pitkin's History, [vol I, (ed.)] pp. 42 [43 (ed.)] and 47.

We, whose names follow,^r who, for the glory of God, the development of the Christian faith and the honor of our country,^s have undertaken to establish the first colony on these distant shores,^t we covenant by these presents, by mutual and solemn consent, and before God, to form ourselves into a body of political society, for the purpose of governing ourselves and working for the accomplishment of our plans; and by virtue of this contract, we covenant to promulgate laws, acts, ordinances, and to establish, as needed, magistrates to whom we promise submission and obedience.

This took place in 1620. From that period on, emigration did not stop. Each year, the religious and political passions that tore apart the British Empire throughout the reign of Charles I drove new swarms of sectarians to the coasts of America. In England, the center of Puritanism continued to be located in the middle classes;^u most of the emigrants came from within the middle classes. The population of New England increased rapidly; and, while in the mother country men were still classed despotically according to the hierarchy of ranks, the colony increasingly presented the novel spectacle of a thoroughly homogeneous society. Democracy, such as antiquity had not dared dream it, burst forth fully grown and fully armed from the midst of the old feudal society.

Content to remove the seeds of troubles and the elements of new rev-

r. The quoted fragment reads:

We whose names are under-written, the loyal subjects of our dread sovereign Lord, King James, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the faith, &c. Having undertaken for the glory of God, and advancement of the Christian faith, and the honour of our King and country, a voyage to plant the first colony in the northern parts of Virginia; do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politick, for our better ordering and preservation, and furtherance of the ends aforesaid: And by virtue hereof, do enact, constitute and frame such just and equal laws, ordinances, acts, constitutions and officers, from time to time, as shall be thought most meet and convenient for the general good of the colony; unto which we promise all due submission and obedience.

s. Omitted: "our king and our country . . ."

t. The text says: "in the northern parts of Virginia."

u. Tocqueville uses the words *class* and *rank* indiscriminately.

olutions, the English government watched this heavy emigration without distress. It even encouraged it with all of its power and seemed hardly at all concerned with the fate of those who came to American soil seeking a refuge from the harshness of its laws. You could have said that the English government saw New England as a region delivered to the dreams of the imagination that should be abandoned to the free experiments of innovators.

The English colonies, and this was one of the principal causes of their prosperity, always enjoyed more internal liberty and more political independence than the colonies of other peoples; but nowhere was this principle of liberty more completely applied than in the states of New England.

It was then generally agreed that the lands of the New World belonged to the European nation that had first discovered them.

In this way, nearly the entire littoral of North America became an English possession toward the end of the sixteenth century. The means used by the British government to populate these new domains were of different kinds. In certain cases, the king subjected a portion of the New World to a governor of his choosing, charged with administering the country in his name and under his direct orders;¹¹ this is the colonial system adopted by the rest of Europe. At other times, he granted ownership of certain portions of the country to a man or to a company.¹² All the civil and political powers were then concentrated in the hands of one or several individuals who, under the inspection and control of the crown, sold the land and governed the inhabitants. Finally, a third system consisted of giving a certain number of emigrants the right to form a political society, under the patronage of the mother country, and to govern themselves in everything not contrary to its laws.

This method of colonization, so favorable to liberty, was put into practice only in New England.¹³

11. *This was the case for the state of New York.*

12. *Maryland, the Carolinas, Pennsylvania, New Jersey were in this case. See Pitkin's History, vol. I, pp. 13–31.*

13. *See in the work entitled: Historical Collection of State Papers and other Authentic Documents Intended as Materials for an History of the United States of America, by Ebenezer Hazard, printed at Philadelphia, MDCCXCII, a very large number of precious*

As early as 1628,¹⁴ a charter of this nature was granted by Charles I to the emigrants who came to found the colony of Massachusetts.

But, in general, charters were not granted to the colonies of New England until long after their existence had become an accomplished fact. Plymouth, Providence, New Haven, the states of Connecticut and Rhode Island¹⁵ were founded without the support and, in a sense, without the knowledge of the mother country. The new inhabitants, without denying the supremacy of the home country, did not draw on it as the source of powers; they incorporated themselves. And it was only thirty or forty years after, under Charles II, that a royal charter legalized their existence.

So it is often difficult, while surveying the first historical and legislative memorials of New England, to see the link connecting the emigrants to the country of their ancestors. At every moment you can see them performing some act of sovereignty; they name their magistrates, make peace and war, establish regulations for public order, provide laws for themselves as if they were answerable only to God alone¹⁶ [≠later, when the colonies began to become powerful, the mother country raised the claim of defending and directing them≠].

Nothing is more singular and, at the very same time, more instructive

documents valuable in their contents and authenticity, relating to the early years of the colonies, among others, the different charters that were granted by the English crown, as well as the first acts of their governments.

Also see the analysis of all these charters that Mr. Story, Justice of the Supreme Court of the United States, makes in the introduction of his Commentary on the Constitution of the United States.

All these documents demonstrate that the principles of representative government and the external forms of political liberty were introduced in all the colonies almost from their birth. These principles were developed more fully in the North than in the South, but they existed everywhere.

14. See Pitkin's History, vol. I, p. 35 [36 (ed.)]. See The History of the Colony of Massachusetts, by Hutchinson, vol. I, p. 9.

15. See id., pp. 42–47 [vol. I (ed.)].

16. *The inhabitants of Massachusetts, in the establishment of criminal and civil laws for proceedings and for the courts of justice, moved away from the customs followed in England: in 1650 the name of the King still did not appear at the head of judicial orders. See Hutchinson, vol. I, p. 452.*

than the legislation of this period;^v there, above all, is found the key to the great social enigma that the United States presents to the world of today.

Among these memorials, we will particularly single out, as one of the most characteristic, the law code that the small state of Connecticut gave itself in 1650.¹⁷

The legislators of Connecticut¹⁸ first take charge of the penal laws; and to write them, they conceive the strange idea of drawing upon sacred texts:

“Whoever will worship a God other than the Lord,” they begin by saying, “will be put to death.”

Ten or twelve clauses of the same nature, borrowed word for word from *Deuteronomy*, *Exodus* and *Leviticus*, follow.

Blasphemy, witchcraft, adultery,¹⁹ rape are punished with death; the same punishment is imposed on flagrant insult by a son toward his parents. In this way, the legislation of a primitive and half-civilized people was transferred to a society in which minds were enlightened and mores were mild; so the death penalty was never so common in the laws, nor so rarely applied to the guilty.

Above all, in this body of penal laws, the legislators are preoccupied with upholding moral order and standards of good behavior; they constantly enter, therefore, into the realm of conscience. There is hardly any sin that

v. “Ask Niles about the authenticity of the blue laws” (YTC, CVb, p. 33).

The laws of the first colonists of Connecticut were called blue laws. Understood in the broadest sense, the term designates the regulations for the strict observance of the Sabbath, which formerly existed throughout the American territory and which partially survive today.

Nathaniel Niles was the secretary of the American delegation in Paris from 1830 to 1833.

17. Code of 1650, p. 28 (*Hartford*, 1830).

18. See as well in the *History of Hutchinson*, vol. I, pp. 435–56, the analysis of the penal code adopted in 1648 by the colony of Massachusetts; this code is drafted on principles analogous to that of Connecticut.

19. Adultery was likewise punished by death under the law of Massachusetts, and *Hutchinson*, vol. I, p. 441, says that several persons in fact suffered death for this crime; he cites on this subject a curious anecdote which relates to the year 1663. A married woman had relations with a young man; she became a widow and married him; several years passed; the public finally began to suspect the intimacy that had formerly existed between the spouses; they were charged under the criminal law; they were imprisoned, and both were nearly condemned to death.

they do not manage to submit to the censure of the magistrate. The reader has been able to observe how harshly the laws punished adultery and rape. Mere flirtation between unmarried people is severely suppressed. On the guilty, the judge has the right to inflict one of three punishments: a fine, a flogging or a wedding.²⁰ And if the records of the old courts of New Haven are to be believed, proceedings of this nature were not rare; you find, dated May 1, 1660, a verdict with a fine and reprimand against a young woman accused of having uttered a few indiscreet words and of allowing herself to be kissed.²¹ The Code of 1650 abounds in preventive measures. Laziness and drunkenness are severely punished.²² Innkeepers cannot provide more than a certain quantity of wine to each consumer; a fine or a flogging cracks down on a simple lie when it might be harmful.²³ In other places, the legislator, completely forgetting the great principles of religious liberty that he claimed in Europe, forces, by threat of fines, attendance at divine²⁴ worship.^w And he goes so far as to impose severe penalties,²⁵ and often death,

20. Code of 1650, p. 48.

It seems that sometimes judges gave these various penalties cumulatively, as you see in a decision rendered in 1643 (p. 114, New Haven Antiquities), which declares that Marguerite Bedford [Bedforde (ed.)], convicted of having committed reprehensible acts, will suffer the penalty of whipping and will be enjoined to marry Nicolas Jemmings [Jennings (ed.)], her accomplice.

21. New Haven Antiquities, p. 104 [–106 (ed.)]. Also see in the *History of Hutchinson*, vol. I, p. 435 [–436 (ed.)], several judgments as extraordinary as the former.

22. Code of 1650, pp. 50, 57.

23. Id., p. 64.

24. Id., p. 44.

w. Cf. Beaumont, *Marie*, I, p. 536–37, and Tocqueville's account (appendix III).

25. *This was not particular to Connecticut. See among others the law of December 13, 1644, in Massachusetts, which sentences Anabaptists to banishment. Historical Collection of State Papers, vol. I, p. 538. Also see the law published on October 14, 1656, against the Quakers: "Whereas, says the law, an accursed sect of heretics called Quakers has recently arisen . . ." Clauses follow which impose a very heavy fine on captains of vessels that bring Quakers into the country. The Quakers who succeed in entering will be flogged and put into prison to work. Those who defend their opinions will first be fined, then sentenced to prison and driven from the province. Same collection, vol. I, p. 630.*

[If the Quakers banished in this way were found once again in the state, they were, once identified, condemned to death. See same collection, vol. II, p. 456, the sentencing to death of

on Christians who want to worship God according to a creed different from his own.²⁶ Finally, the fervor for regulations, which possesses him, sometimes leads him to deal with concerns most unworthy of him. Thus, in the same code, there is a law that prohibits the use of tobacco.²⁷ It must not be forgotten, moreover, that these bizarre or tyrannical laws were not at all imposed; that they were voted by the free participation of all those concerned; and that the mores were still more austere and puritanical than the laws. In the year 1649, a solemn association was formed in Boston whose purpose was to prevent the worldly luxury of long hair.²⁸ E

Such errors undoubtedly shame the human spirit; they testify to the infirmity of our nature, which, incapable of firmly grasping the true and the just, is most often reduced to choosing only between two excesses.

Alongside this penal legislation, so strongly stamped by narrow sectarian spirit and by all the religious passions that were excited by persecution and were still seething deep within souls, a body of political laws is found. The two are, in a way, bound together. But those political laws, written two hundred years ago, still seem very far ahead of the spirit of liberty of our age.

The general principles on which modern constitutions rest, which most of the Europeans of the seventeenth century scarcely understood and which at that time triumphed incompletely in Great Britain, were all recognized and laid down by the laws of New England. There, the intervention of the people in public affairs, the free vote of taxes, the responsibility

two men and a woman convicted of this crime (October 18, 1649). The woman, named Mary Dyer, received mercy, but had to attend the execution of her two accomplices with the cord around her neck.

Also see in the same collection, p. 573, a law of Plymouth: "Whereas, says this law, the Quakers sometimes obtain places to stay, [and (ed.)] horses by means of which they move rapidly from place to place and escape the searches of the legal authorities, poisoning the people with their accursed doctrines . . . [this law (ed.)] orders that the horses seized in possession of the Quakers will be confiscated."

See in general at the end of this volume the acts of the government of New Plymouth against the Quakers.]

26. *In the penal law of Massachusetts, the Catholic priest who sets foot in the colony after being expelled is punished by death.*

27. Code of 1650, p. 96.

28. New England's Memorial, p. 316.

of the agents of power, individual liberty, and jury trial were established without argument and in fact.

There, these generative principles receive an application and developments that not a single European nation has yet dared to give them.

In Connecticut, from the beginning, the electoral body was comprised of all citizens, and that is understood without difficulty.²⁹ Among this emerging people, a nearly perfect equality of means and, even more, of minds then reigned.³⁰

In Connecticut, at that time, all the agents of executive power were elected, even the Governor of the state.³¹

[In Connecticut in 1650, all] The citizens older than sixteen years of age were obliged to bear arms; they formed a national militia that named its officers and had to be ready at all times to march in defense of the country.³²

In the laws of Connecticut, as in all those of New England, you see arising and developing the town independence that still today constitutes the principle and life of American liberty.

Among most European nations, political existence began in the higher ranks of society; little by little and always incompletely, it was transmitted to the various parts of the social body.

In America, in contrast, you can say that the town was organized before the county; the county, before the state; the state, before the Union.

In New England, as early as 1650, the town is completely and definitively formed. Gathered around this town individuality and strongly attached to it are interests, passions, duties, and rights. Within the town, a real, active,

29. Constitution of 1638, p. 17 [12 (ed.)].

30. *As early as 1641, the General Assembly of Rhode Island unanimously declared that the state government consisted of a democracy and that power rested with the body of freemen who alone had the right to make laws and to oversee their execution.* Pitkin's History, p. 47 [46 (ed.)].

31. Constitution of 1638, p. 12.

32. Code of 1650, p. 70.

totally democratic and republican political life reigns. The colonies still recognize the supremacy of the mother country; the monarchy is the law of the state, but in the town, the republic is already fully alive.

The town names its magistrates of all sorts; it taxes itself; it apportions and levies the tax on itself.³³ In the New England town, the law of representation is not accepted. As in Athens, matters that touch the interests of all are treated in the public square and within the general assembly of citizens.

When you attentively examine the laws that were promulgated during these early years of the American republics, you are struck by the legislator's knowledge of government and advanced theories.

It is evident that he had a more elevated and complete idea of the duties of society toward its members than European legislators of that time and that he imposed obligations on society that society still eluded elsewhere. In the states of New England, from the start, the fate of the poor was assured;³⁴ strict measures were taken for maintaining roads; and officers were named to oversee them.³⁵ Towns had public records in which the results of general deliberations, deaths, marriages, births were inscribed;³⁶ clerks were appointed to maintain these records.³⁷ Some officers were charged with the administration of unclaimed inheritances, others, with overseeing the boundaries of legacies. The principal function of several was to maintain public peace in the town.³⁸

[≠The legislation of this era announces in the mass of the people and in its leaders a civilization already well advanced; you feel that those who make the laws and those who submit to them all belong to a race of intelligent and enlightened men who have never been completely preoccupied by the material concerns of life.≠]

33. Code of 1650, p. 80.

34. Code of 1650, p. 78.

35. Id., p. 49.

36. See *the History of Hutchinson*, vol. I, p. 455.

37. Code of 1650, p. 86.

38. Id., p. 40.

The law gets into a thousand different details to provide for and to satisfy a host of social needs of which, today in France, we still have only a vague awareness. [{Nothing then in our old Europe could give the idea of a social organization as extensive and as perfect.}]

But it is in the prescriptions relating to public education that, from the very beginning, you see fully revealed the original character of American civilization.

"Whereas, says the law, Satan, enemy of humanity, finds in the ignorance of men his most powerful weapons, and it is important that the knowledge brought by our fathers does not remain buried in their grave;—whereas the education of children is one of the first interests of the State, with the help of the Lord . . ."³⁹ Then follow the provisions that create schools in all the towns and oblige the inhabitants, under penalty of heavy fines, to tax themselves to support them. Secondary schools are established in the same way in the most populated districts. Municipal magistrates must watch that parents send their children to school; they have the right to levy fines against those who refuse to do so. And if resistance continues, society then displaces the family, lays hold of the child and removes from the fathers the rights that nature had given to them, but that they knew so poorly how to use.⁴⁰ The reader will undoubtedly have noticed the preamble of these ordinances: in America, it is religion that leads to enlightenment; it is the observance of divine laws that brings men to liberty.

When, after thus casting a rapid glance over American society in 1650, you examine the state of Europe and particularly that of the continent

39. *Id.*, p. 90 [–91 (*ed.*)].^x

x. The code of 1650 says:

It being one chiefe project of that old deluder, Sathan, to keepe men from the knowledge of the scriptures, as in former times, keeping them in an unknowne tongue, so in these latter times, by perswading them from the use of tongues, so that at least, the true sence and meaning of the originall might bee clouded with false glosses of saint seeming deceivers; and that learning may not bee buried in the grave of our forefathers, in church and commonwealth, the Lord assisting our indeavors . . . (pp. 90–91).

40. Code of 1650, p. 38.

around this same era, you are filled by a profound astonishment. On the European continent, at the beginning of the seventeenth century, absolute monarchy triumphed on all sides over the ruins of the oligarchic and feudal liberty of the Middle Ages. [\neq The top of the social edifice already received the lights of modern civilization, while the base still remained in the darkness of ignorance [v. of the Middle Ages]. \neq >] In the heart of this brilliant and literary Europe, the idea of rights had perhaps never been more completely misunderstood; never had peoples experienced less of political life; never had minds been less preoccupied by the notions of true liberty. And at that time these same principles, unknown or scorned by European nations, were proclaimed in the wilderness of the New World and became the future creed [{political catechism}] of a great people. The boldest theories of the human mind were reduced to practice in this society so humble in appearance, a society in which probably not a single statesman would then have deigned to be involved; there, the imagination of man, abandoned to its natural originality, improvised legislation without precedent. Within this obscure democracy that had still not brought forth either generals, or philosophers, or great writers, a man could stand up in the presence of a free people and give, to the acclamation of all, this beautiful definition of liberty:⁴¹

Let us not be mistaken about what we must understand by our independence.^y There is in fact a kind of corrupt liberty, the use of which is common to animals as it is to man, and which consists of doing whatever

41. Mather's *Magnalia Christi Americana*, vol. II, p. 13 [vol. I, p. 113 (ed.)].

This speech was given by Winthrop; he was accused of having committed arbitrary acts as a magistrate; after delivering the speech of which I have just given a fragment, he was acquitted with applause, and from that time on he was always re-elected Governor of the State. See Marshall, vol. I, p. 166 [167 (ed.)].

y. The original says:

Nor would I have you to mistake in the Point of your own liberty. There is a liberty of corrupt nature, which is affected by men and beasts, to do what they list; and this liberty is inconsistent with authority, impatient of all restraint; by this liberty, *Sumus Omnes Deteriores*; 'tis the grand enemy of truth and peace, and all the ordinances of God are bent against it. But there is a civil, a moral, a federal liberty, which is the proper end and object of authority; it is a liberty for that only which is just and good; for this liberty you are to stand with the hazard of your very lives.

you please. This liberty is the enemy of all authority; it suffers all rules with impatience; with it, we become inferior to ourselves; it is the enemy of truth and peace; and God believed that he had to rise up against it! But there is a civil and moral liberty that finds its strength in union, and that the mission of power itself is to protect; it is the liberty to do without fear all that is just and good. This holy liberty we must defend at all cost, and if necessary, at risk of our life.

I have already said enough to reveal Anglo-American civilization in its true light. It is the product (and this point of departure must always be kept in mind) of two perfectly distinct elements that elsewhere are often at odds. But in America, these two have been successfully blended, in a way, and marvelously combined. I mean the *spirit of religion* and the *spirit of liberty*.

The founders of New England were at the very same time ardent sectarians and impassioned innovators. Restrained by the tightest bonds of certain religious beliefs, they were free of all political prejudices. [{Religion led them to enlightenment; the observance of divine laws brought them to liberty.}]

From that, two diverse but not opposite tendencies resulted whose traces can easily be found everywhere, in the mores as in the laws.^z

Some men sacrifice their friends, family, and native land for a religious opinion; you could believe that they are absorbed in the pursuit of the intellectual good that they have come to purchase at such a high price. You see them, however, seeking material riches and moral enjoyments with an almost equal fervor, heaven in the other world, and well-being and liberty in this one.

In their hands, political principles, laws, and human institutions seem to be malleable things that can be shaped and combined at will.

The barriers that imprisoned the society where they were born fall before

z. Variant in the margin: “#Extreme obedience to established rules in the moral world, extreme independence, restless spirit of innovation in the political world, these are the two diverse and seemingly opposing tendencies that are revealed at each step in the course of American society.#”

them; old opinions that for centuries ruled the world vanish; an almost limitless course and a field without horizons open. The human mind rushes toward them, sweeping over them in all directions. But having arrived at the limits of the political world, it stops by itself. In fear and trembling, it sets aside the use of its most formidable abilities, abjures doubt, renounces the need to innovate, refrains even from lifting the veil of the sanctuary, and bows respectfully before truths that it accepts without discussion. [≠After having rested awhile in the midst of the certainties of the moral order, man begins to move again and reenters the political arena with more fervor.≠]^a

In the moral world, therefore, everything is classified, coordinated, foreseen, decided in advance. In the political world, everything is agitated, contested, uncertain; in the one, passive though voluntary obedience; in the other, independence, scorn for experience and jealousy of all authority.

Far from harming each other, these two tendencies, apparently so opposed, move in harmony and seem to offer mutual support.

Religion sees in civil liberty a noble exercise of the faculties of man; in the political world, a field offered by the Creator to the efforts of intelligence. Free and powerful in its sphere, satisfied with the place reserved for it, religion knows that its dominion is that much better established because it rules only by its own strength and dominates hearts without other support.

Liberty sees in religion the companion of its struggles and triumphs, the cradle of its early years, the divine source of its rights. Liberty considers religion as the safeguard of mores, mores as the guarantee of laws and the pledge of its own duration.^F

[Both, taking man by the hand, guide his steps and show his way in the wilderness.]

a. In the margin: “≠There will be many things to say about that. The American political world rests upon foundations different from ours, but just as settled and certain. So you cannot say that there is more uncertainty and vagueness there than in the moral world.≠”

Reasons for Some Singularities That the Laws and Customs^b of the Anglo-Americans Present

Some remnants of aristocratic institutions within the most complete democracy.—Why?—What is of Puritan origin and of English origin must be carefully distinguished.

[≠From whatever side I envisage the laws and mores of the Anglo-Americans, I rediscover striking traces of their origin {of the point of departure}. The reading of historians, the study of legislation, the sight of things all involuntarily lead my steps back toward the point of departure. {But I despair of making the whole extent of my idea understood by those who have not seen English America with their own eyes.}≠]

The reader must not draw from what precedes consequences that are too general and absolute. The social condition, the religion and the mores of the first emigrants undoubtedly exercised an immense influence over the destiny of their new country. It was not up to them, however, to establish a society whose point of departure was found only within themselves; no one can entirely free himself from the past. With ideas and customs that were their own, they mingled, either voluntarily or unknowingly, other customs and ideas that they got from their education or from the national traditions of their country.

So when you want to know and judge the Anglo-Americans of today, what is of Puritan origin or of English origin must be carefully distinguished.

You often encounter in the United States laws and customs that contrast with all that surrounds them. These laws seem written in a spirit opposed to the dominant spirit of American legislation; these mores seem contrary to the social state as a whole. If the English colonies had been founded in a century of darkness, or if their origin was already lost in the shadows of time, the problem would be insoluble.

b. In an early draft, the title said: “. . . THAT THE SOCIAL STATE OF THE ANGLO-AMERICANS PRESENTS.” This section was initially at the beginning of chapter III (YTC, CVh, 3, p. 82).

I will cite a single example to make my thought understood.

The civil and criminal legislation of the Americans knows only two means of action: *prison* or *bail*.^c The first action in proceedings consists of obtaining bail from the defendant or, if he refuses, of having him incarcerated; afterwards the validity of the evidence or the gravity of the charges is discussed.

Clearly such legislation is directed against the poor and favors only the rich.

A poor man does not always make bail, even in civil matters, and if he is forced to await justice in prison, his forced inactivity soon reduces him to destitution.^d

A wealthy man, on the contrary, always succeeds in escaping imprisonment in civil matters; even more, if he has committed a crime, he easily evades the punishment awaiting him: after providing bail, he disappears. So it can be said that for him all the penalties of the law are reduced to fines.⁴² What is more aristocratic than such legislation?^e

In America, however, it is the poor who make the law, and usually they reserve the greatest advantages of society for themselves.

It is in England where the explanation for this phenomenon must be found: the laws I am speaking about are English.⁴³ The Americans have not changed them, even though they are repugnant to their legislation as a whole and to the mass of their ideas.

The thing that people change the least after their customs is their civil

c. "Ask Mr. Livingston about prisons and bail" (YTC, CVb, p. 33). Probably Edward Livingston. See note 2 of Tocqueville's introduction (p. 30).

d. "For prison ruins him by preventing him from working and bail makes him give up the fruit of his work.

"To develop. Opinion of Mr. Duponceau.

"Little guarantee that the poor have against the oppression of municipal magistrates.

"Unwritten law that puts justice into the hands of the privileged class of lawyers" (YTC, CVj, 2, pp. 4–5). The conversation with Mr. Duponceau is found in portable notebook 3 (YTC, BIIa, and *Voyage, OC*, V, 1, p. 182); see the conversation with [Alexander] Everett (*ibid.*, p. 95).

42. *There are certainly crimes for which there is no bail, but they are very few in number.*

e. Cf. Beaumont, *Marie*, I, pp. 197, 367–70.

43. See *Blackstone and Delolme*, book I, chap. X.

legislation. The civil laws are familiar only to jurists, that is, to those who have a direct interest in keeping them as they are, good or bad, because they know them. The bulk of the nation knows them hardly at all; they see them in action only in individual cases, grasp their tendency only with difficulty, and submit to them without thinking about it.

I have cited an example; I could have pointed out many others.

The picture that American society presents is, if I can express myself in this way, covered by a democratic layer beneath which from time to time you catch a glimpse of the old colors of the aristocracy.



CHAPTER 3

Social State of the Anglo-Americans

[Definition of the words *social state*.^{a/}

I will speak so frequently about the social state of the Anglo-Americans that, first and foremost, I need to say what I mean by the words *social state*.

In my view, the social state is the material and intellectual condition in which a people finds itself in a given period.]

The social state is ordinarily the result of a fact, sometimes of laws, most often of these two causes together. But once it exists, it can itself be considered the first cause of most of the laws, customs and ideas that regulate the conduct of nations; what it does not produce, it modifies.^b

So to know the legislation and the mores of a people, it is necessary to begin by studying its social state.^c

a. Hervé de Tocqueville: "I do not know if this definition is very useful. It slows the transition from the second to the third chapter.

In any case, mores should be put before the other causes that modify social state. Mores come before the fact whatever it may be. They precede laws. Example: Puritan mores precede and lead to the fact of emigration."

Édouard de Tocqueville: "I do not share this opinion" (YTC, CIIb, 2, p. 92).

b. "Among a people property is divided in a certain way, enlightenment is more or less equal, morality is more or less high, that is what I call its social state./

"In general the social state is the result of a fact predating the laws, but the laws develop its consequences and modify it" (YTC, CVh, 5, p. 9).

The social state according to Tocqueville recalls Montesquieu's concept of the general spirit of the nation (cf. *L'esprit des lois*, book XIX, chapters IV and V). On this question, see Anna Maria Battista, "Lo stato sociale democratico nella analisi di Tocqueville," *Pensiero Politico* 4, no. 3 (1973): 336–95.

c. In the margin, in pencil: "Vague, indeterminate. Perhaps examples instead of definitions."

That the Salient Point of the Social State of the Anglo-Americans Is to Be Essentially Democratic

*First emigrants of New England.—Equal among themselves.—
Aristocratic laws introduced in the South.—Period of the
Revolution.—Change in the inheritance laws.—Effects produced
by this change.—Equality pushed to its extreme limits in the new
states of the West.—Intellectual equality.*

Several important remarks about the social state of the Anglo-Americans could be made, but one dominates all the others.^d

The social state of the Americans is eminently democratic. It has had this character since the birth of the colonies; it has it even more today.^e

[≠As soon as you look at the civil and political society of the United States, you discover two great facts that dominate all the others and from

d. *Causes of the social state and current government of America:*

1. *Their origin:* excellent point of departure. Intimate mix of religion and of the spirit of liberty. Cold and rational race.
2. *Their geographic position:* no neighbors.
3. *Their commercial and industrial activity.* Everything, even their vices, is favorable to them now.
4. *The material good fortune* that they enjoy.
5. *The religious spirit that reigns:* republican and democratic religion.
6. The diffusion of useful knowledge.
7. Very pure morals.
8. The division into small States. They prove nothing for a large one.
9. The absence of a great capital where everything is concentrated. Care to avoid it.
10. Commercial and provincial activity that means that each person finds something to do at home (Alphabetic Notebook A, YTC, BIIa and *Voyage*, OC, V, 1, p. 207).

e. Hervé de Tocqueville:

This is too absolute. At least you should say nearly all the colonies, in order to be in agreement with page 128 (chap. 4), where you speak about the aristocratic influence long exercised to the south and west of the Hudson. This difficulty arises from chapter 2 where Alexis recognized only two political divisions of the territory, which forced him to generalize too much. Another division and a few sentences added, and everything will be fine (YTC, CIIb, 2, p. 92). Page 128 of the copy read by Hervé and the other critics corresponds to pages 50–51 of this edition.

which the others are derived. Democracy constitutes the social state; the dogma of the sovereignty of the people, the political law.

These two things are not analogous. Democracy is society's way of being. Sovereignty of the people, a form of [v. the essence of] government. Nor are they inseparable, because democracy^f is even more compatible with despotism than with liberty.

But they are correlative. Sovereignty of the people is always more or less a fiction wherever democracy is not established.^g

I said in the preceding chapter that a very great equality reigned among the emigrants who came to settle on the shores of New England. Not even the germ of aristocracy was ever deposited in that part of the Union. No influences except intellectual ones [{a kind of intellectual patronage}] could ever be established there. The people got used to revering certain names, as symbols of learning and virtue. The voice of certain citizens gained a power over the people that perhaps could have been correctly called aristocratic, if it could have been passed down invariably from father to son.

This happened [{north}] east of the Hudson; [{south}] southwest of this river, and as far down as Florida, things were otherwise.

f. With a reminder in the margin, in pencil: "Explain what is understood by democracy."

Tocqueville never arrived at a satisfactory definition of democracy. He always used the term in different senses. Harold Laski, in his introduction to *Democracy in America* (OC, I, p. xxx), distinguishes four; James T. Schleifer, *The Making of Tocqueville's "Democracy in America"* (pp. 263–74), identified as many as eight: inevitable development or tendency, social condition, popular sovereignty, government of the people, mobility, middle classes, equality of conditions, open society. Jean-François Sutter, in "Tocqueville et le problème de la démocratie" (*Revue internationale de philosophie* 49 (1959): 330–40), examined the reason why Tocqueville did not manage to give one single definition of democracy. Cf. the revealing letter of Louis de Kergorlay, dated January 6, 1838, a letter that Tocqueville kept with the early drafts of the second part of his book (YTC, CVg, 2, published in *Correspondance avec Kergorlay*, OC, XIII, 2, pp. 16–17).

g. In the margin: "≠Note that in this chapter the social state must never be confused with the political laws that follow from it; equality or inequality of conditions, which are facts, with democracy or aristocracy, which are laws. Reexamine from this point of view.≠"

In most of the States situated southwest^h of the Hudson, great English landholders had come to settle. Aristocratic principles, and with them English laws of inheritance, had been imported.^[*] I have shown the reasons that prevented a powerful aristocracy from ever being established in America. But these reasons, though existing southwest^j of the Hudson, had less power there than [north] east of this river. To the south, one man alone could, with the help of slaves, cultivate a large expanse of land. So in this part of the continent wealthy landed proprietors were seen; but their influence was not precisely aristocratic, as understood in Europe, because they had no privileges at all, and cultivation by slaves gave them no tenants and therefore no patronage. Nonetheless, south of the Hudson, the great landholders formed a superior class, with its own ideas and tastes and generally concentrating political activity within its ranks. It was a kind of aristocracy not much different from the mass of the people whose passions and interests it easily embraced, exciting neither love nor hate;^k in sum, weak and

h. This word is added later. At first, the word was *south*.

[*]. Note from Jefferson.

j. Hervé de Tocqueville:

Here again the drawback of only two divisions. Alexis finds himself forced to jump abruptly from the Southwest to the South, without the connection of ideas being clear, and the differences between this Southwest and the South remain unknown. Does slavery also exist in the Southwest? Is this part entirely homogeneous with the South? If it is, why speak successively of the West and the South? If it is not, why take his example from the South alone? (YTC, CIIb, 2, p. 93).

k. Hervé de Tocqueville:

I do not know what that means in a country where there was no people. Alexis undoubtedly meant to say an aristocracy whose habits resembled the democratic habits of other parts of the Union. The expression does not seem right, nor do those that follow: an aristocracy that embraces the passions and interests of the people cannot remain indifferent to the people. Therefore, it is not right to say that it *excited neither love nor hate*. You would have to say that it excited no jealousy at all in the other classes. Proof that it was not indifferent is that two lines lower Alexis says that it furnished all of the great men of the Revolution. But when the leaders are taken from one class of citizens, you cannot say that it inspires neither love nor hate.

not very hardy. It was this class that, in the South, put itself at the head of the insurrection; the American Revolution owed its greatest men to it.

In this period, the entire society was shaken.^m The people, in whose name the struggle was waged, the people—now a power—conceived the desire to act by themselves; democratic instincts awoke.ⁿ By breaking the yoke of the home country, the people acquired a taste for all kinds of independence. Little by little, individual influences ceased to make themselves felt; habits as well as laws began to march in unison toward the same end.

But it was the law of inheritance that pushed equality to its last stage.^o

Édouard de Tocqueville: "I agree with my father only for the last paragraph, which must absolutely be revised. How can a weak and not very hardy class lead an insurrection?" (YTC, CIIb, 2, pp. 93–94). The author paid no attention to these criticisms; the published version is identical to that in the manuscript.

m. Hervé de Tocqueville:

This still seems to me too absolute. Society in the South had certainly been shaken, but that of New England where democracy already existed did not need to be shaken. Perhaps you should put: *the entire society received a new impulse*. Next I wonder where these people were who became a power. I see the effect perfectly without seeing the cause as clearly as I would like. It would seem from what Alexis says, page 130, that democratic instincts had won everywhere, even among those whose position should have set them most apart. Perhaps the aristocratic and rich leaders of the insurrection thought that they should recompense those who had fought under their command by granting them political rights or by extending those they already had. Once down this path, as always happens, one is not able to stop.

Édouard de Tocqueville: "Apt observation. This first paragraph must be reworked a bit" (YTC, CIIb, 2, p. 94).

n. In the margin: "≠It was the aristocracy, if this name can be given to what was then at the head of society in America, which had armed the people and led them on the fields of battle.≠"

o. "Give me, for thirty years, a law for equal division of inheritance and liberty of the press and I will bring you a republic" (YTC, Cve, p. 63).

Tocqueville gives a privileged position to the structure of landed property in his theory. In his *Mémoire sur le paupérisme* (*Commentaire*, XXIII, 1983, p. 633), he repeats that it is the concentration of land that provoked the concentration of power and the birth of the aristocracy. The same idea often appears in the notes taken during his journey in America (conversations with Livingston, Clay, Latrobe, Sparks in YTC, BIIa, and *Voyage*, OC, V, 1, pp. 59, 87–88, 102, 109, 111–13), as well as during his journey in England

I am astonished that ancient and modern political writers have not attributed a greater influence on the course of human affairs to the laws of landed inheritance.¹ These laws belong, it is true, to the civil order; but they should be placed at the head of all political institutions, for they have an incredible influence on the social state of peoples, political laws being just the expression of the social state. In addition, the laws of inheritance have a sure and uniform way of operating on society; in a sense they lay hold of generations before their birth. Through them, man is armed with an almost divine power over the future of his fellows. The law-maker regulates the inheritance of citizens once, and he remains at rest for centuries: his work put in motion, he can keep his hands off; the machine acts on its own power, and moves as if self-directed toward an end set in advance.

Constituted in a certain way, the law of inheritance reunites, concentrates, gathers property and, soon after, power, around some head; in a way it makes aristocracy spring from the soil. Driven by other principles and set along another path, its action is even more rapid; it divides, shares, dis-

(*Voyages en Angleterre, Irlande, Suisse et Algérie*, OC, V, 2, pp. 52, 28, 41–42). In a letter to Kergorlay of June 29, 1831 (*Correspondance avec Kergorlay*, OC, XIII, 1, pp. 231–33), he explains that it is one of the particulars of American society that most surprised him. Moreover, his interest in this question predates the journey to America. The division of the land is already mentioned in the notes of the journey in Sicily in 1827 (*Voyage*, OC, V, 1, pp. 43, 45). The same idea reappears in his article on the social and political state of France before and after the Revolution of 1789, and in *L'Ancien Régime et la Révolution*.

We know that the social consequences of the inheritance laws have been considered by Aristotle in the *Politics* (1266b8). Montesquieu took up the question again in *De l'esprit des lois* (book V, chapters V and VIII). Afterward the question occupied a central place in the political considerations of the revolutionary era. The beginning of the nineteenth century still had in mind the posthumous speech of Mirabeau (*Discours de M. de Mirabeau l'ainé sur l'égalité des partages dans les successions en ligne directe*, Imprimerie Nationale, Paris, 1791, 23 p.). Even the father of the author had treated it in one of his publications (*De la chartre provinciale*, Paris: J. J. Blaise, 1829, 62p., pp. 12–13).

1. *By the inheritance laws, I understand all the laws whose principal end is to regulate the disposition of property after the death of the owner.*

The law of entail is among this number. It is true that it also has the result of preventing the owner from disposing of his property before his death; but it imposes the obligation on him of keeping it only with the view of having it go intact to his inheritor. So the principal end of the law of entail is to regulate the disposition of property after the death of the owner. All the rest is the means used.

seminates property and power. Sometimes people are then frightened by the rapidity of its march. Despairing of stopping its movement, they seek at least to create difficulties and obstacles before it; they want to counter-balance its action with opposing efforts; useless exertions! It crushes or sends flying into pieces all that gets in its way; it constantly rises and falls on the earth until nothing is left in sight but a shifting and intangible dust^p on which democracy takes its seat.

When the law of inheritance allows and, even more, requires the equal division of the father's property among all the children, its effects are of two sorts; they should be carefully distinguished, even though they lead to the same end.

Due to the law of inheritance, the death of each owner leads to a revolution in property; not only do the holdings change masters, but so to speak, they change nature; they are constantly split into smaller portions. [The generations grow poorer as they succeed each other.]

That is the direct and, in a sense, the material effect of the law.^q So in countries where legislation establishes equal division, property and particularly territorial fortunes necessarily have a permanent tendency to grow smaller. Nonetheless, if the law were left to itself, the effects of this legislation would make themselves felt only over time. Because as long as the family includes not more than two children (and the average for families in a populated country like France, we are told, is only three),^r these chil-

p. In the margin in pencil: "This image of dust is exaggerated and lacks precision."

q. To the side in an earlier draft: "Explanatory note and on Rodat."

Is this Rodat Claude Raudot, magistrate and friend of Tocqueville and Beaumont? We can hardly think that the author would misspell the name of someone that he knew so well. Bonnel notes "Rodat" at two places in the drafts (see note s *infra*). In any case, no one of this name is found in the papers and correspondence of Tocqueville.

r. Hervé de Tocqueville: "Isn't Alexis considerably underestimating the family average? At least, 4 should be put in place of 3, father, mother and two children. I do not know if the law of averages should be invoked here. The family that has only one descendant escapes from the law of division. But the family that has 5 or 6! What a progression of division of the land!" (YTC, CIIb, 2, p. 95).

dren, sharing the wealth of their father and their mother, will be no less wealthy than each parent individually.

But the law of equal division exerts its influence not on the fate of property alone; it acts on the very soul of the proprietors, and calls their passions to its aid. These indirect effects rapidly destroy great fortunes and, above all, great estates.^s

Among peoples for whom the inheritance law is based on the right of primogeniture, landed estates most often pass from generation to generation without being divided. That causes family spirit to be, in a way, embodied in the land. The family represents the land; the land represents the family; the land perpetuates its name, origin, glory, power and virtues.

s. Law of inheritance./

Effect of the law of inheritance.

1. Divides fortunes naturally. But this not very rapid, average number of children, to divide two fortunes, that of the father and that of the mother.

2. Prevents the desire to keep them. Great effect. Destroys family spirit and substitutes individual egoism, leads to selling the land in order to have income, favors the taste for luxury, the land passes into the hands of the peasants and doesn't come out again. Conversation with Rodat (YTC, CVh, 5, p. 9).

Law of inheritance. Its *direct effects*, its *indirect effects* (Rodat).

So greater equality not only among peoples of European races, but also among all peoples, in all times.

However manufacturing (YTC, CVh, 5, p. 8).

Tocqueville will devote a chapter in the second part of his book to the manufacturing aristocracy (chapter XX of volume III). On this point, this note and note d of p. 85 attest to an interest well before the voyage to England in 1835. Tocqueville had briefly visited England in 1833, but the notes of this first journey carry no trace of a particular attention to the problem of industry. It is generally agreed that his visit to Manchester, Liverpool and Birmingham in 1835 is at the origin of this interest (*Voyages en Angleterre, Irlande, Suisse et Algérie*, OC, V, 2, pp. 67, 81).

During a conversation with Tocqueville in the United States, Robert Vaux had already referred to the effects of manufacturing on the population (non-alphabetic notebooks 2 and 3, YTC, BIIa and *Voyage*, OC, V, p. 104). Beaumont, for his part, will not hesitate to affirm in the novel that he would publish in 1835: "In truth there exists in America something that resembles the feudal aristocracy. The factory is the manor; the manufacturer, the sovereign lord; the workers are the serfs" (*Marie*, I, pp. 241–42).

It is an undying witness to the past and a precious guarantee of life to come.^t

When the inheritance law establishes equal division, it destroys the intimate connection that existed between family spirit and keeping the land; the land ceases to represent the family, for the land, inescapably divided after one or two generations, clearly must shrink continually and disappear entirely in the end. The sons of a great landed proprietor, if they are few, or if fortune favors them, can maintain the hope of not being poorer than their progenitor, but not of owning the same lands as he; their wealth will necessarily consist of other elements than his.^u

Now, from the moment you take away from landed proprietors any great interest—arising from sentiment, memory, pride, or ambition—in keeping the land, you can be sure that sooner or later they will sell it. They have a great pecuniary interest in selling, since movable assets produce more income than other assets and lend themselves much more easily to satisfying the passions of the moment.^v

Once divided, great landed estates are never reassembled; for the small landholder gains proportionately more revenue from his field² than the large landholder; so he sells it at a much higher price than the large landholder. Thus the economic calculations that brought a rich man to sell vast properties, will prevent him, with all the more reason, from buying small properties in order to reassemble large estates.^w

What is called family spirit is often based on an illusion of individual

t. "Ask Livingston if in the United States there is still the possibility of establishing entails [in English in the text (ed.)]" (YTC, CVb, p. 33).

u. See the conversation with Mr. Latrobe (YTC, BIIa and *Voyage, OC*, V, 1, p. 109).

v. In *L'Irlande*, Beaumont will recommend the law of equal division as the way to divide property and socially weaken the English aristocracy of Ireland (see especially vol. II, pp. 191–200). Beaumont, like Tocqueville, had also observed in the United States the effects of the inheritance law (cf. in particular two letters, dated respectively July 4 and September 31, 1831, *Lettres d'Amérique*, pp. 80 and 147).

2. *I do not mean that the small landholder cultivates better, but he cultivates with more enthusiasm and care, and gains by work what he lacks in skill.*

w. In the margin: "≠The inheritance law acts much more forcefully on the destruction of landed fortunes than of fortunes in general.≠"

egoism.^x A person seeks to perpetuate and, in a way, to immortalize himself in his great-nephews.^y Where family spirit ends, individual egoism reverts to its true inclinations. Since the family no longer enters the mind except as something vague, indeterminate, and uncertain, each man concentrates on present convenience; he considers the establishment of the generation immediately following, and nothing more.

So a person does not try to perpetuate his family, or at least he tries to perpetuate it by means other than landed property.

Thus, not only does the inheritance law make it difficult for families to keep the same estates intact, but also it removes the desire to try and leads families, in a way, to cooperate in their own ruin.

The law of equal division proceeds in two ways: by acting on the thing, it acts on the man; by acting on the man, it affects the thing.

In these two ways it succeeds in profoundly attacking landed property and in making families as well as fortunes rapidly disappear.³

Surely it is not up to us, the French of the nineteenth century, daily witnesses to the political and social changes that the inheritance law brings about, to question its power. Each day we see it constantly move back and forth over our soil, toppling in its path the walls of our dwellings and de-

x. Hervé de Tocqueville: "I do not believe that the word *egoism* is the right word here. Egoism is only concerned with the present and does not rush toward the future. The word *pride* would seem more suitable to me."

Édouard de Tocqueville: "I find the word *egoism* good" (YTC, CIIb, 2, p. 95).

y. Note in pencil in the manuscript that seems to speak about a first version that lacked the sentence to which this note refers: "≠Think about this. A bad inference could be drawn from it, too generalized.≠"

3. *Since land is the most secure property, there are, from time to time, wealthy men who are inclined to make great sacrifices to acquire it and who willingly lose a considerable portion of their income in order to assure the rest. But these are accidents. The love of landed property is no longer usually found except among the poor. The small landholder, who is less enlightened and who has less imagination and fewer passions than the large landholder, is generally pre-occupied only with the desire to enlarge his domain; and it often happens that inheritance, marriage or turns of fortune in trade provide him the means little by little.*

So alongside the tendency that brings men to divide the land, there exists another that brings them to consolidate it. This tendency, which is enough to prevent property from being infinitely divided, is not strong enough to create great territorial fortunes, nor above all to keep them in the same families.

stroying the hedges of our fields. But if the inheritance law has already accomplished much among us, much still remains for it to do. Our memories, opinions, and habits present it with powerful obstacles.^z

In the United States, its work of destruction is nearly finished. That is where its principal results can be studied.

English legislation on the transmission of property was abolished in nearly all the states at the time of the Revolution.

The law of entail was modified so as to interfere only imperceptibly with the free circulation of property.^{a G}

z. Hervé de Tocqueville:

What are these obstacles? I do not know them. In France there are scarcely 2,000 families who give a double portion to the eldest son, and each day that becomes rarer. Equality of affection toward the children predominates. The law of primogeniture revolted even those who benefited from it. It was one of the most active causes of the July Revolution. So you should say what these obstacles are, because the truth of the phrase is not apparent (YTC, CIIb, 2, p. 96).

a. [Note] “#Here citation of Kent and analysis of Lippitt and then a remark on how the French laws on inheritance and entail are more democratic than the American laws.” Cf. note G.

In 1834, Tocqueville felt the need to have help in the organization and reading of American books, brochures and codes. The following advertisement is found in one of the notebooks of the copyist Bonnel:

Looking for an American from the United States who has received a liberal education, who would like to do research in the political laws and the historical works of his country and who, for two months, could sacrifice two or three hours of his time each day for this work. Choice of hours would be left to him.

Apply to M. A[lexis (ed.)]. de T[ocqueville (ed.)]. rue de V[erneuil (ed.)]. n. 49, before ten in the morning or in the afternoon between two and four.

Five copies (YTC, CVh, 2, p. 85).

This advertisement seems not to have been published. Francis Lippitt states that he was hired on the recommendation of the American delegation in Paris by Nathaniel Niles or Edward Livingston probably. In a letter to Daniel Gilman (reproduced in Daniel C. Gilman, “Alexis de Tocqueville and his book on America, sixty years after,” *The Century Illustrated Monthly Magazine*, 56, May–October 1898, pp. 703–15), Francis Lippitt asserts that his work consisted of reading and summarizing books, newspaper clippings and legal collections. Theodore Sedgwick, another American who had helped the author, unquestionably had a more important role. His conversations seem to have been useful

The first generation disappeared; landed estates began to divide. As time went by, the movement became more and more rapid [as a stone thrown from the top of a tower accelerates as it moves through space]. Today, when hardly sixty years have gone by, the appearance of society is already unrecognizable; the families of the great landed proprietors are almost entirely engulfed by the common mass. In the state of New York, which had a very large number of such families, two barely stay afloat above the abyss ready to swallow them.^b Today, the sons of these opulent citizens are businessmen, lawyers, doctors. Most have fallen into the most profound obscurity. The last trace of hereditary rank and distinction is destroyed; the law of inheritance has done its leveling everywhere.^c

It is not that there are no rich in the United States as there are elsewhere; I do not even know of a country where the love of money holds a greater place in the human heart and where a deeper contempt is professed for the theory of the permanent equality of property.^d But wealth circulates there with incredible rapidity, and experience teaches that it is rare to see two generations reap the rewards of wealth.^e [{The people are like the divinity of this new world; everything emanates from and returns to them.}]

to Tocqueville while drafting certain points of the book. (Also see, George W. Pierson, *Tocqueville and Beaumont in America*, pp. 731–34.)

b. [Note] “≠The Livingstons and the Van Rensselaers.≠”

c. At the time of his voyage, Tocqueville met Charles Carroll, signatory of the Declaration of Independence and one of the wealthiest Americans of the time. On November 8, 1831, Tocqueville, in a draft of a letter to an unidentified recipient, noted concerning him: “[Charles Carroll], a little old man of 95 years, straight as an arrow, . . . saw all the great families disappear as a result of the new inheritance law. For sixty years he has seen their descendants grow poorer, the noble families disappear, and the democracy take hold of the power that the great landholders held in his time” (YTC, B1a2).

d. In the margin: “≠Put here, I think, the inequality arising from the accumulation of the personal wealth of *manufacturing*.≠”

e. Democracy./

What is most important for democracy, is not that there are no great fortunes; it is that great fortunes do not rest in the same hands. In this way, there are the rich, but they do not form a class.

Commerce, industry perhaps create larger individual fortunes in America now than sixty years ago. However, the abolition of primogeniture and entail make de-

This picture, however colored you think it is, still gives only an incomplete idea of what is happening in the new states of the West and Southwest.^f

At the end of the last century, hardy adventurers began to penetrate the valleys of the Mississippi. This was like a new discovery of America: soon the bulk of emigration went there; you saw unknown societies suddenly emerge from the wilderness. States, whose names did not even exist a few years before, took a place within the American Union. [≠Hardly a year passed without the republic being forced to have some new star attached to its flag.≠] In the West democracy can be observed carried to its extreme limit. In these states, in a way improvised by chance, the inhabitants arrived but yesterday on the soil they occupy. They scarcely know each other, and each one is unaware of the history of his closest neighbor. So in this part of the American continent, the population escapes not only from the influence of great names and great wealth, but also from the natural aristocracy that arises from enlightenment and virtue. There, no one exercises the power that men grant out of respect for an entire life spent in doing good before their eyes. The new states of the West already have inhabitants; society still does not exist.

mocracy, its passions, interests, maxims, tastes more powerful in our time than sixty years ago.

Furthermore, equality of political rights has introduced a powerful new element of democracy.

American societies had always been democratic by their nature; the Revolution made democratic principles pass into the laws (YTC, CVe, pp. 60–61).

f. Hervé de Tocqueville:

This transition needs revision. The picture that precedes relates to the effect of the law of equal division and has no relation whatsoever to the new states of the West. I think that you should say: what we have said about the equality of fortunes and rank in the East and in the South gives only an incomplete idea of the way it is established in the *new states*, etc. Here I offer a thought. The author must not be afraid of sometimes saying a few words that recall what precedes. These are resting points for the imagination, which put it back on track, and ease the work of comparing ideas already expressed with those which are being presented (YTC, CIIIb, 2, p. 97).

But not only fortunes are equal in America; to a certain degree, equality extends to minds themselves.

I do not think there is any country in the world where, in proportion to the population, there exist so small a number of ignorant and fewer learned men than in America.

There primary education is available to every one; higher education is hardly available to anyone.

This is easily understood and is, so to speak, the necessary result of what we advanced above.

Nearly all Americans live comfortably; so they can easily gain the primary elements of human knowledge.

In America, there are few rich [≠and the rich do not form a class apart. The consequences of this fact in relation to education are of several kinds.≠]; nearly all Americans need to have an occupation. Now, every occupation requires an apprenticeship. So Americans can devote only the first years of life to general cultivation of the mind; at age fifteen, they begin a career; most often, therefore, their education concludes when ours begins. If pursued further, it is directed only toward a specialized and lucrative field; they study a field of knowledge in the way they prepare for a trade; and they take only the applications recognized to have immediate utility.

In America, most of the rich began by being poor; nearly all the men of leisure were busy men in their youth. The result is that when they could have the taste for study, they do not have the time to devote themselves to it; and when they have gained the time, they no longer have the taste.

So in America no class exists that honors intellectual work and in which the penchant for intellectual pleasures is handed down with affluence and hereditary leisure.

Both the will and the power to devote oneself to this work are therefore missing.

In America a certain middling level of human knowledge is established. All minds have approached it; some by rising, others by falling.

So you meet a great multitude of individuals who have about the same number of notions in matters of religion, history, the sciences, political economy, legislation, and government.

Intellectual inequality comes directly from God, and man cannot prevent it from always reappearing.

But it follows, at least from what we have just said, that minds, while still remaining unequal as the Creator intended, find equal means at their disposal. Thus, today in America, the aristocratic element, always feeble since its birth, is, if not destroyed, at least weakened further; so it is difficult to assign it any influence whatsoever in the course of public affairs.

Time, events, and the laws have, on the contrary, made the democratic element not only preponderant but also, so to speak, unique. No family or group influence can be seen; often not even an individual influence, no matter how ephemeral, can be found.

[{Society there [is (ed.)] profoundly and radically democratic in its religion, ideas, habits, and passions.^g}

≠For a people that has reached such a social state, mixed governments are more or less impractical; hardly any choice exists for them other than absolute power or a republic [v: sovereignty of the people].

America found itself in circumstances fortunate for escaping despotism and favorable for adopting a republic.≠]

So America presents, in its social state, the strangest phenomenon. There, men appear more equal in fortune and in mind or, in other words, more equal in strength than they are in any other country in the world and have been in any century that history remembers.

g. In the margin, with a bracket uniting this paragraph with the two preceding ones: “≠To sacrifice, I think, because all of that implies something more than the social state. Ask G[ustave (ed.)]. and L[ouis (ed.)].≠”

Political Consequences of the Social State of the Anglo-Americans

The political consequences of such a social state are easy to deduce.

It is impossible to think that, in the end, equality would not penetrate the political world as it does elsewhere. You cannot imagine men, equal in all other ways, forever unequal to each other on a single point; so in time they will become equal in all ways.

Now I know only two ways to have equality rule in the political world: rights must either be given to each citizen or given to no one [and apart from the government of the United States I see nothing more democratic than the empire of the great lord].^{TN 2}

For peoples who have arrived at the same social state as the Anglo-Americans, it is therefore very difficult to see a middle course between the sovereignty of all [v: of the people] and the absolute power of one man [v: of a king].

[≠ So peoples who have a similar social state are faced with a frightening alternative; they must choose between the sovereignty of the people and the absolute power of a king≠].

We must not hide from the fact that the social state I have just described lends itself almost as easily to the one as to the other of these two consequences.

There is in fact a manly and legitimate passion for equality that incites men to want to be strong and esteemed. This passion tends to elevate the small to the rank of the great. But in the human heart a depraved taste for equality is also found that leads the weak to want to bring the strong down to their level and that reduces men to preferring equality in servitude to inequality in liberty. Not that peoples whose social state is democratic naturally scorn liberty; on the contrary, they have an instinctive taste for it. But liberty is not the principal and constant object of their desire; what they love with undying love is equality; they rush toward liberty by rapid impulses and sudden efforts, and if they miss the goal, they resign them-

TRANSLATOR'S NOTE 2: Here Tocqueville probably means the Sultan.

selves; but without equality nothing can satisfy them, and rather than lose it, they would agree to perish.^h

On the other hand, when citizens are all more or less equal, it becomes difficult for them to defend their independence against the aggressions of power. Since none among them is then strong enough to struggle alone with any advantage, it is only the combination of the strength of all that can guarantee liberty. Now, such a combination is not always found.^j

Peoples can therefore draw two great political consequences from the same social state; these consequences differ prodigiously, but they both arise from the same fact.

The first to be subjected to this fearful alternative that I have just described, the Anglo-Americans have been fortunate enough to escape absolute power. Circumstances, origin, enlightenment, and above all, mores have allowed them to establish^k and to maintain the sovereignty of the people.^m

h. Hervé de Tocqueville:

All of this paragraph is extremely obscure. I do not know if I understood it, but it does not seem very correct to me. Men want to be equal not in order to be strong and respected, but out of human pride, out of a more or less well understood sentiment of human dignity. Nor is it because the weak want to *draw* or rather *lower* the strong to their level that servitude is established. Servitude is a state of degradation that is never the choice of any nation or any fragment of a nation. It results from the vices of the nation from which liberty is escaping because the nation did not know how to use liberty or is cowardly enough not to know how to rid itself of a tyrant. Fatigue or cowardice, degradation or disgust, such are the causes of servitude; it does not come about because men prefer equality in servitude to inequality in liberty. Among them, it is not preference, but objection (YTC, CIIb, 2, pp. 98–99).

j. In the version put at the disposal of the family, the sentence continues as follows: “. . . such a combination is not always found. It happens that they resign themselves without difficulty to servitude” (YTC, CIIb, 2, pp. 100–101).

k. In another version, in the margin: “. . . mores, ≠ this hidden will of God that is called chance≠, have allowed them . . .”

m. Hervé de Tocqueville: “Erase the word *establish*. The sovereignty of the aggregation of all the individuals of a nation that is called the people is not established, for this sovereignty exists by itself and everywhere. Even in Turkey, it strangles the sultan; in Spain, the Cortes is needed to sanction a change in the inheritance of the throne” (YTC, CIIb, 2, p. 99).



CHAPTER 4

Of the Principle of the Sovereignty of the People in America

*It dominates all of American society.—Application that the
Americans already made of this principle before their
Revolution.—Development that the Revolution gave to it.—
Gradual and irresistible lowering of the property qualification.*

When you want to talk about the political laws of the United States, you must always begin with the dogma of the sovereignty of the people.^a

The principle of the sovereignty of the people, which is more or less always found at the base of nearly all human institutions, ordinarily remains there as if buried. It is obeyed without being recognized, or if sometimes it happens, for a moment, to be brought into the full light of day, people soon rush to push it back into the shadows of the sanctuary.

The national will is one of those terms abused most widely by schemers of all times and despots of all ages. Some have seen it expressed in votes bought from the brokers of power; others in the votes of an interested or fearful minority. There are even some who have discovered it fully formulated in the silence of the people and who have thought that from the *fact* of obedience came, for them, the *right* of command.^b

In America, the principle of the sovereignty of the people is not hidden or sterile as it is in certain nations [a vain show and a false principle as among

a. “*Sovereignty of the people* and *democracy* are two perfectly correlative words; the one represents the theoretical idea, the other its practical realization” (YTC, CVh, 1, p. 22).

b. In the margin, with a bracket enclosing the entire paragraph: “≠{This seems trite to me.}≠”

certain others; it is a legal and omnipotent fact that rules the entire society; that spreads freely and reaches its fullest consequences without obstacles]; it is recognized by the mores, proclaimed by the laws; it spreads freely and reaches its fullest consequences without obstacles.

If there is a single country in the world where the true value of the dogma of the sovereignty of the people can hope to be appreciated, where its application to the affairs of society can be studied and where its advantages and dangers can be judged, that country is assuredly America.

I said before that, from the beginning, the principle of the sovereignty of the people had been the generative principle of most of the English colonies of America.

It then fell far short, however, of dominating the government of society as it does today.

Two obstacles, one external, one internal, slowed its invasive march.

It could not appear openly in the laws because the colonies were still forced to obey the home country; so it was reduced to hiding in the provincial assemblies and especially in the town. There it spread in secret.

American society at that time was not yet ready to adopt it in all its consequences. For a long time, learning in New England and wealth south of the Hudson, exercised, as I showed in the preceding chapter, a sort of aristocratic influence that tended to confine the exercise of social powers to a few hands. It still fell far short of electing all public officials and of making all citizens, voters. Everywhere the right to vote was restricted to certain limits and subordinated to the existence of a property qualification which was very low in the North and more considerable in the South.^c

The American Revolution broke out. The dogma of the sovereignty of the people emerged from the town and took over the government;^d all

c. To the side, with a note: "{Know exactly the state of things on this point.}"

d. The manuscript says: "{and occupied the throne}." A note in pencil in the margin specifies: "≠The word throne does not seem to me the right word since it concerns a republic.≠"

classes took risks for its cause; they fought and triumphed in its name; it became the law of laws.^e

e. Of the sovereignty of the people./

I draw a great difference between the right of a people to choose its government, and the right that each individual among this people would have to take part in the government.

The first proposition seems to me to contain an incontestable truth; the second, a manifest error.

I cannot acknowledge the absolute right of each man to take an active part in the affairs of his country, and I am astonished that this doctrine, so contradictory to the ordinary course of human affairs, could be proposed.

What is more precious to man than his liberty? It is recognized, however, that society can take liberty away from one of its members who makes poor use of it.

What is more natural [than (ed.)] to manage your own property? All peoples have recognized, however, that, before a certain age and in certain [missing word (ed.)], this control could be withdrawn, because it was thought [that (ed.)] these individuals either did not yet have or had never had the judgment necessary to make good use of this power. And would this faculty of judgment that some individuals are found to lack for conducting themselves then be granted to everyone for conducting the affairs of society? The constitutions that have apparently been founded on the doctrine that I am combating have never dared to admit all of its consequences. Even in the United States the poor man who pays no taxes obeys laws to which he has consented neither directly nor indirectly. How does that happen if the right to be involved in the affairs of government is a right inherent in the nature of man?

So all questions of democracy and aristocracy (aristocracy as a ruling body), of monarchy and republic, are not questions of right, but questions of fact, or rather the question of fact always precedes the other. Show me a people in which all the citizens may be involved in the government and, in my eyes, this people will have the right to govern itself democratically. Imagine another, if you can, in which no class or citizen may have the required capacity; and although I hardly like the power of one man alone, I will grant that it is legitimate and will take care to live elsewhere.

[In the margin: How so? If you recognize that some of the individuals who compose a people are incapable of taking part in its government, how even more would they be able to make a good choice? Now, if you remove some from this choice, it is no longer the people who choose. Moreover, from the moment you recognize that some can be incapable of choosing well, you must imagine a social state where no one could choose well; and then you are moving even further from the maxim that all people have the right to choose their government. Everything is reduced to this: to choose a government and to take part in government, these are two analogous products of human judgment. It is difficult entirely to concede the one while entirely refusing the other.

A change almost as rapid was carried out within the interior of society. The law of inheritance completed the dismantling of local influences.

At the moment when this effect of the laws and of the revolution began to be evident to all, victory had already been irrevocably declared in favor of democracy. Power was in fact in its hands. Even struggling against it was no longer permitted. So the upper classes submitted without a murmur and without a fight to an evil henceforth inevitable. What usually happens to powers that are in decline happened to them: individual egoism took hold of the members of the upper classes.^f Since force could no longer be wrested from the hands of the people and since they did not detest the multitude enough to take pleasure in defying it, they came to think only of winning

Response:

Judgment is necessary to choose a good government. But only intelligence and experience are needed to find that an existing government is not suitable and that it should be changed.] (YTC, CVh, 5, pp. 4–6). Cf. Guizot, tenth lecture, entitled *De la représentation*, in *Journal des cours publics de jurisprudence, histoire et belles-lettres* (Paris: au bureau du journal, 1821–1822, vol. II, especially pages 131–33). Also see note c of pp. 99–100.

f. Hervé de Tocqueville:

I do not know if Alexis has grasped all the causes of this phenomenon. I indicated one in the remarks on the preceding chapter that I ask him to think about. To know if the necessity to recompense soldiers has not obligated leaders to grant them rights; perhaps even a sentiment more noble than necessity, gratitude. Afterwards, democratic appetites have grown. I see in note 2 of chapter III that only in 1786 has equal division been established in New York, from where it has spread throughout the Union. Nor do I know if individual egoism can suddenly dominate an entire class in such a way as to make it give up its most precious advantages. Something else is involved there other than just the desire to please the multitude. There is always in my mind a difficulty that I do not believe I have expressed clearly enough. In the beginning the position of the settlers in each state was identical, whether it appeared aristocratic or democratic. There was no “people”; how was “the people” formed so that there was a mass demanding concessions alongside a mass that granted them? I believe that Alexis should have said something about it in the first chapter.

Édouard de Tocqueville: “Doesn’t inequality come from the lack of inheritance laws?” (YTC, CIIIb, 2, pp. 89–90).

Was Hervé thinking here of Montesquieu? Cf. *Considérations sur la cause de la grandeur des Romains et de leur décadence*, in *Œuvres complètes* (Paris: Pléiade, 1951), II, chapter XIII, p. 142.

its good will at any cost. [≠Moreover, men have at their disposal such a deep reservoir of baseness, that it is always found more or less the same in the service of all despots, whether people or king.≠] In an effort to outdo each other, the most democratic laws were then voted by the men whose interests were most damaged by them. In this way, the upper classes did not incite [{{implacable}}] popular passions against themselves; but they themselves hastened the triumph of the new order. So, a strange thing! The democratic impulse showed itself that much more irresistible in the states where aristocracy had more roots.

The state of Maryland, which had been founded by great lords, was the first to proclaim universal suffrage¹ and introduced the most democratic forms into its whole government.^g

When a people begins to tamper with the electoral qualification, you can foresee that, after a more or less long delay, it will make that qualification disappear completely. That is one of the most invariable rules that govern societies. As the limit of electoral rights is pushed back, the need grows to push it further; for, after each new concession, the forces of democracy increase and its demands grow with its new power. [It is the history of the Romans buying peace with gold.^h] The ambition of those left below the electoral qualification is aroused in proportion to the great number of those who are found above. Finally, the exception becomes the rule; concessions

1. *Amendments made to the constitution of Maryland in 1801 and 1809.*

g. Hervé de Tocqueville

The history of the great lords who founded the colony of Maryland bothers me because it implies a contradiction with what Alexis says about the original equality that was established at first in the states of the Union. I know that this contradiction is only apparent, but it leaves some suspicion in the mind. Alexis must clearly explain how and why the ideas, pretensions, etc. of these great lords were absorbed right away by the influence of the spirit of equality spread throughout the Union (YTC, CIIb, 2, p. 108).

h. Hervé de Tocqueville: "The example does not seem to me to relate to the subject" (YTC, CIIb, 2, p. 90). These are the very words of Montesquieu. *Considération sur les causes de la grandeur des Romains et de leur décadence*, in *Œuvres complètes* (Paris: Pléiade, 1951), II, chapter XVIII, p. 171.

follow one after the other without letup, and there is no more stopping until universal suffrage is reached.^j

Today in the United States the principle of the sovereignty of the people has attained all the practical developments that imagination can conceive. It has been freed from all the fictions that have been carefully placed around it elsewhere; it is seen successively clothed in all forms according to the necessity of the case. Sometimes the people as a body make the laws as at Athens; sometimes the deputies created by universal suffrage represent the people and act in their name under their almost immediate supervision.

There are countries where a power, in a way external to the social body, acts on it and forces it to follow a certain path.

There are others where force is divided, being simultaneously inside and outside the society. Nothing of the sort is seen in the United States; there society acts by itself and on itself. Power exists only inside it;^k hardly anyone may even be found who dares to conceive and especially to express the idea of seeking power elsewhere. The people participate in the composition of

j. In a letter to an unknown recipient, Tocqueville again takes up some arguments expressed at the time of a conversation with Charles Carroll:

But, I replied, the Revolution over, what forced you to destroy English institutions and to establish democracy among yourselves?—"We were divided after the victory," responded Ch[arles (ed.)]. Carroll. "Each party wanted to use the people and, to gain their adherence, granted them new privileges, until finally the people became our master and showed us all the door."

What do you think of this apology? Doesn't it have the air of being said in Paris toward the end of 1830 or at the very least in the course of the year of grace 1831? I am, however, a very faithful narrator (Draft of a letter of Tocqueville dated November 8, 1831, YTC, Blaz).

k. A symbol in the text refers to the following note: "Place a chapter here explaining what is called a constitution in America. Say that it is only a changing expression of the sovereignty of the people, that has nothing of the perpetual, that binds only until it is amended. Difference from what is understood by constitution in Europe, even in England.

[In the margin: Ask advice here.]"

the laws^m by the choice of the legislators, in their application by the election of the agents of executive power. It can be said that they govern themselves, so weak and restricted is the part left to the administration, so much does the administration feel its popular origin and obey the power from which it emanates. The people rule the American political world as God rules the universe. They are the cause and the end of all things; everything arises from them and everything is absorbed by them.^H

m. In the manuscript: "The people enter into the composition of the laws . . ."
Hervé de Tocqueville:

I keep repeating the same objection, for it strikes me at every step. What is "the people" in a society where, as much as possible, ranks, fortunes, and minds approach the level of equality? Assuredly, in the New World the word *people* has none of the same meaning as among us. I believe that a sense of this must be given somewhere. Otherwise, the chapter moves along very well.

Édouard de Tocqueville: "I understand the preceding objection when it involved explaining the successive formation of American society; but here it isn't the same thing anymore. Alexis describes the government of democracy, and in this case the word *people* is appropriate and is perfectly understood. This entire passage seems remarkable to me" (YTC, CIIIb, 2, p. 90).



CHAPTER 5

Necessity of Studying What Happens in the Individual States before Speaking about the Government of the Union^a

The following chapter is intended to examine what form government founded on the principle of sovereignty of the people takes in America, what its means of action, difficulties, advantages and dangers are.^b

A first difficulty arises: the United States has a complex constitution. You notice two distinct societies there, bound together and, if I can explain it in this way, nested like boxes one inside the other. Two completely separate and nearly independent governments are seen: the one, habitual and undefined, which answers to the daily needs of the society; the other, exceptional and circumscribed, which applies only to certain general interests. They are, in a word, twenty-four small sovereign nations, that together form the great body of the Union.

To examine the Union before studying the state is to embark on a path strewn with difficulties. The form of the federal government in the United States appeared last; it was only a modification of the republic, a summary of political principles spread throughout the entire society before the federal government existed, and subsisting there independently of it. As I have just said, the federal government is, moreover, only an exception; the government of the states is the common rule. The writer who would like to

a. According to a rough draft (YTC, CVh, 3, p. 83), this section would at first have constituted an independent chapter.

b. In the margin: “#Perhaps immediately after having treated the sovereignty of the people, it would be necessary to talk about election, which is its first and most complete application to the government of society.#”

show such a picture as a whole before pointing out its details would necessarily lapse into obscurities and repetitions.

There can be no doubt that the great political principles that govern American society today arose and developed in the *state*. So to have the key to all the rest, the state must be understood.

The states that make up the American Union today all look the same with regard to the external appearance of institutions. Political and administrative life there is found concentrated in three centers of action that could be compared to the various nerve centers that make the human body move.

At the first level is found the *town*; ^{TN 3} higher, the *county*; finally, the *state*.

Of the Town System in America^c

*Why the author begins the examination of political institutions
with the town.—The town is found among all peoples.—
Difficulty of establishing and maintaining town liberty.—*

TRANSLATOR'S NOTE 3: I have translated *commune*, when it refers to America, as *town* rather than *township*. *Town* is, by far, the more common term in the United States, especially in New England. And American historians almost unanimously use the term *town*. When *commune* refers to France, I have usually left it in French, italicized.

c. When he starts on the study of the American administration, Tocqueville realizes that he hardly knows that of his own country. In the month of October 1831, he asks his father and two of his colleagues, Ernest de Chabrol and Ernest de Blotville, to draw up for him a summary sketch of the French administration. Tocqueville writes to his father:

Nothing would be more useful to me for judging America well than to know France. But it is this last point that is missing; I know in general that among us the government gets into nearly everything; a hundred times people have blared into my ears the word *centralization*, without explaining it to me. . . . If you could, my dear papa, analyze for me this word *centralization*, you would help me immensely (letter to his father, New York, 7 October 1831, YTC, B1a2).

In reply, Hervé de Tocqueville sends his son a long report bearing the title *Coup d'oeil sur l'administration française* [Brief View of the French Administration]. There the former prefect develops several of the ideas presented in *De la charte provinciale* (Paris: J. J. Blaise, 1829, 62 pp.). After several pages devoted to description of the administration,

Its importance.—Why the author has chosen the town organization of New England as the principal object of his examination.

Not by chance do I first examine the town.

[≠The town is the first element of the societies out of which peoples take form; it is the social molecule; if I can express myself in this way, it is the embryo that already represents and contains the seed of the complete being.≠]

the author considers in detail the problem of centralization and the way to lessen its abuses. Hervé de Tocqueville, who fears that the autonomy of the French *communes* [towns] will divide the country into a multitude of small republics, insists a great deal on the fact that the King must exercise the administration and have the right to dissolve the *conseils communaux* [town councils]. But he recognizes, nonetheless, the extreme slowness of an excessively centralized administration and recommends the creation of special juries for the purpose of deciding administrative questions as the most effective means to accelerate decision making. In his response, Chabrol considers, above all, the question of administrative jurisdiction. Macarel had in fact pointed out to him that the majority of trials between the administration and individuals that were judged by the *conseils municipaux* [municipal councils] were trials of an ordinary type that could have been judged according to the forms of the ordinary judicial system. Chabrol also points out that a large part of the administration still carries the trace of the centralizing concepts of the Napoleonic administration. The report of Blosseville, shorter and less precise than the other two, allows for the shift of administrative trials to ordinary jurisdiction, in agreement with Chabrol. (A copy of the three reports is found at Yale, under the classification CIIIa).

For the preparation of this chapter, the report on the local administration of New England, written by Jared Sparks for Alexis de Tocqueville, also has considerable importance. On this document and *Brief View of the French Administration*, see George W. Pierson, *Tocqueville and Beaumont in America*, pp. 403–13. Finally, there is a note by Beaumont that relates an interesting conversation with Sparks (in Beaumont, *Lettres d'Amérique*, pp. 152–54). The questions posed by Tocqueville to Jared Sparks and the responses of the latter have been published by H. B. Adams in *Jared Sparks and Alexis de Tocqueville*, *Johns Hopkins University Studies in Historical and Political Science*, XVIth series, n. 12, 1898. A rough draft with several notes for this chapter also contains numerous references to the report of Sparks (YTC, CVb, p. 17). It is Jared Sparks who points out to Tocqueville that Nathaniel Niles, Secretary of the American delegation in Paris and native of New England, can be useful to him for the chapter on the town administration of this part of the United States. It seems that, following this suggestion, Tocqueville contacted the latter (see note v for p. 62).

The town is the only association that is so much a part of nature that wherever men are gathered together, a town takes shape by itself.

Town society exists therefore among all peoples no matter what their customs and their laws; it is man who establishes kingdoms and creates republics; the town seems to come directly from the hands of God. [≠The town is not only the first of social elements, but also the most important of all.≠] But if the town has existed ever since there have been men, town liberty is something rare and fragile.^d A people can always establish great political assemblies, because it usually contains a certain number of men among whom, to a certain degree, enlightenment takes the place of the practice of public affairs. The town is made up of crude elements that often resist the action of the legislator. Instead of diminishing as nations become more enlightened, the difficulty of establishing town independence increases with their enlightenment. A highly civilized society tolerates the trial efforts of town liberty only with difficulty; it rebels at the sight of its numerous errors and despairs of success before having reached the final result of the experiment.

Of all liberties, town liberty, which is so difficult to establish, is also the most exposed to the encroachments of power. Left to themselves, town institutions could scarcely resist a strong and enterprising government; to defend themselves successfully, they must have reached their

d. In the margin:

Cause of its little importance. The coarse elements that it brings into use. It can hardly arise except during little developed centuries when individuality is the first need.

The town puts liberty and government within the grasp of the people; it gives them an education or creates great national assemblies.

A town system is made only with the support of mores, laws, circumstances and time.

Town liberty is the most difficult to suppress, the most difficult to create.

It is in the town that nearly all the strength of free peoples resides./

It is in the town that the liberty of peoples resides. Makes kingdoms and creates republics.≠ Cf. conversation with Mr. Gray (non-alphabetic notebooks 2 and 3, YTC, BIIa and *Voyages*, OC, V, 1, pp. 94–95).

fullest development and be mingled with national ideas and habits. Thus, as long as town liberty has not become part of the mores, it is easy to destroy; and it can become part of the mores only after existing in the laws for a long time.

Town liberty therefore escapes human effort so to speak. Consequently it is rarely created;^e in a sense it arises by itself. It develops almost in secret^f within a semi-barbaric society. The continuous action of laws and of mores, circumstances, and above all time succeed in its consolidation. You can say that, of all the nations of the European continent, not a single one knows town liberty.

The strength of free peoples resides in the town, however. Town institutions are to liberty what primary schools are to knowledge; they put it within the grasp of the people; they give them a taste of its peaceful practice and accustom them to its use. Without town institutions, a nation can pretend to have a free government, but it does not possess the spirit of liberty.^g Temporary passions, momentary interests, the chance of circumstances can give it the external forms of independence; but des-

e. In his report on Algeria to the Chamber of Deputies ("Rapport fait par M. de Tocqueville sur le projet de loi relatif aux crédits extraordinaires demandés pour l'Algérie" and discussions on Algeria, *Moniteur universel*, 24, 25 May, 1, 9, 10, 11, 12 June 1847, reproduced in *OCB*, IX, pp. 423–512 and in *Écrits et discours politiques*, *OC*, III, 1, pp. 308–409), Tocqueville insists, nonetheless, on the necessity of creating town institutions in Algeria. He sees it as a condition of the French colonial presence in that country (*Écrits et discours politiques*, *OC*, III, 1, p. 352). See Seymour Drescher, *Dilemmas of Democracy: Tocqueville and Modernization* (Pittsburgh: University of Pittsburgh Press, 1968), p. 61.

f. Hervé de Tocqueville: "This does not seem to me to agree very well with what precedes. How does it develop almost in secret, if it has subsisted for a long time in the laws?" (YTC, CIIb, 2, p. 84).

g. In his notes on the government of India, Tocqueville sees in the permanence and power of the town the reason for the survival of Hindu culture through revolution and the lack of interest in general politics: "The entire political life of the Indians withdrew into the town; the entire administration was concentrated there. As long as the town still existed, who controlled the empire was of little importance to the inhabitants. They hardly noticed the change of masters" (*Écrits et discours politiques*, *OC*, III, 1, p. 450).

potism, driven back into the interior of the social body, reappears sooner or later at the surface.

To make the reader understand well the general principles on which the political organization of the town and the county in the United States rests, I thought that it was useful to take one state in particular as a model, to examine in detail what happens there, and then to cast a quick glance over the rest of the country.

I have chosen one of the states of New England.

The town and the county are not organized in the same way in all the parts of the Union; it is easy to recognize, however, that throughout the Union the same principles, more or less, have presided over the formation of both.

[≠The town institutions of New England were the first to reach a state of maturity. They present a complete and uniform whole. They serve as a model for the other parts of the Union and tend more and more to become the standard to which all the rest must sooner or later conform.≠]

Now, it seemed to me that in New England these principles were considerably more developed and had attained further consequences than anywhere else. So they are, so to speak, more evident there and are thus more accessible to the observation of the foreigner.

The town institutions of New England form a complete and regular whole. They are old; they are strong because of the laws, stronger still because of the mores; they exercise a prodigious influence over the entire society.

In all these ways, they merit our attention.

Town District

The town in New England (*Township*) falls between the *canton* and the *commune* [town] in France. Generally it numbers from two to three thousand inhabitants.¹ So it is not too extensive for all its inhabitants to share

1. In 1830, the number of towns, in the State of Massachusetts, was 305; the number of inhabitants 610,014; this gives an average of about 2,000 inhabitants per town.

nearly the same interests; and on the other hand, it is populated enough to assure that elements of a good administration are always found within it.

Town Powers in New England

The people, source of all powers in the town as elsewhere.—

There they deal with principal matters by themselves.—

No town council.—The largest part of town authority concentrated in the hands of the selectmen.—How the selectmen function.—General assembly of the inhabitants of the town (Town Meeting).—Enumeration of all the town officers.—
Offices mandatory and paid.

In the town as everywhere else, the people are the source of social powers, but nowhere else do they exercise their power more directly. In America, the people are a master who has to be pleased to the greatest possible degree.

In New England, the majority acts through representatives when the general affairs of the state must be dealt with. This was necessary; but in the town, where legislative and governmental action is closer to the governed, the law of representation is not accepted.^h There is no town council; the body of voters, after naming their magistrates, directs them in everything that is not the pure and simple execution of the laws of the state.²

h. For Tocqueville, the lack of representation is the principal characteristic of the town; he gives the town a role similar to that of the small republic in the thought of Rousseau. If here he asserts that the lack of representation is a characteristic of the town across the Atlantic, in the *Ancien Régime et la Révolution* (OC, II, 1, pp. 119–20), he will admit that in the parish of the old regime he found the lack of political representation and other traits that he had formerly judged as belonging only to North America.

2. *The same rules do not apply to the large towns.ⁱ These generally have a mayor and a municipal body divided into two branches; but that is an exception that must be authorized by a law. See the law of 22 [23 (ed.)] February 1822, regulating the powers of the city of Boston. Laws of Massachusetts, vol. II, p. 588. This applies to large cities. It also frequently*

This state of things is so contrary to our ideas, and so opposed to our habits, that it is necessary to provide a few examples here for it to be well understood.

Public offices are extremely numerous and highly divided in the town, as we will see below. The largest part of administrative powers is concentrated, however, in the hands of a small number of individuals elected annually who are called selectmen.³

The general laws of the state have imposed a certain number of obligations on the selectmen. To fulfill them they do not need the authorization of those under their jurisdiction, and they cannot avoid their obligations without engaging their personal responsibility. State law charges them, for example, with drawing up the electoral lists in their town; if they fail to do so, they make themselves guilty of a misdemeanor. But in all things that are left to the direction of the town authority, the selectmen are the executors of the popular will, as with us the mayor is the executor of the deliberations of the town council. Most often they act on their private responsibility and, in actual practice, only carry out the implications of principles previously set down by the majority. But if they want to introduce any change whatsoever in the established order, if they desire to pursue a new undertaking, they must return to the source of their power. Suppose that it is a question of establishing a school: the selectmen convoke on a

happens that the small cities are subject to a special administration. In 1832, the State of New York numbered 104 towns administered in this way (William's Register).

j. Hervé de Tocqueville:

Delete the note and transfer it to the end of the chapter. This note, while teaching us that the large towns have a different municipal system, interrupts, diminishes, and, in order to bring an imperfectly stated difference to our attention, diverts our interest. At the end of the chapter, a section on the municipal system of the large towns is needed. That is indispensable for the unity of the work and the satisfaction of the reader (YTC, CIIb, 2, p. 84).

3. *Three are elected in the smallest towns; nine, in the largest. See The Town Officer, p. 186. Also see the principal laws of Massachusetts relative to the selectmen:*

Law of 20 February 1786, vol. I, p. 219;—24 February 1796, vol. I, p. 488;—7 March 1801, vol. II, p. 45;—16 June 1795, vol. I, p. 473;—12 March 1808, vol. II, p. 186;—28 February 1787, vol. I, p. 302;—22 June 1797, vol. I, p. 539.

given day, in a place specified in advance, the whole body of voters; there, they set forth the need that is felt; they show the means to satisfy it, the money that must be spent, the location that should be chosen. The assembly, consulted on all those points, adopts the principle, determines the location, votes the tax and puts the execution of its will into the hands of the selectmen.

Only the selectmen have the right to call the town meeting, but they can be made to do so. If ten property owners conceive a new project and want to submit it for approval by the town, they call for a general convocation of the inhabitants; the selectmen are obliged to agree to the call and only retain the right to preside over the meeting.⁴

Without a doubt, these political mores, these social customs are very far from us. At this moment I want neither to judge them nor to show the hidden causes that produce and animate them; I am limiting myself to presenting them.

The selectmen are elected annually in the month of April or May. At the same time the town meeting chooses a host of other town magistrates,⁵ appointed for certain important administrative tasks.^k Some, known as assessors, must determine the tax; others, known as collectors, must collect it. One officer, called the *constable*, is charged with keeping the peace, supervising public places and assuring the physical execution of the laws. Another, named the town clerk, records all deliberations; he keeps minutes of the acts of the civil registry. A treasurer keeps the town funds. Add to these officers an overseer of the poor, whose duty, very difficult to fulfill, is to enforce the laws relative to the poor; school commissioners, who direct public education; road surveyors, who are responsible for all the routine tasks relating to the roadways, large and small; and you will have the list of the principal agents of town administration. But the division of offices does

4. See Laws of Massachusetts, *vol. I*, p. 250; *law of 23 March 1786*.

5. Ibid.

k. In the margin: "≠What makes town spirit powerful./

"Independence of the town.

"Importance of the town.

"Constant political life.

"Division of town powers.≠"

not stop there. You still find, among the town officers,⁶ parish commissioners who must regulate church expenses;^m inspectors of various kinds, some charged with directing the efforts of citizens in case of fire; others, with overseeing the harvest; these, with temporarily relieving difficulties that can arise from fencing; those, with supervising wood allotments or with inspecting weights and measures.

In all, principal offices in the town number nineteen. Each inhabitant is obligated, under penalty of a fine, to accept these different offices; but also most of these offices are paid,ⁿ so that poor citizens can devote their time to them without suffering a loss. The American system, moreover, does not give any fixed salary to officers. In general, each act of their administration has a value, and they are remunerated only in proportion to what they have done.^o

6. *All these magistrates actually exist in practice.*

To know the details of the duties of all of these town magistrates, see the book entitled Town Officer, by Isaac Goodwin, Worcester 1829; and the collection of the general laws of Massachusetts in 3 vols., Boston, 1823.

m. Tocqueville learned from Goodwin that in the United States the town inhabitants were obliged to contribute to the support of a Protestant minister. This seems to him nearly the sign of a State religion, and he says so to Sparks. Apparently in agreement, Sparks answers him: "It is one of those cases in which early prejudice, habit, and accidental causes, may pervert the sense of a majority and operate against the equal rights of the whole" (H. B. Adams, *Jared Sparks and Alexis de Tocqueville*, p. 25).

n. The manuscript says: "paid, little it is true, but enough, however, so that poor citizens . . ."

o. I found myself in a Boston salon behind two respectable *gentlemen* who appeared to treat an important subject with interest:

"How much will that gain you much [*sic*]?" said one.

"It's a fairly good business," answered the other, "about one hundred dollars is given for each."

"As you say," replied the first, "that truly is a good business."

Now, it concerned nothing less than two pirates who were to be hanged the next day. One of these speakers, who was the *City Marshal*, was obliged by his position to be present at the execution and to see that everything was done according to order. The law allocated to him for his right to be present one hundred dollars for each one hanged; and he spoke of these two condemned men like a pair of cattle that he had to sell the next day at the market.

Told by the consul (alphabetic notebook B, YTC, BIIa, and *Voyage*, OC, V, 1, p. 241).

Of Town Life

Each person is the best judge of what concerns only himself alone.—Corollary of the principle of sovereignty of the people.—Application that the American towns make of these doctrines.—The New England town, sovereign in everything that concerns only itself, subject in everything else.—Obligation of the town toward the state.—In France, the government lends its agents to the town.—In America, the town lends its to the government.

I said previously that the principle of sovereignty of the people hovers over the entire political system of the Anglo-Americans. Each page of this book will show some new applications of this doctrine.

Among nations where the dogma of the sovereignty of the people reigns, each individual forms an equal portion of the sovereign power, and participates equally in the government of the state.

Each individual is therefore considered to be as enlightened, as virtuous, as strong as any of his fellows.

So why does he obey society, and what are the natural limits of this obedience?

He obeys society, not at all because he is inferior to those who direct it, or less capable than another man of governing himself; he obeys society because union with his fellows seems useful to him and because he knows that this union cannot exist without a regulatory power.

So in all that concerns the mutual duties of citizens, he has become a subject. In all that concerns only himself, he has remained the master; he is free and is accountable for his actions only to God. Thus this maxim, that the individual is the best as well as the only judge of his particular interest and that society has the right to direct his actions only when it feels harmed by them, or when it needs to call for his support.

This doctrine is universally accepted in the United States. Elsewhere I will examine what general influence it exercises over even the ordinary acts of life; but at this moment I am talking about the towns.

The town, taken as a whole and in relation to the central government,

is only an individual like any other to whom the theory I have just indicated applies.

Town liberty in the United States follows, therefore, from the very dogma of the sovereignty of the people. All the American republics have more or less recognized this independence; but among the people of New England, circumstances have particularly favored its development.

In this part of the Union, political life was born very much within the towns; you could almost say that at its origin each of them was an independent nation. When the Kings of England later demanded their share of sovereignty, they limited themselves to taking central power. They left the town in the situation where they found it; now the towns of New England are subjects; but in the beginning they were not or were scarcely so. They did not therefore receive their powers; on the contrary, they seem to have relinquished a portion of their independence in favor of the state; an important distinction which the reader must keep in mind.^p

In general the towns are subject to the states only when an interest that I will call *social* is concerned, that is to say, an interest that the towns share with others.^q

For everything that relates only to them alone, the towns have remained independent bodies. No one among the inhabitants of New England, I think, recognizes the right of the state government to intervene in the direction of purely town interests.^r

So the towns of New England are seen to buy and sell, to sue and to defend themselves before the courts, to increase or reduce their budget

p. In the margin: “#The dogma of sovereignty of the people, it must not be forgotten, has as its end not to make the people do all that they should want, but all that they do want.#”

q. Cf. conversations with Sparks and Mr. Gray (non-alphabetic notebooks 2 and 3, YTC, BIIa, and *Voyage*, p. 90, 96). See also H. B. Adams, *Jared Sparks and Alexis de Tocqueville*, p. 18.

r. Earlier draft: “#I do not believe anyone has ever dared to profess that the duty and the right of a government was to watch over the governed in such a paternal way that they could not even do what can be of harm only to themselves.#”

without any administrative authority whatsoever thinking to oppose them.⁷ [\neq This right has only a single limit. That is found in the institution of the judicial power, but we will examine it later. \neq]

As for social duties, they are required to fulfill them. Thus, if the state needs money, the town is not free to grant or to deny its cooperation.⁸ If the state wants to open a road, the town does not have the right to close its territory. If it establishes a regulation concerning public order, the town must execute it. If it wants to organize education according to a uniform plan throughout the country, the town is required to create the schools desired by the law.⁹ We will see, when we talk about administration in the United States, how and by whom the towns, in all these different cases, are forced to obey. Here I only want to establish the existence of the obligation. This obligation is strict, but the state government, while imposing it, only enacts a principle; for carrying out the principle, the town generally recovers all its rights of individuality. Thus, it is true that the tax is voted by the legislature, but it is the town that apportions and collects it; a school is prescribed, but it is the town that builds, funds and directs it.

In France the tax collector of the State levies the taxes of the town; in America the tax collector of the town raises the tax of the state.

With us, therefore, the central government lends its agents to the town; in America, the town lends its officers to the government. That alone makes clear to what degree the two societies differ.

Of Town Spirit in New England

Why the New England town attracts the affections of those who live there.—Difficulty met in Europe in creating town spirit.—Town rights and duties that work together in America to form this spirit.—The native land has a more distinctive

7. See Laws of Massachusetts, law of 23 March 1786, vol. I, p. 250.

8. Ibid., law of 20 February 1786, vol. I, p. 217.

9. See the same collection, law of 2 June 1789, and 8 [10 (ed.)] March, 1827, vol. I, p. 367, and vol. III, p. 179.

physiognomy in the United States than elsewhere.—How town spirit is shown in New England.—What fortunate effects it produces there.

[≠Laws act on mores; and mores, on laws. Wherever these two things do not lend each other mutual support, there is unrest, revolution tearing apart the society.

The legislation of New England constituted the town. Habits have completed the establishment of a true town spirit there.

The town is a center around which interests and passions gather and where real and sustained activity reigns.≠]

In America not only do town institutions exist, but also a town spirit that sustains and animates them.^s

The New England town brings together two advantages that, wherever they are found, strongly excite the interest of men—namely, independence and power. It acts, it is true, within a circle that it cannot leave, but within that circle its movements are free. This independence alone would already give the town real importance even if its population and size would not assure its importance.

You must realize that in general the affections of men go only where strength is found. Love of native land does not reign for long in a conquered country.^t The inhabitant of New England is attached to his town, not so much because he was born there as because he sees in this town a free and strong corporate body to which he belongs and which merits the trouble of trying to direct it.

In Europe the very people who govern often regret the absence of town spirit; for everyone agrees that town spirit is a great element of order and public tranquillity; but they do not know how to produce it. By making the town strong and independent, they fear dividing social power and exposing the State to anarchy. Now, take strength and independence away

s. In the margin: “<The person who focuses his affections and his hopes on the town, who knows how to take his place there and to participate in its governance, that person possesses what I call town spirit.>”

t. In the margin, in pencil, on a paper glued into place: “I do not know if this thought is very accurate. Witness, Poland.”

from the town, and you will forever find there only people who are administered, not citizens.

Note, moreover, an important fact. The New England town is so constituted that it can serve as a center of strong affections, and at the same time there is nothing nearby that strongly attracts the ambitious passions of the human heart.

The officials of the county are not elected and their authority is limited. The state itself has only a secondary importance; its existence is indistinct and tranquil. To gain the right to administer it, few men agree to distance themselves from the center of their interests and to disrupt their existence.

The federal government confers power and glory on those who direct it; but the number of men who are able to influence its destiny is very small. The presidency is a high office that can hardly be attained except after reaching an advanced age. When someone reaches other high level federal offices, it is by chance in a way and after already becoming famous by pursuing another career.^u Ambition cannot make these high offices the permanent aim of its efforts. [{The Union is a nearly ideal being that nothing represents to the mind.}]^v It is in the town, at the center of the ordinary relations of life, that the desire for esteem, the need for real interests, the taste for power and notice are focused. These passions, which so often trouble society, change character when they can operate thus near the domestic hearth and, in a way, within the family.

See with what art, in the American town, care has been taken to *scatter* power, if I can express myself in this way, in order to interest more people in public life. Apart from the voters called from time to time to perform the acts of government, how many diverse offices, how many different magistrates, who all, in the circle of their attributions, represent the powerful corporate body in whose name they act! How many men thus

u. The drafting of this sentence, and of the preceding one, is by Beaumont (YTC, CIIIb, 2, pp. 68–69). In this chapter, Tocqueville seems to have largely taken into account numerous stylistic suggestions made by Beaumont.

v. In pencil in the margin: “#There again, an idea that is a bit undeveloped and that consequently lacks clarity.#”

exploit the power of the town for their profit and are interested in it for themselves!

Nor is the American system, even as it divides municipal power among a great number of citizens, afraid to multiply town duties. In the United States people think rightly that love of country is a kind of religious cult that attaches men by observances.

In this way, town life makes itself felt at every moment as it were; it manifests itself every day by the accomplishment of a duty or by the exercise of a right. This political existence imparts a continual, but at the same time peaceful, movement to society that agitates without troubling it.^w

The Americans are attached to the city by a reason analogous to the one that makes mountain dwellers love their country. Among them the native land has marked and characteristic features; it has a more distinctive physiognomy than elsewhere.

In general the New England towns have a happy existence. Their government suits their taste and is their choice as well. Within the profound peace and material prosperity that reign in America, the storms of municipal life are few. Leadership of town interests is easy. The political education of the people, moreover, was done a long time ago, or rather they arrived already educated on the soil they occupy. In New England, division of ranks does not exist even in memory; so there is no portion of the town tempted to oppress the other, and injustices, which strike only isolated individuals, are lost in the general contentment. Should the government exhibit some faults, and certainly it is easy to point them out, they are not obvious to view, because the government truly derives from the governed. And it is sufficient for town government to operate, whether well or poorly, for it to be protected by a kind of paternal pride. The Americans, moreover, have no point of comparison. England once ruled the colonies as a whole, but the people have always directed town affairs. So sovereignty of the

w. "Rights and duties are multiplied in the town in order to attach man by its benefits, like religion by its observances. Town life makes itself felt at every moment. Duty, flexible and easy to fulfill; social importance that that *scatters*" (YTC, CVb, p. 17).

people in the town is not only a long-standing condition, but also an original one.

The inhabitant of New England is attached to his town, because it is strong and independent; he is interested in it, because he participates in its leadership; he loves it, because he has nothing to complain about in his lot. In the town he places his ambition and his future; he joins in each of the incidents of town life; in this limited sphere, accessible to him, he tries his hand at governing society. He becomes accustomed to the forms without which liberty proceeds only by revolutions, is infused with their spirit, acquires a taste for order, understands the harmony of powers, and finally gathers clear and practical ideas about the nature of his duties as well as the extent of his rights.

Of the County in New England

The county in New England, analogous to the arrondissement in France.—Created for a purely administrative interest.—

Has no representation.—Administered by non-elective officials.

The American county is very analogous to the French *arrondissement*. As for the latter, an arbitrary circumscription was drawn for the former; it forms a body whose different parts have no necessary bonds with each other and for whom neither affection nor memory nor shared existence serve as attachments. It is created only for a purely administrative interest.

The town was too limited in area ever to contain the administration of justice. The county is, therefore, the primary judicial center. Each county has a court of justice,¹⁰ a sheriff to execute the decisions of the courts, a prison that must hold the criminals.

There are needs that are felt in a more or less equal way by all the towns of a county; it was natural that a central authority was charged with providing for them. In Massachusetts, this authority resides in the hands of a

10. See the law of 14 February 1821, Laws of Massachusetts, vol. II, p. 551.

certain number of magistrates, appointed by the Governor of the state, with the advice¹¹ of his council.¹²

The county administrators have only a limited and exceptional power that applies only to a very small number of cases provided for in advance. The state and the town are sufficient for the ordinary course of things. These administrators only prepare the county budget; the legislature votes it.¹³ There is no assembly that, directly or indirectly, represents the county.

So truly speaking, the county has no political existence.^x

A double tendency is noticeable in most American constitutions, which leads the law-makers to divide executive power and to concentrate legislative power. The New England town by itself has a principle of existence that is not stripped away from it. But this existence would have to be created artificially in the county, and the usefulness of doing so has not been felt. All the towns united together have only a single representative, the state,^y center of all national powers;^z apart from town and national action, you could say that there are only individual powers.

Of Administration in New England^a

In America, you do not see the administration.—Why.—Europeans believe they are establishing liberty by taking away some of the rights belonging to the social power; Americans, by

11. See the law of 20 February 1819, Laws of Massachusetts, vol. II, p. 494.

12. *The Governor's Council is an elected body.*

13. See the law of 2 November 1781, Laws of Massachusetts, vol. I, p. 61.

x. In a working note for the draft of *Ireland*, Beaumont will write:

“—In Ireland political life is in the *county*, because Ireland is aristocratic.

—In America, in the *town*, because America is democratic.

—Among us, in the *State*, because France, still *monarchical*” (Beaumont, YTC, CX).

y. In a first draft, this section was followed by that which treats the state.

z. The style of the last three sentences had been modified following remarks by Beaumont (YTC, CIIb, 2, p. 70).

a. The manuscript mentions the following titles: “OF ADMINISTRATION IN THE UNITED STATES,” “WHAT IS MEANT IN THE UNITED STATES BY ADMINISTRATION AND GOVERNMENT. THEIR MEANS OF ACTION AND THEIR ELEMENTS,” and “OF EXECUTIVE POWER IN THE UNITED STATES. OF GOVERNMENT AND ADMINISTRATION.”

dividing their exercise.—Nearly all of the administration strictly speaking contained in the town, and divided among town officers.—No trace of an administrative hierarchy is seen, either in the town or above it.—Why it is so.—How the state happens, however, to be administered in a uniform way.—Who is charged with making the town and county administrations obey the law.—Of the introduction of the judicial power into the administration.—Result of extending the elective principle to all officials.—Of the justice of the peace in New England.—Appointed by whom.—Administers the county.—Ensures the administration of the towns.—Court of sessions.—The way in which it acts.—Who apprises it.—The right of inspection and of complaint, scattered like all administrative functions.—Informers encouraged by sharing fines.

What most strikes the European who travels across the United States is the absence of what among us we call government or administration. In America, you see written laws; you see their daily execution; everything is in motion around you, and the motor is nowhere to be seen. The hand that runs the social machine escapes at every moment.

But just as all peoples, in order to express their thoughts, are obliged to resort to certain grammatical forms that constitute human languages, all societies, in order to continue to exist, are compelled to submit to a certain amount of authority; without it, they fall into anarchy. This authority can be distributed in different ways; but it must always be found somewhere.

There are two means to diminish the strength of authority^b in a nation.

The first is to weaken power in its very principle, by taking from society the right or the capacity to defend itself in certain cases; to weaken au-

b. Hervé de Tocqueville: "I do not like the word *authority* here very much. It seems too generic to me to apply to the species; there is the authority of laws that cannot be diminished, nor that of the magistrates. I would prefer *power*. It would be dropped in the following sentence" (YTC, CIIb, 2, p. 86 prima).

thority in this way is what, in Europe, is generally called establishing liberty.^c

[{This method has always seemed to me barbaric and antisocial.}]

There is a second means to diminish the action of authority. This one consists not of stripping society of some of its rights or paralyzing its efforts, but of dividing the use of its powers among several hands; of multiplying officials while attributing to each all the power needed to carry out what he is meant to do. There are peoples who can still be led to anarchy by this division of the social powers; in itself, however, it is not anarchic. By sharing authority in this way, its action is made less irresistible and less dangerous, it is true; but authority is not destroyed.

The Revolution in the United States was produced by a mature and thoughtful taste for liberty, and not by a vague and undefined instinct for independence. It was not based upon passions for disorder; on the contrary, it proceeded with love of order and of legality.^d

So in the United States, the Americans did not claim that, in a free country, a man had the right to do everything; on the contrary, social obligations more varied than elsewhere were imposed on him. They did not have the idea of attacking the power of society in its principle and of contesting its rights; they limited themselves to dividing power in its exercise. In this way they wanted to make authority great and the official small, so that society might continue to be well regulated and remain free.

There is no country in the world where the law speaks a language as

c. Édouard de Tocqueville:

I cannot understand this. How can someone think to establish liberty by taking *from society* the right to defend itself? Fine, if you had said: *by taking from the government which represents society*, etc. You wanted to say, I think, that someone thought to establish liberty by weakening the government, the governmental power. Well! That is badly expressed, for to weaken the government of a society or to weaken this society are two very different things. French society was not weak under the Convention, but the old government had just been destroyed" (YTC, CIIIb, 2, pp. 81–82).

d. In the margin of another version: "≠When democracy comes with mores and beliefs, it leads to liberty.

When it comes with moral and religious anarchy, it leads to despotism.≠"

absolute as in America, nor is there one where the right to apply the law is divided among so many hands.

Administrative power in the United States presents nothing either centralized or hierarchical in its constitution; that is why you do not see it. Power exists, but you do not know where to find its representative.

We saw above that the New England towns were not subordinate. So they take care of their own individual interests.

It is also the town magistrates who are usually charged with seeing to the execution of the general laws of the state or with executing them themselves.¹⁴

Apart from the general laws, the state sometimes makes general regulations concerning public order. But ordinarily it is the towns and the town officers who, jointly with the justices of the peace and according to the needs of the localities, regulate the details of social existence and promulgate prescriptions relating to public health, good order and the morality of citizens.¹⁵

Finally it is the municipal magistrates who, by themselves and without needing to wait for outside initiative, provide for the unexpected needs that societies often feel.^{e 16}

14. See *The Town Officer, particularly the words* Selectmen, Assessors, Collectors, Schools, Surveyors of Highways . . . *Example among many others: the state forbids unnecessary travel on Sunday. It is the tythingmen, town officers, who are especially charged with using their authority to enforce the law.*

See the law of 8 March 1792, Laws of Massachusetts, vol. I, p. 410.

The selectmen draw up the electoral lists for the election of the Governor and forward the result of the vote to the secretary of the republic. Law of 24 February 1796, id., vol. I, p. 488.

15. *Example: the selectmen authorize the construction of sewers, designate the locations where slaughterhouses can be built, and where certain types of business whose proximity is harmful can be established.*

See the law of 7 June 1785, vol. I, p. 193.

e. In the first draft: “#The administration in societies where the legislative and executive powers are not concentrated in the same hands {where the principle of sovereignty of the people reigns} has only two obligations:

1. To execute the existing laws.

2. To provide for the unforeseen accidents of social life.#”

16. *Example: the selectmen attend to public health in case of contagious diseases, and*

As a result of what we have just said, administrative power in Massachusetts is almost entirely contained within the town;¹⁷ but it is divided there among many hands.

In the French town there is in fact only a single administrative official, the mayor.^f

We have seen that there were at least nineteen in the New England town.

The nineteen officers do not generally depend on each other. The law has carefully drawn a circle of action around each of these magistrates. Within this circle, they have all the power needed to fulfill the duties of their office and are not under any town authority.

If you look above the town, you see scarcely a trace of an administrative hierarchy. Sometimes county officials correct a decision made by the towns or by the town magistrates,¹⁸ but in general you can say that the administrators of the county do not have the right to direct the conduct of the administrators of the town.¹⁹ The former have authority over the latter only in things that concern the county.

jointly with the justices of the peace, take necessary measures. Law of 22 June 1797, vol. I, p. 539 [549 (ed.)].

17. *I say almost, because there are several incidents of town life that are regulated, either by a justice of the peace in their individual capacity, or by the justices of the peace assembled as a body at the county-seat. Example: it is the justices of the peace who grant licenses. See the law of 28 February 1787, vol. I, p. 297.*

f. Initially, Tocqueville wrote more specifically: “#In the French town the mayor is only the representative of an official at a higher level than he; his power is only the reflection of a superior power, a delegation of authority; the representative must always disappear before the one who gave the mandate.#”

18. *Example: a license is granted only to those who present a certificate of good conduct given by the selectmen. If the selectmen refuse to give this certificate, the person can complain to the justices of the peace assembled in the court of sessions, and they can grant the license. See the law of 12 March 1808, vol. II, p. 186. The towns have the right to make regulations (bylaws) and to require the observation of these bylaws by fines the level of which are fixed; but these bylaws must be approved by the court of sessions. See the law of 23 March 1786, vol. I, p. 254.*

19. *In Massachusetts, the county administrators are often called to assess the acts of the town administrators; but we will see later that they engage in this examination as a judicial power, and not as an administrative authority.*

The town magistrates and those of the county are required, in a very small number of cases stipulated in advance, to report the result of their actions to the officers of the central government.²⁰ But the central government is not represented by one man charged with making general regulations concerning public order or ordinances for the execution of the laws, with communicating routinely with the administrators of the county and town, with examining their conduct, with directing their actions and punishing their mistakes.

So there is no center where the lines of administrative power come together.

Then how do you manage to run society according to a more or less uniform plan? How can counties and their administrators, towns and their officers be made to obey?^g

In the states of New England, the legislative power extends to more objects than with us. The legislator penetrates in a way to the very heart of the administration; the law gets into the smallest details. It simultaneously prescribes the principles and the means to apply them; thus it encloses the secondary bodies and their administrators within a multitude of strict and rigorously defined obligations.

As a result, if all the secondary bodies and all the officials follow the law, all parts of society proceed in a uniform way. But there still remains the

20. *Example: the town school committees are bound to make an annual report on the state of the school to the secretary of the republic. See the law of 10 March 1827, vol. III, p. 183.*

g. Administrative and judicial powers./

Among all nations there are two methods of executing the laws:

The *administrative* method.

The *judicial* method.

The administrative method always addresses the cause; the other, the effect. The one is direct; the other, indirect.

Example: a town makes an illegal decree.

The executive power quashes it. The judicial power prevents it from having any effects and protects those who resist it.

An obstruction arises on the public road. The executive power has it removed; the judicial power gets to the same end indirectly by fining those who caused it (YTC, CVb, pp. 19–20).

question of knowing how the secondary bodies and their officials can be forced to follow the law.

In a general way you can say that society finds at its disposal only two means to force officials to obey the laws.

It can entrust to one of the officers the discretionary power to direct all the others and to remove them from office in case of disobedience.

Or it can charge the courts with imposing judicial penalties on those who break the law.^h

You are not always free to choose one or the other of these means.

The right of directing an official assumes the right to remove him from office, if he does not follow the orders given to him, or to promote him if he zealously fulfills all of his duties. Now, an elected magistrate can be neither removed nor promoted. Elective offices are by nature irrevocable until the end of the term. In reality, the elected magistrate has nothing either to hope or to fear except from the voters.^j So when all public offices result from election, there can be no true hierarchy among officials, since both the right to command and the right to quell disobedience effectively cannot be given to the same man; and the power to command cannot be joined with that of rewarding and punishing.

h. Centralization. Town liberties.

In France there are two means available against the decisions of the Administration, an *administrative* means and a *judicial* means.

When an agent of the administration orders something contrary to the law, you can apply to his superior and have his decision changed.

In the same situation, you can refuse to obey, and then the question comes before the courts that decide indirectly if the official had the right to issue the order. See a discussion where these ideas are treated by Odilon Barrot. Débats [*Journal des débats* (ed.)] of 1 March 1834 (YTC, CVj, 2, pp. 26–27).

Tocqueville's papers contain an article clipped from the *Journal des débats* of the same date, relating to the discussion on 28 February 1834 on the municipal law (copied in YTC, CVj, 2, pp. 27–46). On the occasion of the debate, Barrot defends the independence of the French towns against Thiers and the government, which took a position in favor of a strict control of the mayor by the prefect.

j. "Where there is election, the supervision by the superior official of his inferior is less necessary. Elections deal with negligence; the courts, with misdeed.

Be careful to distinguish carefully what is judicial from what is administrative. *Nearly all the administration strictly speaking is concentrated in the towns; it is only a matter of having them fulfill their obligations*" (YTC, CVb, p. 6).

People who introduce election into the secondary mechanisms of their government are therefore led necessarily to make heavy use of judicial penalties as a means of administration.

This is not obvious at first glance. Those who govern see making offices elective as a first concession, and submitting elected magistrates to the decisions of judges as a second concession. They dread these two innovations equally; and because they are requested to do the first more than the second, they grant the election of the official and leave him independent of the judge. One of these two measures, however, is the only counterbalance that can be given to the other. We should be very careful about this; an elective power not submitted to a judicial power escapes sooner or later from all control or is destroyed. Between the central power and elected administrative bodies, only the courts can serve as an intermediary. They alone can force the elected official to obey without violating the right of the voter.

So in the political world, the extension of judicial power must be correlative with the extension of elective power. If these two things do not go together, the State ends by falling into anarchy or servitude.^k

It has been noted in all times that judicial habits prepared men rather poorly for the exercise of administrative power.

The Americans took from their fathers, the English, the idea of an institution that has no analogy whatsoever with what we know on the continent of Europe: the justices of the peace.

The justice of the peace holds a middle place between a public figure and the magistrate, administrator and judge. The justice of the peace is an enlightened citizen, but not necessarily one who is versed in knowledge of the laws. Consequently, he is charged only with keeping order in society, something that requires good sense and uprightness more than knowledge. The justice of the peace brings to administration, when he takes part in it, a certain taste for forms and for publicity that makes him a highly trou-

k. Hervé de Tocqueville: "This sentence is abstract."

Édouard de Tocqueville: "It is very concise. I do not find it obscure" (YTC, CIIb, 2, p. 87).

Gustave de Beaumont: "Excellent sentence. Do not listen to paternal advice" (YTC, CIIb, 2, p. 72).

blesome instrument to despotism. But he does not appear to be a slave to those legal superstitions that make magistrates^m little capable of governing.

The Americans appropriated the institution of justices of the peace, all the while removing the aristocratic character that distinguished it in the mother country.

The Governorⁿ of Massachusetts²¹ appoints, in all the counties, a certain number of justices of the peace, whose term in office lasts seven years.²²

Among these justices of the peace, moreover, he designates three of them who form in each county what is called the *court of sessions*.

The justices of the peace individually take part in public administration. Sometimes, along with the elected officials, they are charged with certain administrative acts;²³ sometimes they form a court before which the mag-

m. Édouard de Tocqueville: "I would like there: that *generally* make magistrates little capable, etc. . . . No one must be hurt, and by allowing for exceptions, everyone applies the exception to himself; besides, I believe that there really are some" (YTC, CIIb, 2, p. 82).

n. Édouard de Tocqueville (?):

We have not yet heard about a governor. The reader is even totally unaware what this pompous label corresponds to in a republican country. Astonishment is redoubled when he learns that in the same country where the principle of informing [delegation? (ed.)] has penetrated everywhere, the governor appoints, in all the counties, a certain number of justices of the peace, etc.

I know that further along, on page 229, you explain what the functions of the governor are, but it appears indispensable to me that you say a word about it here, since the reader is bewildered when reading this paragraph. You could, I believe, begin this paragraph more or less like this: *There is in each county a magistrate who has the title of governor. I will say further on how he gets his powers and what his attributions are.* Or better still, this could be put in a note at the bottom of the page, or simply in a note at the word governor: *head of the executive power of the county* (YTC, CIIb, 2, pp. 82–83).

Note 21 does not exist in the manuscript.

21. *We will see further on what the Governor is; I must say at this moment that the Governor represents the executive power of the whole state.*

22. *See the Constitution of Massachusetts, chap. II, section I, paragraph 9; chap. III, paragraph 3.*

23. *Example among many others: a stranger arrives in a town, coming from a country ravaged by a contagious disease. He falls ill. Two justices of the peace, with the advice of the selectmen, can order the county sheriff to transport him elsewhere and to watch over him. Law of 22 June 1797, vol. I, p. 540.*

In general, the justices of the peace intervene in all the important acts of administrative life and give them a semi-judicial character.

istrates summarily charge the citizen who refuses to obey, or the citizen denounces the crimes of the magistrates. But it is in the court of sessions that the justices of the peace exercise the most important of their administrative functions.

The court of sessions meets twice a year at the county seat. In Massachusetts it is charged with upholding the obedience of most²⁴ of the public officials.²⁵

Careful attention must be paid to the fact that in Massachusetts the court of sessions is simultaneously an administrative body strictly speaking and a political court.

[≠The administrative and judicial functions of the court of sessions are so often confused in practice, that it is difficult to separate them even in theory. But it is useful to do so.

<The court of sessions has attributions of two kinds. It administers the county and ensures the administration of the towns.>≠]

24. *I say most because in fact certain administrative crimes are referred to the ordinary courts. Example: when a town refuses to raise the funds needed for its schools, or to appoint the school committee, a very considerable fine is imposed. The court called supreme judicial court or the court of common pleas pronounces this fine. See the law of 10 March 1827, vol. III, p. 190. Id. When a town fails to make provision for war supplies. Law of 21 February 1822, vol. II, p. 570.*

25. *The justices of the peace, in their individual capacity,^o take part in the government of the towns and counties. The most important acts of town life are generally undertaken only with the support of one of them.*

o. Hervé de Tocqueville:

I do not believe that the word *capacity* exactly expresses the thought of the author. Care must be taken about using words whose specific expression is made uncertain by their multiple meanings. It seems to me that, from page 189 to 193, Alexis does not say enough about how the justices of the peace participate in town administration. He must not lose sight of the fact that America is something new for most of his readers, and that they will be looking in his book still more for instructions than for reflections. I admit that here, being uninformed, my curiosity is not satisfied. I feel humiliated by my lack of knowledge, and I am annoyed that the author has assumed that I am more informed than I am. These pages must be reviewed and more precise details given about the administrative action of the justices of the peace, when they act outside of the court of sessions. Most readers do not even know how they act in England.

Édouard de Tocqueville: "Quite right. It seems to me that here the word *capacity* means *attribution*. This word would be better I believe" (YTC, CIIb, 2, pp. 87–88).

We said that the county²⁶ had only an administrative existence. It is the court of sessions by itself that is in charge of the small number of interests that relate to several towns at the same time or to all the towns of the county at once, interests that consequently cannot be entrusted to any single town in particular.

When it concerns the county, the duties of the court of sessions are therefore purely administrative, and if it often introduces judicial forms into its way of proceeding, it is only as a means to inform itself,²⁷ and as a guarantee given to the citizens. But when the administration of the towns must be ensured, the court of sessions almost always acts as a judicial body, and only in a few rare cases, as an administrative body.

The first difficulty that presents itself is making the town itself, a nearly independent power, obey the general laws of the state.

We have seen that each year the towns must appoint a certain number of magistrates who, as assessors, apportion taxes. A town tries to evade the obligation to pay the tax by not appointing the assessors. The court of sessions imposes a heavy fine.²⁸ The fine is raised by head on all the inhabitants. The county sheriff, officer of the law, executes the decision. In this way, in the United States, power seems eager to hide itself carefully from sight. Administrative command is almost always veiled there as a judicial mandate; as such it is only more powerful, having in its favor the almost irresistible strength that men grant to legal forms.

This procedure is easy to follow and is easily understood. What is required of the town is, in general, clear and defined; it consists of a simple and uncomplicated act, of a principle, and not a detailed application.²⁹ But

26. *The things relating to the county and that the court of sessions attends to can be reduced to these:*

1. *The building of prisons and courts of justice;* 2. *The proposed county budget (it is the state legislature that votes on it);* 3. *The apportionment of these taxes thus voted;* 4. *The distribution of certain licenses;* 5. *The establishment and repair of county roads.*

27. *When it is a matter of a road, this is the way that the court of sessions, with the help of the jury, settles nearly all the difficulties of execution.*

28. *See the law of 20 February 1786, vol. I, p. 217.*

29. *There is an indirect way to make the town obey. The towns are compelled by law to keep their roads in good condition. If they neglect to vote the funds required for this main-*

the difficulty begins when it concerns securing the obedience, not of the town any longer, but of the town officers.

All the reprehensible actions that a public official can commit fall definitively into one of these categories:

He can do, without enthusiasm and without zeal, what the law requires of him.

He cannot do what the law requires of him.

Finally, he can do what the law forbids.

A court can get at the conduct of an official only in the last two cases. A positive and appreciable act is needed as grounds for judicial action.

Thus, if the selectmen fail to fulfill the formalities required by law in the case of town elections, they can be fined.³⁰

But when the public official fulfills his duty without intelligence, when he obeys the instructions of the law without enthusiasm and without zeal, he is entirely beyond the reach of a judicial body.

In this case, the court of sessions, even when vested with its administrative attributions, is impotent to force him to fulfill all of his obligations. Only fear of removal can prevent these quasi-failings; and the court of sessions does not hold within itself the source of town powers; it cannot remove officials that it does not appoint.^P

In order to make certain, moreover, that there is negligence or lack of zeal, the subordinate official would have to be put under constant supervision. Now, the court of sessions meets only twice a year; it does not conduct inspections; it judges only the reprehensible acts that are brought before it.

tenance, the town magistrate responsible for the roads is then authorized, as a matter of course, to raise the needed money. Since he is himself responsible to individuals for the bad condition of the roads, and can be sued by them before the court of sessions, it is assured that he will exercise against the town the extraordinary right given to him by the law. Thus, by threatening the officer, the court of sessions forces the town to obey. See the law of 5 March 1787, vol. I, p. 305.

30. Laws of Massachusetts, vol. II, p. 45.

p. Hervé de Tocqueville: "*Que, qui, que* within a few lines. I do not know why, when the thought is powerful, the style drags. It comes from repeated use of *c'est que, il n'y a que*; you must fight to the death against them. In a work of this type a concise and dogmatic sentence is better than a drawn-out sentence. Example: Montesquieu" (YTC, CIIIb, p. 109).

Only the discretionary power to remove public officials can guarantee the kind of enlightened and active obedience on their part that judicial suppression cannot impose.

In France we seek this last guarantee in *administrative hierarchy*; in America, they seek it in *election*.

Thus to summarize in a few words what I have just explained:

Should the public official in New England commit a *crime* in the exercise of his duties, the ordinary courts are *always* called to bring him to justice.

Should he commit an *administrative fault*, a purely administrative court is charged with punishing him, and when the matter is serious or urgent the judge does what the official should have done.³¹

Finally, should the same official be guilty of one of those intangible failings that human justice can neither define nor assess, he appears annually before a tribunal from which there is no appeal, that can suddenly reduce him to impotence [remove him from power without even telling him why]]. His power is lost with his mandate.

Certainly this system encompasses great advantages,^q but in its execution a practical difficulty is encountered that must be noted.

I have already remarked that the administrative tribunal that is called the court of sessions did not have the right to inspect the town magistrates; following a legal term, it can only act when it is *apprised*. But that is the delicate point of the system.

The Americans of New England have not established a public prosecutor attached to the court of sessions,³² and you must understand how

31. Example: if a town stubbornly persists in not naming assessors, the court of sessions names them, and the magistrates chosen in this way are vested with the same powers as the elected magistrates. See the law already cited of 20 February 1787.

q. In the margin: “#Perhaps enumerate them at this time.

Human dignity.

Legal, not arbitrary habits.

People at their business.#”

32. I say attached to the court of sessions. There is a magistrate, attached to the ordinary courts, who fulfills several of the functions of the public prosecutor's office.

difficult it would have been for them to establish one. If they had limited themselves to placing a prosecutor at each county seat, and if they had not given him agents in the towns, why would this magistrate have been more informed about what was happening in the county than the members of the court of sessions themselves? If he had been given agents in each town, the power most to be feared,^[*] that of administering through the courts, would have been centralized in his hands. Laws are, moreover, the daughters of habits, and nothing similar existed in English legislation.

So the Americans have divided, like all other administrative functions, the right of inspection and the right of complaint.

Under the terms of the law, the members of the grand jury must notify the court, to which they are attached, of crimes of all kinds that might be committed in their county.³³ There are certain great administrative crimes that the ordinary public prosecutor must pursue as a matter of course.³⁴ Most often, the obligation to have the offenders punished is imposed on the fiscal officer, charged with collecting the proceeds of the fine; thus the town treasurer is charged with pursuing most of the administrative crimes that are committed in his sight.

But above all, American legislation appeals to individual interest;³⁵ that is the great principle found constantly when you study the laws of the United States.

[*]. <#Far from wanting to create a magistrate of this kind, the Americans have, on the contrary, such a great fear of combining too much administrative power in the same hands, that when they assign responsibility to someone for suing for administrative crimes, they hardly ever choose the most important officials.

Should a town refuse to raise the state tax, it is not the Governor who notifies the court of sessions, it is the state Treasurer. *L[aws (ed.) of M[assachusetts (ed.)]*, vol. I, p. 209.

Should an assessor refuse to accept the functions that are granted to him, it is not the selectmen who sue, it is the town treasurer. *Id.*, vol. I, p. 218.>

33. *Grand juries are obliged, for example, to inform the courts about the bad condition of the roads.* Laws of Massachusetts, vol. I, p. 308 [307–308 (ed.)].

34. *If, for example, the county treasurer does not provide his books.* Laws of Massachusetts, vol. I, p. 406.

35. *Example among many: an individual damages his vehicle or is hurt on a poorly maintained road; he has the right to ask the town or the county responsible for the road for damages before the court of sessions.* Laws of Massachusetts, vol. I, p. 309 [307–308 (ed.)].

American legislators show little confidence in human honesty; but they always assume an intelligent man. So most often they rely on personal interest for the execution of laws.

Indeed, when an individual is positively and presently hurt by an administrative crime, it is understood that personal interest guarantees the lodging of a complaint.

But it is easy to foresee that, if it concerns a legal prescription that has no utility felt by an individual at the moment, even though the legal prescription is useful to society, each person will hesitate to come forward as accuser. In this way, by a kind of tacit agreement, the laws could fall into disuse.

Thrown into this extremity by their system, the Americans are forced to interest informers by calling them in certain cases to share in the fines.³⁶

Dangerous measure that assures the execution of laws by debasing mores.

Above the county magistrates, there is truly no other administrative power, only a governmental power.

General Ideas on Administration in the United States

How the states of the Union differ among themselves, by the system of administration.—Town life less active and less complete

36. *In case of invasion or insurrection, when the town officers neglect to provide the militia with necessary equipment and supplies, the town may be fined 200 to 500 dollars (1000 to 2700 [2500 (ed.)] francs). It can easily be imagined that, in such a case, it could happen that no one would have either the interest or the desire to take the role of accuser. Consequently, the law adds: "[the fine is] to be sued for and recovered by any person, who may prosecute for the same, [. . . (ed.). . .] one moiety to the prosecutor." See the law of 6 March 1810, vol. II, p. 236.*

The same arrangement is found very frequently reproduced in the laws of Massachusetts. Sometimes it is not the individual that the law incites in this way to sue public officials; it is the official who is encouraged to have the disobedience of particular individuals punished. Example: an inhabitant refuses to do the share of work assigned to him on a major roadway. The surveyor of roads must sue him; and if the surveyor has him found guilty, half of the fine comes to him. See the laws already cited, vol. I, p. 308.

as you move toward the south.—The power of the magistrate then becomes greater; that of the voter smaller.—Administration passes from the town to the county.—State of New York, Ohio, Pennsylvania.—Administrative principles applicable to all the Union.—Election of public officials or fixed term of their offices.—Absence of hierarchy.—Introduction of judicial means into the administration.

I previously announced that, after having examined in detail the constitution of the town and county in New England, I would cast a general glance over the rest of the Union.

There are towns and town life in each state; but in none of the confederated states do you find a town identical to the New England town.

As you move toward the south, you notice that town life becomes less active; the town has fewer magistrates, rights and duties; the population there does not exercise so direct an influence on town affairs; town meetings are less frequent and involve fewer matters. The power of the elected magistrate is therefore comparatively greater and that of the voter, smaller; town spirit there is less awake and less powerful.³⁷

You begin to see these differences in the state of New York; they are already very apparent in Pennsylvania; but they become less striking when you move toward the Northwest. Most of the emigrants who go to establish the states of the Northwest come from New England, and they bring the

37. See, for detail, *The Revised Statutes of the State of New York, at part I, chap. XI, entitled: Of the Powers, Duties and Privileges of Towns, vol. I, pp. 336–64.*

See in the collection entitled: Digest of the Laws of Pennsylvania, the words Assessors, Collectors, Constables, Overseers of the Poor, Supervisors of highways. And in the collection entitled: Acts of a General Nature of the State of Ohio, the law of 25 February 1824, relating to the towns, p. 412. And next, the particular arrangements relative to the diverse town officers, such as: Township's Clerks, Trustees, Overseers of the Poor, Fence Viewers, Appraisers of Property, Township's Treasurers, Constables, Supervisors of Highways.

administrative habits of their mother land to their adopted country. The Ohio town has much in common with the Massachusetts town.

We have seen that in Massachusetts the principle of public administration is found in the town. The town is the center where the interests and affections of men converge. But it ceases to be so the more you move toward the states where enlightenment is less universally spread and where, consequently, the town offers fewer guarantees of wisdom and fewer elements of administration. So as you move away from New England, town life passes in a way to the county. The county becomes the great administrative center and forms the intermediate power between the [central] government and the ordinary citizens.

I said that in Massachusetts county matters were directed by the court of sessions. The court of sessions is made up of a certain number of magistrates appointed by the Governor and his council. The county has no representation, and its budget is voted by the national [*sic*: state] legislature.

In the large state of New York, on the contrary, in the state of Ohio and in Pennsylvania, the inhabitants of each county elect a certain number of deputies; these deputies meet together to form a representative county assembly.³⁸

The county assembly possesses, within certain limits, the right to tax the inhabitants; in this regard, it constitutes a true legislature. It simultaneously administers the county, directs the administration of the towns in several instances, and limits their powers much more strictly than in Massachusetts.^r

These are the principal differences presented by the constitution of the town and county in the various confederated states. If I wanted to get into

38. See Revised Statutes of the State of New York, *part I, chap. XI, vol. I, p. 340*. Id. *chap. XII*; id., *p. 366*. Id., Acts of the State of Ohio, *law of 25 February 1824, relating to the county commissioners, p. 263*. See Digest of the Laws of Pennsylvania, *the words County Rates, and Levies, p. 170*.

In the state of New York, each town elects a deputy, and this deputy participates at the same time in the county administration and in that of the town.

r. In the margin: “≠Ask L[ouis (ed.)] and B[eaumont (ed.)] if it is necessary to support these generalities with notes. Here either very minutely detailed notes are needed or nothing.≠”

the details of the means of execution, there are still many other dissimilarities that I could point out. But my goal is not to give a course in American administrative law.

I have said enough about it, I think, to make the general principles that administration in the United States rests upon understood. These principles are applied in different ways; they have more or less numerous consequences depending on the place; but fundamentally they are the same everywhere. The laws vary; their physiognomy changes; the same spirit animates them.

The town and county are not constituted in the same way everywhere; but you can say that everywhere in the United States the organization of the town and county rests on the same idea: that each person is the best judge of what concerns himself alone, and the one most able to provide for his individual needs. So the town and county are charged with looking after their special interests. The state governs and does not administer. Exceptions to this principle are found, but not a contrary principle.^s

The first consequence of this doctrine has been to have all the administrators^t of the town and county chosen by the inhabitants themselves, or at least to choose these magistrates exclusively from among the inhabitants.^[*]

[≠The second, to put into their hands the administration [v. direction] of nearly all the interests of the town and county.

The state has retained the power to impose laws on all the towns and counties, but it has not put into the hands of any official the power to direct the administration in a general way.≠]

s. "To place.

Jealousy of legislatures against intermediate bodies.

In New England the justice of the peace prepares the county budget; it is the legislature that votes on it. In the state of New York it is a representation of the county that votes on the tax, but its power is confined to very narrow limits" (YTC, CVh, 5, p. 13).

t. Hervé de Tocqueville: "It seems to me that you cannot say as positively that these administrators are chosen by the inhabitants since you have taught us that the justices of the peace are chosen by the Governor" (YTC, CIIb, 2, p. 111). Cf. note 48.

[*]. I say this because in the laws of Tennessee, which are probably those found among all those of Virginian descent, the justices of the peace or magistrates composing the county court (who hold their offices during good behavior) are in charge of the entire administration. I believe that it is purely and simply the English system.

Since administrators everywhere are elected or at least irrevocable, the result has been that rules of hierarchy have not been able to be introduced anywhere. So there are nearly as many independent officials as offices. Administrative power finds itself scattered among a multitude of hands.

Since administrative hierarchy exists nowhere and administrators are elected and irrevocable until the end of their term, the obligation followed to introduce courts, more or less, into the administration. From that comes the system of fines, by means of which the secondary bodies and their representatives are forced to obey the law. This system is found from one end of the Union to the other.

The power of suppressing administrative crimes or of taking administrative actions as needed has not been granted, moreover, to the same judges in all the states.

The Anglo-Americans have drawn the institution of the justices of the peace from a common source; it is found in all the states. But they have not always taken advantage of it in the same way.

Everywhere the justices of the peace take part in the administration of the towns and counties,³⁹ either by administering them directly or by suppressing certain administrative crimes committed in them. But in most states, the most serious of these crimes are submitted to ordinary courts.

Election of administrative officials, or irremovability from office, lack of administrative hierarchy, and introduction of judicial measures into the government of society at the secondary level are, therefore, the principal

39. *There are even states in the South where the magistrates^u of the county courts are charged with all details of the administration. See The Statutes of the State of Tennessee, the art. Judiciary, Taxes . . .*

u. Hervé de Tocqueville: "If there are states where the court of sessions is charged with all details of the administration, what becomes in these states of the town spirit *so praised by the author?*"

"It would seem, from the end of the chapter, that certain states are beginning to feel the disadvantage of excessive decentralization. This consideration must be weighed by the author in the following chapter" (YTC, CIIb, 2, p. 77).

characteristics by which American administration, from Maine to Florida, is recognized.^v

There are some states where signs of administrative centralization begin to be seen. The state of New York is the most advanced along this path.

In the state of New York, officials of the central government exercise, in certain cases, a kind of supervision and control over the conduct of the secondary bodies.⁴⁰ In certain other cases, they form a type of court of appeal for deciding matters.⁴¹ In the state of New York, judicial penalties

v. "No hierarchy and no centralization, character of American administration. So in the town, more powers and more magistrates than in the French town, but all independent.

"Division of powers among those charged with making them fulfill their duties. Finally, when they are concentrated, it is in a *judicial body*, that is to say, legal and far from arbitrary [v: slave to forms]" (YTC, CVb, p. 16).

40. *Example: the running of public education is centralized in the hands of the government. The legislature appoints the members of the university, called regents; the Governor and the Lieutenant-Governor of the state are members ex officio. (Revised Statutes, vol. I, p. 456). The regents of the university visit the colleges and universities each year and submit an annual report to the legislature; their supervision is not illusory, for the following particular reasons: the colleges, in order to become corporations that can buy, sell and own, need a charter; but this charter is granted by the legislature only on the advice of the regents. Each year the state distributes to the colleges and academies the interest from a special fund created to encourage education. It is the regents who are the distributors of this money. See chap. XV, Public Education, Revised Statutes, vol. I, p. 455.*

Each year, the boards of public schools are required to send a report on conditions to the superintendent of the Republic, Id., p. 488.

A similar report on the number and condition of the poor must be made annually to him. Id., p. 631.

41. *When someone believes himself wronged by certain acts coming from the school commissioners (these are town officers), he can appeal to the superintendent of primary schools whose decision is final. Revised Statutes, vol. I, p. 487.*

You find here and there, in the laws of the state of New York, provisions analogous to those I have just cited as examples. But in general these tentative efforts at centralization are weak and not very productive. While the highest officials of the state were given the right to supervise and direct inferior agents, they were not given the right to reward or punish them. The same man is hardly ever charged with giving the order and with suppressing disobedience; so he has the right to command, but not the ability to make himself obeyed.

In 1830, the superintendent of schools, in his annual report to the legislature, complained that several school commissioners, despite notice from him, had not forwarded the accounts

are used less than elsewhere as an administrative measure. There, the right to bring proceedings against administrative crimes is also placed in fewer hands.⁴²

The same tendency is slightly felt in several other states.⁴³ But, in general, you can say that the salient characteristic of public administration in the United States is to be prodigiously decentralized.

Of the State

I have talked about the towns and about administration; I still have to talk about the state and about government.

Here, I can move faster without fear of being misunderstood; what I have to say is found all sketched out in written constitutions that anyone can easily obtain.⁴⁴ These constitutions rest on a simple and rational theory.

Most of the forms that they prescribe have been adopted by all peoples who have constitutions; they have therefore become familiar to us.

So I have only to do a brief overview here. Later I will try to judge what I am about to describe.

they owed him. "If this omission occurs again, he added, I will be reduced to prosecuting them to the full extent of the law before the courts of competent jurisdiction."

42. *Example: the district attorney in each county is charged with suing for the recovery of all fines above 50 dollars, as long as this right has not been expressly granted by law to another magistrate. Revised Statutes, part I, chap. XII, vol. I, p. 383.*

43. *There are several signs of administrative centralization in Massachusetts. Example: the town school boards are charged with making an annual report to the Secretary of State. Laws of Massachusetts, vol. I, p. 367.*

44. *See the text of the constitution of New York.^w*

w. Reproduced as an appendix in the first editions.

Legislative Power of the State

Division of the legislative body into two houses.—

Senate.—House of representatives.—

Different attributions of these two bodies.

The legislative power of the state is entrusted to two assemblies; the first is generally called the senate.

The senate is normally a legislative body; but sometimes it becomes an administrative and judicial body.

It takes part in administration in several ways depending on the different constitutions;⁴⁵ but ordinarily it enters into the sphere of executive power by taking part in the choice of officials.

It participates in judicial power by judging certain political crimes and sometimes as well by ruling on certain civil actions.⁴⁶

Its members are always few in number.

The other branch of the legislature, usually called the house of representatives, participates in nothing related to administrative power, and takes part in judicial power only when accusing public officials before the senate.

The members of the two houses are subject almost everywhere to the same conditions of eligibility. Both are elected in the same way and by the same citizens.

The only difference that exists between them is due to the fact that the mandate of senators is generally longer than that of representatives. The second rarely remain in office more than a year; the first ordinarily hold their seats two or three years.

By granting senators the privilege of being named for several years, and by replacing them by cohort, the law has taken care to maintain, among the legislators, a nucleus of men, already used to public affairs, who can exercise a useful influence over the newcomers.

45. *In Massachusetts, the Senate is vested with no administrative function.*

46. *As in the state of New York.*^x

x. See conversation with Mr. Spencer (non-alphabetic notebook 1, YTC, BIIa, and *Voyage*, OC, V, 1, p. 68).

So by the division of the legislative body into two branches, the Americans did not want to create one hereditary assembly and another elective one; they did not intend to make one into an aristocratic body, and the other into a representative of the democracy. Nor was their goal to make the first into a support for the governing power, while leaving the interests and passions of the people to the second.^y

To divide legislative power, to slow in this way the movement of political assemblies, and to create a court of appeal for the revision of laws, such are the only advantages that result from the current constitution of the two houses in the United States.

Time and experience have shown the Americans that, reduced to these advantages, the division of legislative powers is still a necessity of the first order.

Pennsylvania alone, among all the united republics, tried at first to establish a single assembly. Franklin himself, carried away by the logical consequences of the dogma of sovereignty of the people, had worked toward this measure. The law soon had to be changed and two houses established. The principle of the division of legislative power thus received its final consecration; henceforth then, the necessity to divide legislative activity among several bodies can be considered a demonstrated truth. This theory, more or less unknown in the ancient republics, introduced into the world almost by chance, like most great truths, misunderstood among several modern peoples, has finally passed as an axiom into the political science of today.^z

y. Division of administrative power, concentration of legislative power. *American principle* (important).

The legislature most often appoints *special agents* to enforce its will. Thus, power not even *regular or necessary executor* of the laws.

The Governor's veto is not a barrier to the democracy, the Governor emanating entirely from it. Only the judges are a real barrier.

Not only is power divided among several hands, but the exercise of power is divided. The Governor cannot appoint the official and direct him at the same time. *Subtle and dubious*.

The institution of the senate is a barrier to the democracy because named for a longer time; they [*sic*] are not as immediately subject to the fear of not being reelected (YTC, CVb, pp. 15–16).

z. Tocqueville, it must be remembered, was part of the commission charged with

drafting the constitution of 1848. There, he defended the division of legislative power into two branches. This idea came to nothing. In his *Souvenirs* (OC, XII, pp. 148–87), he gives some details about it. The notes taken by Beaumont during the work of the commission offer in this regard some interesting, previously unpublished details (YTC, DIVk). Beaumont notes as follows, in a rapid and necessarily schematic fashion, Tocqueville's answers to the proposal of Marrast concerning the creation of a single chamber (25 May 1848):

Tocqueville.—Recognizes that the cause of two chambers is lost. The state of minds is such that it would be almost dangerous to insist upon a system that [illegible word] in itself is bad only in the circumstances.

—But, necessary to show how two chambers are the only institution that can perhaps make the republic viable.

—History!

—The United States. The Constitution of the United States must be set aside; take the thirty democratic constitutions of the United States that have same social and political state as we.

—Now, in these 30 states the question of two chambers is an accomplished fact and an uncontested truth.

—Is it [that this (ed.)] historical tradition is English?

—No. Instead of following the English tradition, they broke with it. Congress began with a single assembly. Those of Massachusetts and Pennsylvania in the same way (for thirteen years in Pennsylvania); and at the end of thirteen years with a single assembly, Pennsylvania changed the system of a single assembly and adopted two chambers.

—So in France what made opinion so hostile to single chambers?

—It is a misunderstanding. Until now in Europe the system of two chambers was to give a special expression to two different elements, the aristocrat and the democrat; from that it was concluded that the establishment of two chambers was an aristocratic principle. This natural conclusion is correct, if it was a question of introducing the slightest element of aristocracy into the government.

—But is the existence of two chambers in itself a fact aristocratic by nature?

—How so! The two chambers in America are from the aristocracy!! What is it then? The two chambers are chosen by the same electors, for the same time, in the same conditions, more or less.

—Objection that if the second chamber has no use as a counterbalance to the democracy, what purpose does it serve? Then it is a superfluity.

—No.

—Even logically, it can be sustained. What is logical is that the nation be all powerful; but what [more (ed.)] contrary to logic than that the sovereignty of the nation have one or two agents.

—Now logically what purpose do two chambers serve?

Of the Executive Power of the State

What the Governor is in an American state.—What position he occupies vis-à-vis the legislature.—What his rights and duties are.—His dependency on the people.

The executive power of the state is represented by the Governor.^[*] [≠Not only is the Governor of each state an elected magistrate, but also he is generally elected only for a year; in this way he is tied by the shortest possible chain to the body from which he emanates.≠]

Three principal uses.

1. Necessity in France of giving the executive power great force. But, certain considerable matters cannot be absolutely conducted by the executive power without any everyday control. In the United States, the Senate assists the President in certain acts, or rather controls him; treaties, choice of high officials. Body small enough to be able to act in concert with the executive power and strong because it comes from the people. This could be done, it is true, by [the (ed.)] *Conseil d'État*.

2. Driving impulses of democracies. Perilous and untenable situation of the executive power, in the eternal head to head of this one man and this single assembly; eternal conflict between two wills face to face. — The only means for no conflict is that the man always gives way to the assembly. Then no struggle.

3. The great disease of democracies is legislative intemperance, violence in proceedings, rapidity in actions. The advantage of two chambers is not to prevent violent revolutions, but to prevent the bad government that ends up leading to revolution.

—What means to combat the inherent vices of this single body? It is to divide it.

—Two chambers drawn from the same elements can have different thoughts however.

—Difficulty for two or three men to dominate a country when there are two chambers. Very easy when there is only one chamber.

—Utility of two considerations of a question. But there are two considerations only when there are two assemblies. Two readings do not mean two considerations. It is resubmitting a judgment to those who have made it, and who will only repeat what they judged (YTC, DIVk).

The papers of Beaumont, which contain innumerable notes on the American constitutions, are there to witness to the importance given to American constitutional history during the discussions of the constitutional commission of 1848.

[*]. See the Constitution of Massachusetts, chap. I, part II, chap II.

It is not by chance that I have used the word *represents*. The Governor of the state in effect represents the executive power; but he exercises only some of its rights.

The supreme magistrate, who is called the Governor, is placed alongside the legislature as a moderator and adviser. He is armed with a qualified veto that allows him to stop or at least to slow the legislature's movements as he wishes. To the legislative body, he sets forth the needs of the country and makes known the means that he judges useful to provide for those needs; for all enterprises that interest the entire nation [*sic*: state], he is the natural executor of its will.⁴⁷ In the absence of the legislature, he must take all proper measures to protect the state from violent shocks and unforeseen dangers.

The Governor combines in his hands all of the military power of the state. He is the commander of the militia and chief of the armed forces.

When the power of opinion, which men have agreed to grant to the law, is not recognized, the Governor advances at the head of the physical force of the state; he breaks down resistance and reestablishes customary order.

The Governor, moreover, does not get involved in the administration of the towns and counties, or at least he participates only very indirectly by the appointment of the justices of the peace whom he cannot thereafter remove.⁴⁸

The Governor is an elected magistrate. Care is even taken, generally, to elect him only for one or two years; in this way, he always remains narrowly dependent^a on the majority that created him.^b

47. *In practice, it is not always the Governor who carries out the enterprises conceived by the legislature; often, at the same time that the latter votes a principle, it names special agents to oversee its execution.*

48. *In several states, the justices of the peace are not appointed by the Governor.*

a. The manuscript says: "... he is tied by the shortest possible chain to the body from which he emanates."

Édouard de Tocqueville: "This sentence is absolutely unintelligible. Why? What do you mean by *the body from which he emanates*? From what body does he emanate? And how is he tied to this body by the shortest possible chain by the fact that he is named for only two years? I repeat, I do not understand this paragraph at all" (YTC, CIIb, 2 p. 112).

b. In the manuscript, at the end of the first chapter, is a cover sheet with the title:

Of the real influence that the President exercises in the conduct of public affairs [in the margin: Real and habitual influence in foreign affairs, almost entirely personal influence in domestic affairs./Study to do.]; in it, the following fragment on the Governor is found:

[The beginning is missing] The first of these two obligations is marked out in a clear and precise manner.

The second depends essentially on the circumstances that give it birth.

Among most nations, the same man or at least the same authority is charged with fulfilling these two obligations. He sees to it by himself or through his agents that order reigns, and when order begins to be disturbed, by some violent shock, some unforeseen event, he is still the one who temporarily takes the place of the missing national will and takes charge of remedying the evil.

In America, it is rarely so; the Governor is only occasionally charged with the peaceful execution of the laws. His functions consist, above all, of overseeing in a general manner the state of society, of enlightening the legislative body with his advice and of providing for the accidental needs of the state.

[In the margin: in a way, the Governor participates in legislative power by the veto.

In executive power by the administrative council.

In France it is the same man who is charged.

Start with the extreme concentration of powers.

There are some countries where the legislative, administrative and judicial powers are united.

There are some others where the legislative power is separate from the other two.

There are still others.]

Thus, it is not the Governor who is charged with using his authority to see that the towns execute their duties faithfully and punctually. If the legislature orders the opening of a canal or road, it is not generally the Governor who is charged with supervising the projects. The legislative power, at the same time it votes the principle, appoints special agents to supervise the execution.

But if an unforeseen danger emerges, if an enemy appears, if an armed revolt breaks out, then the Governor truly represents the executive power of the State. He commands and directs the police force.

In the accidental cases that I have just enumerated, the concentration of power on a single head is an indispensable condition for the existence of societies; thus the Governor of a state in America is the sole and absolute leader of the armed force.

But as for the daily, peaceful execution of the laws, powers are still divided to a degree that our imagination can scarcely conceive.

[In the margin: Only it is not judicial strength that comes to add to administrative strength. It is administrative strength that comes to join with judicial strength; now, liberty never has to fear judicial strength./

Concentration of powers and administrative *hierarchy* are two synonymous words, for where there is hierarchy you necessarily arrive at unity by moving upward.

Concentration of power is not a necessity so absolute./

Of the Political Effects of Administrative Decentralization in the United States^c

*Distinction to establish between governmental centralization and
administrative centralization.—In the United States, no*

I am beginning to believe that it is *definitively* the judicial power that *administers*. In America, therefore, you arrive, in a round about way, at the union of administrative and judicial powers.]

In order to understand this part of my subject well, I take the most robust individual with whom the state would have to deal, that is to say the town, and I ask how the town is made to obey the laws.

Here reread my town notes.

c. Letter of Édouard de Tocqueville to his brother, Alexis:

St Germain, 15 June [1834 (ed.)]./

I have read and examined your chapter very attentively, my dear friend; I send you the notes and remarks that I have made about it, as well as some observations that I have added to those of your father. All that you say about centralization is remarkable and well considered, but this chapter, the last in this thick folder, will be the subject of the most serious criticism from me.

The general tone of your work is serious, impartial, philosophical. You see things there in too lofty a way for your expressions to reveal passion. We guess your opinion, your sympathies, but you leave the need to conclude to the reader; you just accumulate enough facts and reasons, leading to the conclusion you desire, to carry the reader there inevitably; that is what a tightly reasoned work should do. The author should stay behind the curtain and be content to produce conviction without insisting upon it and saying: as for me, here is the conclusion that I draw from all this. This personal opinion adds nothing to the strength of reasoning, and can harm it to the extent that this perfect impartiality that inspires confidence is no longer seen in the author. I find, therefore, that in this last chapter you are too much on stage; you enter the lists armed with your personal opinion; you apply your principles to France; you enter into politics; it is no longer simply logical, clear and profound deduction from facts and institutions attentively studied that you present to the reader, but your own ideas about these facts, these institutions, about their consequences and their application. You judge, when the reader must be allowed to judge; you must only put all the pieces of evidence before him. His good sense must do the rest, and it will do so if your book is good.

Consider carefully that your book must not carry the date 1834, nor even the colors of France; to live in posterity, it must be removed from the influences of time and place.

To conclude: I believe that this chapter will be entirely as strong and stronger, when you have cut from it all that reveals the polemical and when you content your-

administrative centralization, but very great governmental centralization.—Some unfortunate effects that result in the United States from the extreme administrative decentralization.—Administrative advantages of this order of things.—The force that administers society, less steady, less enlightened, less skillful, very much greater than in Europe.—Political advantages of the same order of things.—In the United States, country makes itself felt everywhere.—Support that the governed give to the government.—Provincial institutions more necessary as the social state becomes more democratic.—Why.

Centralization is a word repeated constantly today, and, in general, no one tries to clarify its meaning.

Two very distinct types of centralization exist, however, that are important to know well.

Certain interests are common to all parts of the nation, such as the formation of general laws and the relationships of the people with foreigners.

Other interests are special to certain parts of the nation, such as town enterprises, for example.

To concentrate in the same place or in the same hands the power to direct the first is to establish what I will call governmental centralization.^d

self with saying what centralization or rather decentralization is in America; what its effects, its action, its consequences are, without explaining what centralization has been, is still, and what has produced and produces it in France. Certainly, it is a great and interesting question, admirable to treat from the rostrum when you climb up there, but your book, which raises a host of these questions, does not argue any of them; why make an exception for this one?

Weigh these considerations.

Adieu, my dear friend, I embrace you with all my heart. Embrace *maman* for us. Alexandrine and the children are very well (YTC, CIIb, 2, pp. 63–65).

d. “The power to have *men* and *money*, such in sum is governmental centralization” (YTC, CVb, p. 12).

Beaumont thus summarizes the intervention of Tocqueville in favor of governmental centralization during the session of the constitutional commission on 31 May 1848:

Tocqueville. Impossible to touch on centralization in its constituent and general principles.—It is centralization that has saved France. Centralization is the power given

To concentrate in the same way the power to direct the second is to establish what I will name administrative centralization.^e

There are points at which these two types of centralization merge. But by taking, as a whole, the matters that fall more particularly in the domain of each of them, we easily manage to distinguish them.^f

It is understood that governmental centralization acquires immense strength when it is joined with administrative centralization. In this way, it accustoms men to making a complete and continuous abstraction of their will, to obeying, not once and on one point, but in everything and every day. Then, not only does it subdue them by force, but also it captures them by their habits; it isolates them and then, within the common mass, catches hold of them, one by one.

These two types of centralization lend each other mutual aid, attract each other; but I cannot believe that they are inseparable.

Under Louis XIV, France saw the greatest governmental centralization that could be imagined, since the same man made general laws and had the power to interpret them, represented France to the outside world and acted in its name. *L'Etat, c'est moi*, he said; and he was right.^g

to the State, the duty to do everything inside and outside that is of general interest and is therefore in the interest of the State. The State must do everything in the country that matters strongly to it, either in the department or in the town.

The State must not intervene in what interests only the locality (YTC, DIVk).

e. "Administrative centralization does not create strength within a nation, but despotism" (YTC, CVb, p. 25).

f. Variant: "<#The first, which I will call governmental centralization, is the concentration in a single hand or in the same place of the great social powers. The power to *make the* general *laws* and the *strength* to force obedience to them. The direction of the foreign affairs of the State and the means to succeed in them.

The second type of centralization, which I will name administrative centralization, is the concentration in a single hand or in the same place of the power to regulate the ordinary affairs of society, to rule the diverse parts of the State in the direction of their special affairs and to be in charge of the daily details of their existence.>#"

g. "In France the administrative power has been placed at the center, not because it was in itself more useful there, perhaps the opposite, but in order to increase political power, which is different" (YTC, CVb, p. 10).

Under Louis XIV, however, there was much less administrative centralization than today.^h

h. In the essay on the French administration drafted in response to the request for information from his son, Hervé de Tocqueville remarks:

In the state of things as set up by the charter of 1814, the King is present everywhere. He has command over individual wills in order to unite them against the common danger. His action makes itself felt in all parts of the administration. Without him, it can do nothing; it moves if he allows; it stops when he so commands. We still do not know what the consequences will be of the notable changes that have taken place since 1830. Will not the principle of election introduced into the formation of all the *conseils* inspire in the provincial bodies pretensions of independence that are difficult to suppress; and will not this same principle applied to the nomination of officers of the national guard harm the passive obedience imposed on this armed force for public security? The newspapers that call themselves royalist ask for the reestablishment of the old provinces and insist daily on the creation of provincial assemblies that would be charged with the direction of local affairs. It is probable that these assemblies would tend constantly to increase their own power and that France would soon be no more than a vast federation, the weakest of governments, in the middle of the compact monarchies that surround it (YTC, CIIIe, pp. 38–39).

After having praised the effects of centralization on the accountability of the French towns, he adds:

The tutelage of the King is excellent because it prevents poorly planned undertakings, useless or superfluous expenditures and the waste of funds. But one wonders if it has not gone too far, or rather if it is not surrounded by too many formalities. It seems that a part of the things that must be submitted to the ministry of the interior could be decided by the provincial authority (*Ibid.*, p. 40).

And further along:

It will be concluded from what precedes that, if centralization has become a little too extensive in the relations between superior and inferior authorities, it becomes difficult to bear, above all, when it is exerted over the portion of private interests that are discussed and regulated administratively. In summary, it is useful to keep the tutelage of the administration in what concerns administrative expenditures. . . . Royal intervention in the affairs of the towns should be limited to the authorization to sell, acquire, exchange and borrow. Then again, small loans could be authorized by the prefect (*Ibid.*, pp. 41–42).

It is difficult to establish the precise influence that the report of the author's father, the letters of Chabrol and Blossville, the conversations and correspondence with Sparks had on the formation of Tocqueville's ideas on centralization. If all of this material was able to help him clarify several points, it seems that his ideas on centralization date at least from the first days of his journey on American territory.

In a letter to his father of 3 June 1831, that is, four months before asking for help,

In our time, we see a power, England, where governmental centralization is carried to a very high degree; the State there seems to move like a single man; at will, it rouses immense masses, gathers and delivers, wherever it wants, the utmost of its strength.

England, which has done such great things for the last fifty years, does not have administrative centralization.

For my part, I cannot imagine that a nation could live or, above all, prosper without strong governmental centralization.

Tocqueville already referred to centralization: "All that there is of good in centralization seems to be as unknown as what there is of bad; no central idea seems to regulate the movement of the machine" (*OCB*, VII, p. 21). The theme is found again a month later in a letter also addressed to his father:

Here, moreover, the central government is hardly anything. It is involved only with what relates to the state as a whole; the localities arrange their affairs all by themselves. That is how they have made the republic practicable. Everywhere individual ambition finds a small center of action at hand where its activity is exercised without danger for the state. I imagine that if the Bourbons, instead of fearing the organization of the towns, had sought little by little, from the beginning of the Restoration, to give importance to the localities, they would have had less difficulty struggling against the mass of passions that were raised against them (*Albany*, 4 July 1831, *YTC*, B1a2).

Two months before meeting Sparks, 29 June 1831, he had written to Louis de Kergorlay in nearly identical terms (*Correspondance avec Kergorlay*, *OC*, XIII, I, pp. 233–34). See George W. Pierson, *Tocqueville and Beaumont in America*, p. 363; and James T. Schleifer, *The Making of Tocqueville's "Democracy in America,"* pp. 122–23. See note q for p. 150.

Tocqueville returns to this subject in his report on Algeria (*Écrits et discours politiques*, *OC*, III, 1, especially pp. 331–38). There he denounces an excess of administrative centralization and a lack of political centralization. Algeria opens to Tocqueville a potential for political creativity in which he envisions using the theoretical tools forged in America. More than once, Tocqueville encounters in French Africa situations entirely similar to those at the beginning of the American colonies. His intervention in parliament retains a certain transatlantic flavor easy to detect. The project of buying land in Algeria with Kergorlay, which would come to nothing, is there to attest to his interest in the colony. See the reports and parliamentary interventions, published in the *Moniteur Universel*, 24 and 25 May, and 1, 9, 10, 11, and 12 June 1847 (reproduced in *OCB*, IX, pp. 423–512, and in *Écrits et discours politiques*, *OC*, III, 1, pp. 308–409). His travel notes and other writings on Algeria also contain numerous references to centralization and to other American subjects. Cf. note f for p. 1210 of volume II.

But I think that administrative centralization is suitable only to enervate the peoples who submit to it, because it constantly tends to diminish the spirit of citizenship in them.^j Administrative centralization, it is true, succeeds in gathering at a given time and in a certain place all the available forces of a nation, but it is harmful to the multiplication of those forces. It brings the nation victory on the day of battle and over time reduces its power. So it can work admirably toward the passing greatness of a man, not toward the lasting prosperity of a people.^k [\neq I see there an element of despotism, but not of lasting national strength [in pencil: that would be]. \neq >]

You must be very careful; when someone says that a State is unable to act because it has no centralization, he is, without knowing it, almost always talking about governmental centralization.^m The German empire, it is said repeatedly, has never been able to gain all that it possibly could from its forces. Agreed. But why? Because national force has never been centralized there; because the State has never been able to compel obedience to its general laws; because the separate parts of this great body have always had the right or the possibility to refuse their support to the agents of the common authority, even in what concerned all citizens; in other words, because there was no governmental centralization. The same remark applies to the Middle Ages. What produced all the miseries of feudal society was that the power, not only to administer, but also to govern, was divided among a thousand hands and fragmented in a thousand ways; the absence of any governmental centralization then prevented the nations of Europe from moving with energy toward any goal.

j. In the manuscript: "... to diminish the number of citizens. ..."

k. In the manuscript: "... the greatness of a man, but not that of the State."

Gustave de Beaumont:

False idea. Administrative centralization, by the effects that are concerned here, can work toward the greatness of the State just as toward that of a man, for this greatness can depend on a great battle that might have been lost without administrative centralization. Only, it is an obstacle to lasting greatness. As I do not know if the author agrees and do not know what idea he will adopt, I am not occupying myself with the writing (YTC, CIIb, 2, p. 76).

m. The same idea appears in Beaumont, *Irlande*, vol. II, pp. 157–59.

[≠Moreover, like nearly all the harmful things of this world, administrative centralization is easily established and, once organized, can hardly ever be destroyed again except with the social body itself.ⁿ

When all the governmental force of a nation is gathered at one point, it is always easy enough for an enterprising genius to create administrative centralization. We ourselves have seen this phenomenon take place before our eyes. The Convention had centralized government to the highest degree, and Bonaparte needed only to will it in order to centralize the administration. It is true that for centuries in France our habits, mores and laws had always worked simultaneously toward the establishment of an intelligent and enlightened despotism.^[*]

Once administrative centralization has lasted for a time, should the power that established it sincerely desire to destroy it, that same power almost always finds itself unable to bring about its ruin.

In fact, administrative centralization assumes a skillful organization of authority; it forms a complicated machine in which all the gears fit together and offer mutual support.

When the law-maker undertakes to scatter this administrative power that he has concentrated in a single place, he does not know where to begin, because he cannot remove one piece of the mechanism without disrupting the whole thing. At each moment, he sees that either nothing must be changed or everything; but what hand, so foolhardy, would dare to smash with one blow the administrative machinery of a great people?

To attempt it would be to invite disorder and confusion into the State.

The art of administration is assuredly a science, and peoples do not have more innate knowledge than individuals do. Delivered to itself without any transition, society would almost entirely cease to be administered.

Moreover, one of the greatest misfortunes of despotism is that it creates in the soul of the men submitted to it a kind of depraved taste for tranquillity and obedience, a sort of self-contempt, that ends by making them

n. In the margin: "≠Perhaps all of that to delete as irrelevant.≠"

[*]. "≠Truthfully, in France, the provinces have never *administered* themselves; it was always the authority of one man that was exercised and that regulated, directly or indirectly, all the affairs of society. Only, the administrative range was limited; the Revolution of 1789 just extended it.≠"

indifferent to their interests and enemies of their own rights. In nothing, however, is it more necessary for the governed themselves to show a definite and sustained will.

Nearly all the passionate and ambitious men who talk about centralization lack a real desire to destroy it. What happened to the Praetorians happens to them; they willingly suffer the tyranny of the emperor in the hope of gaining the empire. So decentralization, like liberty, is something that the leaders of the people promise, but that they never deliver. In order to gain and keep it, nations can count only on their own efforts; and if they themselves do not have a taste for it, the evil is without remedy.

Surprisingly, the same corporations, in whose name the power of self-administration has been passionately claimed, are often seen to accept without enthusiasm the portion of power granted to them and to show themselves almost eager to lay it down again, like a useless and heavy burden. #]^o

We have seen that in the United States no administrative centralization existed. Scarcely a trace of hierarchy is found there. Decentralization there has been carried to a point that no European nation could bear, I think, without a profound uneasiness, and that, even in America, produces unfortunate effects. But, in the United States, governmental centralization exists to the highest degree. It would be easy to prove that national [*sic*: state] power is more concentrated there than it has been in any of the old monarchies of Europe. Not only is there just a single body in each state that makes laws; not only is there just a single power able to create political life around it; but in general, the Americans have avoided bringing together numerous district or county assemblies for fear that these assemblies would be tempted to move beyond their administrative attributions and hinder the movement of the government. In America the legislature of each state is faced by no power capable of resisting it. Nothing can stop it in its tracks, neither privileges, nor local immunity, nor personal influence, not even the authority of reason, for it represents the majority that claims to be the only

o. In the margin: “<{To review the part on centralization and perhaps shorten it. Advice of Beau[mont (ed.)].}>”

instrument of reason. So it has no limit to its action other than its own will. Next to it and close at hand is found the representative of the executive power who, with the aid of physical force, has to compel the discontent to obey.^p

Weakness is found only in certain details of governmental action.

The American republics do not have a permanent armed force to suppress minorities, but up to now minorities there have never been reduced to starting a war; and the need for an army has not yet been felt.^q Most often, the state uses town or county officials to act upon the citizens. Thus, for example, in New England, it is the town assessor who apportions the tax; the town tax collector levies it; the town treasurer makes sure that the tax revenue goes into the public treasury; and complaints that arise are submitted to the ordinary courts. Such a way to collect taxes is slow and awkward; at every instant it would hinder the movement of a government that had great pecuniary needs. In general, for everything essential to its exis-

p. In the manuscript: "Next to it and close at hand is found an executive power, absolute head of physical force, to compel the minorities to obedience."

q. In a letter to Ernest de Chabrol, Tocqueville explained:

All the offices, like all the registers, have been open to us, but as for the government, we are still looking for it. It does not really exist at all. The legislature regulates everything that is of general interest; the municipalities have the rest.

The advantage of this arrangement is to interest each locality very actively in its own affairs and greatly to feed political activity. But the disadvantage, even in America, seems to me to be to deprive the administration of any kind of uniformity, to make general measures impossible and to give to all useful enterprises a character of instability that you cannot imagine.

We are, above all, in a position to notice these effects of the lack of centralization in what relates to the prisons: nothing fixed, nothing certain in their discipline; men replace each other; with them, the systems; the methods of administration change with each administrator, because no central authority exists that can give everything a common direction.

The United States must thank heaven that until now they have been placed in such a way that they have no need for standing armies, for police or for skillful and sustained foreign policy. If one of these three needs ever presents itself, you can predict without being a prophet that they will lose their liberty or concentrate power more and more (Auburn, 16 July 1831, YTC, Blaz).

tence, you would want the government to have officials of its own, chosen and removable by it, and to have ways to move ahead rapidly; but it will always be easy for the central power, organized as it is in America, to introduce more energetic and effective means of action, as needed.^[*]

So it is not, as is often repeated, because there is no centralization in the United States, that the republics of the New World will perish.^r It can be asserted that the American governments, very far from not being centralized enough, are centralized too much; I will prove it later. Each day the legislative assemblies devour some of the remains of governmental powers; they tend to gather them all unto themselves, just as the Convention did.^s The social power, thus centralized, constantly changes hands, because it is subordinate to popular power. Often it happens to lack wisdom and foresight, because it can do everything. That is where the danger to it is found. So it is because of its very strength, and not as a result of its weakness, that the social power is threatened with perishing one day.^t

[*]. The creation of paid and standing military bodies to suppress or to prevent insurrections has already happened in Massachusetts and in Pennsylvania. See *Federalist*, p. 115 [No. 28 (ed.)].

r. Variant in a draft: “. . . but because the central power is constantly in different hands and is subordinated to popular power, a power eminently variable by nature and, for this reason, incapable of governing society for long” (YTC, CVb, p. 1).

s. In a first version, under a paper glued into place: “{Executive power is nothing while remaining in their hands. This is, moreover, an inherent weakness in completely [uncertain reading (ed.)] democratic government. See the *Federalist*, p. 213 [No. 48 (ed.)].}”

t. In the margin:

≠ When a people renounces the centralization of power, the need for administrative courts is felt; now, I admit that it is always with terror that I see the administration and the judicial system concentrated in the same hands. Of all tyrannies, the worst is the one that covers itself in legal forms. Administrative courts, once subservient, seem to me one of the most fearsome instruments of despotism.≠

Recall the words of Montesquieu: “No tyranny is more cruel than the one you exercise under the cloak of the laws and with the colors of justice: when, so to speak, you drown the unfortunate on the very plank on which they were saved.” *Considérations sur les causes de la grandeur des Romains et de leur décadence*, in *Œuvres complètes* (Paris: Pléiade, 1951), II, chapter XIV, p. 144. Cf. note o for p. 1228 of the fourth volume.

Administrative decentralization produces several diverse effects in America.

We have seen that the Americans had almost entirely isolated administration from government; in that, they seem to me to have gone beyond the limits of healthy reason, because order, even in secondary things, is still a national interest.⁴⁹

The state has no administrative officials of its own, who are placed in permanent posts at different points of the territory and to whom it can give a common impulse; the result is that it rarely attempts to establish general rules of public order. Now, the need for these rules makes itself sharply felt. The European often notices their absence. This appearance of disorder, which reigns on the surface, persuades him, at first view, that there is complete anarchy in the society; it is only by examining things in depth that he corrects his error.

[This absence of national (v: central) administration often prevents the different states from engaging in certain undertakings of a general interest, the execution of which would present great difficulties if handed over to the localities and left to temporary and special agents. Besides, it is always to be feared that, without a permanent authority to centralize and supervise, the work, once done, might self-destruct.

As for differences that would make themselves felt between the administrative principles of one portion of the territory and those of another, differences that would be very great in Europe are not noticeable in America. The states are not so vast as to present examples; and above all, their population is too perfectly homogeneous and too enlightened for these differences to be lasting. All the counties, moreover, are forced to obey general laws that are the same for each of them.

49. *The authority that represents the state, even when it does not itself administer, must not, I think, relinquish the right to inspect local administration. I suppose, for example, that a government agent, placed at a set post in each county, might refer crimes that are committed in the towns and in the county to the judiciary. In this case, would not orderly organization be more uniformly followed without compromising the independence of the localities? Now, nothing like this exists in America. Above the county courts, there is nothing; and in a way, only by chance are these courts made officially aware of administrative crimes that they must suppress.*

≠I recognize as well that in America the views that direct the administration are rarely permanent. It is difficult to decentralize administrative power without putting a portion of it back into the hands of the people; and the people never proceed except by momentary efforts and sudden impulses.

I come to the great objection that has been made from time immemorial to the system of administrative decentralization, the objection that encompass [*sic*] all of the others.≠

The partisans of centralization in Europe . . .]

Certain enterprises interest the entire state and yet cannot be carried out because there is no national [*sic*: state] administration to direct them. Abandoned to the care of the towns and counties, left to elected and temporary agents, they lead to no result or produce nothing lasting.

The partisans of centralization in Europe maintain that governmental power administers the localities better than they would be able to administer themselves. Perhaps that is true, when the central power is enlightened, and the localities are not; when it is active, and they are passive; when it is in the habit of taking action, and they are in the habit of obeying. You can even understand that the more centralization increases, the more this double tendency grows; and the capacity of the one and incapacity of the other become more striking.

But I deny that this is so when the people are enlightened, alert to their interests, and accustomed to consider them as they do in America.

I am persuaded, on the contrary, that in this case the collective strength of the citizens will always be more powerful for producing social well-being than the authority of the government.

I admit that it is difficult to indicate with certainty how to awaken a people who are asleep, how to give them the passions and enlightenment that they lack. To persuade men that they should take charge of their own affairs is, I am aware, a difficult enterprise. Often it would be less awkward to interest them in the details of court etiquette than in the repair of their town hall [{and I would conclude, if you want, that there are certain nations [v: peoples] who cannot do without despotism.}].

But I also think that when the central administration claims to replace

completely the free participation of those who have the primary interest, it is mistaken or wants to deceive you.

A central power, as enlightened, as skillful as can be imagined, cannot by itself encompass all the details of the life of a great people. It cannot, because such a task exceeds human power. When, on its own, it wants to create and put into operation so many different mechanisms, it either contents itself with a very incomplete result or exhausts itself in useless efforts.

Centralization easily manages, it is true, to subject the outward actions of men to a certain uniformity that is ultimately loved for itself, apart from the things to which it is applied; like the devout who worship the statue, forgetting the divinity it represents. Centralization succeeds without difficulty in imparting a steady appearance to everyday affairs; in skillfully dictating the details of social order; in suppressing slight disturbances and small transgressions; in maintaining society in a *status quo* which is not exactly either decadence or progress; in keeping a kind of administrative somnolence in the social body that administrators customarily call good order and public tranquillity.⁵⁰ In a word, it excels at preventing, not at doing. When it is a matter of profoundly shaking society or moving it rapidly, centralization loses its strength. As soon as its measures need the support of individuals, you are totally surprised by the weakness of this immense machine; it suddenly finds itself reduced to impotence.

Then sometimes centralization, in desperation, tries to call citizens to its aid. But it says to them: "You will act as I want, as long as I want, and exactly in the way that I want. You will take charge of these details without aspiring to direct the whole; you will work in the shadows, and later you will judge my work by its results." Under such conditions you do not gain the support

50. *China seems to me to offer the most perfect symbol of the type of social well-being that can be provided by a very centralized administration to the people who submit to it. Travelers tell us that the Chinese have tranquillity without happiness, industry without progress, stability without strength, physical order without public morality. Among them, society functions always well enough, never very well. I imagine that when China opens to Europeans, the latter will find there the most beautiful model of administrative centralization that exists in the universe.*

of human will, which requires liberty in its ways, responsibility in its actions. Man is made so that he prefers remaining immobile to moving without independence toward an unknown end.^u

[During the almost forty years that we in France have completed the system of administrative centralization, what great improvement has been introduced into the state of the civilization of the people? Who would compare our social progress to that of the English during the same period? But, centralization does not exist in England.]

I will not deny that in the United States you often regret the lack of those uniform rules that seem constantly to watch over each of us.

From time to time, great examples of unconcern and of social negligence are found there. Here and there crude blemishes appear that seem completely at odds with the surrounding civilization.

Useful undertakings that require constant care and rigorous exactitude in order to succeed often end up being abandoned; for in America, as elsewhere, the people proceed by momentary efforts and sudden impulses.^v

The European, accustomed to finding an official constantly at hand who gets involved in nearly everything, becomes used to these different mechanisms of town administration with difficulty. In general it can be said that the small details of social order that make life pleasant and easy are neglected in America; but the guarantees essential to man in society exist there as much as everywhere else. Among the Americans, the force that administers the State is much less stable, less enlightened, less skillful, but is one hundred times greater than in Europe. When all is said and done, there is no country in the world where men make as many efforts to create social well-being. I know of no people who have managed to establish schools so numerous and so effective; churches more appropriate to the religious needs of the inhabitants; town roads better maintained. So, in the United States, do not look for uniformity and permanence of views, minute attention to

u. To the side, in the manuscript: “≠Louis advises placing this elsewhere, but where?≠”

v. In the margin: “≠{The small details of} social {order} are generally neglected, but in short the guarantees essential to man in society exist as much in America as everywhere else.≠”

details, perfection in administrative procedures.⁵¹ What is found there is the image of strength, a little wild, it is true, but full of power; of life, accompanied by accidents, but also by activities and efforts.^x

I will admit, moreover, if you want, that the villages and counties of the United States would be administered more profitably by a central authority that was located far from them and remained unknown to them, than by officials drawn from within. I will acknowledge, if you insist, that more security would reign in America, that wiser and more judicious use of social resources would be made there, if the administration of the entire country were concentrated in a single hand. The political advantages that the Americans gain from the system of decentralization would still make me prefer it to the opposite system.

51. *A talented writer who, in a comparison between the finances of the United States and those of France, proved that the mind could not always make up for knowledge of facts, rightly reproaches the Americans for a type of confusion that prevails in their town budgets; and, after giving the model of a departmental budget in France, he adds: "Thanks to centralization, admirable creation of a great man [which is slandered without knowing it (ed.)], municipal budgets, from one end of the kingdom to the other, those of the largest cities, like those of the most humble towns, show the same order and method."*^w That, certainly, is a result that I admire; but I see most of these French towns, whose accounts are so perfect, plunged into a profound ignorance of their true interests and given over to an apathy so invincible, that society there seems rather to vegetate than to live; on the other hand, I notice in these same American towns, whose budgets are not drawn up according to methodical or, above all, uniform plans, an enlightened, active, enterprising population; there I gaze upon a society always at work. This spectacle astonishes me; for in my eyes the principal end of a good government is to produce the well-being of peoples and not to establish a certain order in the midst of their misery. So I wonder if it would not be possible to attribute to the same cause the prosperity of the American town and the apparent disorder of its finances, the distress of the French town and the perfection of its budget. In any case, I distrust a good that I find intermingled with so much evil, and I am easily consoled about an evil that is offset by so much good.

w. Sébastien L. Saulnier, "Nouvelles observations sur les finances des États-Unis, en réponse à une brochure publié par le Général La Fayette," *Revue Britannique*, n. s., 8, October 1831, pp. 195–260, p. 239. On this article and the polemic over American finances, see note j for pp. 345–50.

x. "The admirable effect of republican governments (where they can subsist) is not to present a glimpse of *regularity*, of *methodical order* in the administration of a people, but the *picture of life*. Liberty does not carry out each of its enterprises with the same perfection as intelligent despotism, but in the long run, it produces more than intelligent despotism" (pocket notebook 3, YTC, BIIa, and *Voyage, OC*, V, 1, p. 184).

So what, after all, if there is an authority always at the ready, [{that muzzles dogs [v: waters public walkways] during the heat wave, that breaks up river ice during the winter}] that makes sure that my pleasures are peaceful, that flies before my steps to turn all dangers aside without the need for me even to think about them; if this authority, at the same time that it removes the smallest thorn from my route, is absolute master of my liberty and life; if it monopolizes movement and existence to such a degree that everything around it must languish when it languishes, sleep when it sleeps, perish if it dies?

There are such nations in Europe where the inhabitant considers himself a sort of settler, indifferent to the destiny of the place where he lives. The greatest changes occur in his country without his participation; he does not even know precisely what happened; he surmises; he has heard about the event by chance. Even more, the fortune of his village, the policing of his street, the fate of his church and his presbytery have nothing to do with him; he thinks that all these things are of no concern to him whatsoever, and that they belong to a powerful stranger called the government. [v: At each moment, you think you hear him say: what concern is this to me; it is the business of the authorities to provide for all of this, not mine.] As for him, he enjoys these benefits like a usufructuary, without a sense of ownership and without ideas of any improvement whatsoever. This disinterestedness in himself goes so far that if his own security or that of his children is finally compromised, instead of working himself to remove the danger, he crosses his arms to wait until the entire nation comes to his aid. Moreover, this man, even though he has so completely sacrificed his own free will, likes to obey no more than anyone else. He submits, it is true, to the will of a clerk; but, like a defeated enemy, he likes to defy the law as soon as power withdraws. Consequently, you see him oscillate constantly between servitude and license.

When nations have reached this point, they must modify their laws and mores or perish, for the source of public virtues has dried up; subjects are still found there, but citizens are seen no more.

I say that such nations are prepared for conquest. If they do not vanish from the world stage, it is because they are surrounded by similar or inferior nations. It is because within them there still remains a kind of indefinable

patriotic instinct, I do not know what unthinking pride in the name that the nation carries. It is because there still remains I do not know what vague memory of past glory, not precisely linked to anything, but enough to impart an impulse of preservation as needed.

You would be wrong to reassure yourself by thinking that certain peoples have made prodigious efforts to defend a native land where, so to speak, they lived as strangers. Be very careful here, and you will see that in that case religion was almost always their principal motive.

For them, the duration, glory or prosperity of the nation had become sacred dogmas, and by defending their native land, they also defended this holy city in which they were all citizens.

The Turkish populations have never taken any part in the direction of the affairs of society; they accomplished immense enterprises, however, as long as they saw the triumph of the religion of Mohammed in the conquests of the Sultans. Today religion is disappearing; despotism alone remains for them; they are in decline.^y

y. Original version in one of the drafts:

There are peoples living under despotism who have a great sentiment of nationality, however; you see them making immense sacrifices to save a native land where they live without interests and without rights.

But then be very careful here; for them, it is always religion which takes the place of patriotism.

For them, the duration, glory or prosperity of the nation is a religious dogma. By defending their country, they defend this holy city in which they are all citizens.

The Turkish populations have never taken any part in the direction of the affairs of society. They accomplished immense things, however, as long as they saw the triumph of the religion of Mohammed in the conquests of the Sultan. Today religion is disappearing; only despotism remains for them, and they are in decline.

The Russian, who does not even have an interest in the land on which he was born, is one of the bravest soldiers of Europe; and he burns his house and harvest to ruin the enemy. But it is the Holy Empire that he defends, and when he dies for his country, heaven opens and his reward is ready.

Despotic governments are made formidable when the peoples they direct are transformed by a religious enthusiasm. Then the unity of power, instead of harming the social power, does nothing more than direct it; nations in this condition have the strength of free peoples, without the disadvantages of liberty. Forces are combined and there is a single direction. Their impact is nearly irresistible. . . . Then a strange thing happens: the harder and more oppressive the government, the more it does

Montesquieu, by giving despotism a strength of its own, gave it, I think, an honor that it did not deserve. Despotism, all by itself, can sustain nothing lasting. When you look closely, you notice that what made absolute governments prosper for a long time was religion, and not fear.

No matter what, you will never find true power among men except in the free participation of wills.^z Now, in the world, only patriotism or re-

great things; the more unfortunate the nation, the more it makes the effort to protect a soil that it does not possess; the less these men cling to life, the better they defend it. It is not with this world in view that religious people act in this way; and the more miserable they are, the more easily they die. . . .

Montesquieu, by giving despotism a lasting strength, gave it an honor that it does not deserve. Despotism is something so bad by nature that, all by itself, it can neither create nor maintain anything. Fear, all by itself, can only serve for a while.

When you look closely, you notice that what makes absolute governments last and act is religion, and not fear; religion, principle of strength that they use, but that is not in them. When a nation still enslaved ceases to be religious, there is no human means to keep it bundled together for long.

In summary, I am profoundly convinced that there is no lasting strength except in the collaboration of human wills. So to apply this force to the preservation of societies, men must have an interest in this world or the other (YTC, CVe, pp. 55–57).

Tocqueville defends the preeminence of social and intellectual habits over laws; it is therefore inevitable that he finds Montesquieu's idea of despotism based far too much on legal criteria. The author seems to be more concerned with the problems envisioned by Montesquieu than with the solutions he proposes, which does not, for all that, reduce the influence of the author of *Esprit des lois*. Nonetheless, Kergorlay denies a stylistic influence of Montesquieu on his friend ("Étude littéraire sur Alexis de Tocqueville," *Correspondant* 52 (1861): 758–59): "I would not go so far as to say that Tocqueville never, at any period of his literary life, sought in Montesquieu some models to follow. But it was only in a quite secondary manner, not very lasting and not very effective." On the other hand, Kergorlay recognizes the influence of Pascal, Voltaire and La Bruyère. On the influence of Montesquieu, see Melvin Richter, "Modernity and Its Distinctive Threats to Liberty: Montesquieu and Tocqueville on New Forms of Illegitimate Domination," in Michael Hereth and Jutta Höffken, eds., *Alexis de Tocqueville. Zur Politik in der Demokratie*, Baden Baden: Nomos, 1981, pp. 362–98.

z. Édouard de Tocqueville: "How did Louis XIV, Peter the Great, Frederick, Bonaparte, not give great power to their nations? And with them what became of the free collaboration of wills?" (YTC, CIIb, 2, p. 113).

ligion can make the totality of citizens march for long toward the same goal.

It does not depend on the laws to revive beliefs that are fading; but it does depend on the laws to interest men in the destinies of their country. It depends on the laws to awaken and to direct that vague patriotic instinct that never leaves the human heart, and, by linking it to thoughts, passions, daily habits, to make it into a thoughtful and lasting sentiment. And do not say that it is too late to try; nations do not grow old in the same way that men do. Each generation born within the nation is like a new people who comes to offer itself to the hand of the law-maker.

What I admire most in America are not the *administrative* effects of decentralization, but its *political* effects. In the United States, country makes itself felt everywhere. It is an object of solicitude from the village to the whole Union. The inhabitant becomes attached to each of the interests of his country as to his very own. He glories in the glory of the nation; in the successes that it achieves, he believes that he recognizes his own work, and he rises with them; he rejoices in the general prosperity that benefits him. For his country, he has a sentiment analogous to that you feel for your family, and it is even by a kind of egoism that he is interested in the State.

Often the European sees in the public official only force; the American sees the law. So it can be said that in America, a man never obeys a man, but obeys justice or the law.

Consequently, he has conceived an often exaggerated, but almost always salutary opinion of himself. Without fear, he relies on his own powers that seem to him all sufficient. An individual conceives the idea of some enterprise; even if this enterprise has some direct connection with the well-being of society, it does not occur to him to address himself to public authority to gain its support. He makes his plan known, offers to carry it out, calls other individual powers to his aid, and struggles hand-to-hand against all obstacles. Often, doubtlessly, he succeeds less than if the State took his place; but in the long run the general result of all of these individual undertakings surpasses by a great deal what the government would be able to accomplish.^a

a. The example was provided to Tocqueville by Mr. Quincy, President of Harvard

Since administrative authority is placed next to the administered, and in a way represents them, it excites neither jealousy nor hate. Since its means of action are limited, each person feels that he cannot rely on it alone.

So when the administrative power intervenes within the circle of its attributions, it does not find itself alone, as in Europe. No one believes that the duties of individuals have ceased because the public representative happens to act. On the contrary, each person guides, supports and sustains him.

By joining the action of individual powers with the action of social powers, you often succeed in doing what the most concentrated and energetic administration would be unable to carry out.¹

I could cite many facts to support what I am advancing; but I prefer to present only one and to choose the one I know best.

In America, the means put at the disposal of authority to uncover crimes and to pursue criminals are few.

Police control does not exist; passports are unknown. Officers of the court in the United States cannot be compared to ours. The agents of the public prosecutor's office are few; [they do not communicate with each other;] they do not always have the right to initiate legal proceedings; preliminary investigation is rapid and oral. I doubt, however, that, in any country, crime as rarely escapes punishment.

The reason for it is that everyone believes himself interested in providing proof of the crime and in catching the offender.

I saw, during my stay in the United States, the inhabitants of a county, where a great crime had been committed, spontaneously form committees for the purpose of pursuing the guilty party and delivering him to the courts.

In Europe, the criminal is an unfortunate who is fighting to hide from the agents of power; the population in a way helps in the struggle. In America, he is an enemy of the human species, and he has all of humanity against him.

University, 20 September 1831 (non-alphabetic notebooks 1 and 2, YTC, BIIa, and *Voyage*, OC, V, 1, pp. 89–90).

I believe provincial institutions useful to all peoples; but none seems to me to have a more real need for these institutions than the one whose social state is democratic.

In an aristocracy, a certain order is sure to be maintained in the midst of liberty.

Since those who govern have a great deal to lose, order has a great interest for them.

In an aristocracy, it can be said as well that the people are sheltered from the excesses of despotism, because organized forces are always found, ready to resist the despot.

A democracy without provincial institutions possesses no guarantee against similar evils.

How can a multitude that has not learned how to make use of liberty in small things, be made to support it in larger ones?

How to resist tyranny in a country where each individual is weak, and where individuals are united by no common interest?

So those who are afraid of license and those who fear absolute power must equally desire the gradual development of provincial liberties.^b

I am convinced, moreover, that there are no nations more at risk of falling under the yoke of administrative centralization than those whose social state is democratic.

Several causes lead to this result, but among others, these:

The permanent tendency of these nations is to concentrate all governmental power in the hands of the single power that directly represents the people, because, beyond the people, nothing more is seen except equal individuals merged into a common mass.

b. Once a man has contracted the habit of obeying a foreign and arbitrary will in nearly all the actions of his life, and notably in those that come closest to the human heart, how do you expect him to conceive a true taste for great political liberty and independence in general actions?

Town institutions not only give *the art of using great political liberty*, but they bring about *the true taste* for liberty. Without them, the taste for political liberty comes over peoples like childish desires or the hotheadedness of a young man that the first obstacle extinguishes and calms (YTC, CVh, 1, pp. 1–2; the same fragment is found, almost word for word, in YTC, CVe, p. 61).

Now, when the same power is already vested with all the attributes of government, it is highly difficult for it not to try to get into the details of administration [{so you often see democratic peoples simultaneously establish liberty and the instruments of despotism}]; and it hardly ever fails to find eventually the opportunity to do so. We have witnessed it among ourselves.

[≠If we shift our view to times closer to us, we see a strange confusion prevailing in most of the States of Europe. Kings descend into the administration of {the narrowest communal interests}. ≠]^c

In the French Revolution,^d there were two opposing movements that must not be confused: one favorable to liberty, the other favorable to despotism.^e

c. In the margin: “≠That is, you have wanted to make a city without citizens, a republic with subjects [v: servants] submitted to a clerk [v: and transform servants of a clerk into republicans] [v: and place the spirit of liberty in the very midst of servitude].” On the idea of citizenship as participation, see Doris S. Goldstein, “Alexis de Tocqueville’s Concept of Citizenship,” *Proceedings of the American Philosophical Society* 108, no. 1 (1964): 39–53.

d. “Ask Mr. Feuillet if there is a book that can give basic ideas about the French constitution in 1789” (YTC, CVb, p. 33). Feuillet was the librarian at the Bibliothèque Royale. See note v for pp. 1110–13 of the fourth volume.

e. Of centralization./

When you speak about centralization you are constantly struggling in the shadows because you have not made the distinction that I established above between governmental centralization and administrative centralization.

You blame or praise without knowing why.

There are people who cite as one of the advantages of centralization the establishment of the present system where everything ends at a supreme court. As one of the proofs of the evils caused by decentralization, they cite the old system of *parlements*. They do not see that the system of *parlements* was a gross abuse and not a natural consequence of the system of decentralization. If there is one thing in the world that is a national necessity, it is the unity of law. For the law to be *one*, two things are needed: 1. that it comes from a single authority, 2. that it is interpreted by a single authority. For to interpret the law is, in a way, to make it again. That is how all the American republics have understood it.

A judicial system where seventeen sovereign courts can interpret the same law at the same time, on the same question, in seventeen different ways is a political mon-

strosity.¹ For a nation to bear such a division of the judicial system without itself dividing, all the real power in the nation must be in hands other than judicial ones. That is what happened in France, where the King easily made his will prevail over the courts in all things that essentially concerned politics and acutely interested the State, and where he let anarchy reign only on secondary points that did not matter much to the general course of public affairs. That was a necessary cure, but one almost as bad as the illness. Interpretation, instead of being made by a central judicial power, was made by a (illegible word) council [v: power]. France of the old regime, already much too centralized relative to several objects, was evidently not centralized enough on the former. And when the partisans of decentralization stand on this ground, they are wrong. They defend what they should concede at the beginning.

What has caused our greatest misfortunes in France is that there is a host of excellent principles that we have never known and felt except by their exaggerated consequences. Strange thing! We have often experienced the abuse of the thing, without knowing the thing itself.²

Decentralization is among this number. Apart from our continental situation, which has always made us feel more acutely the need for the concentration of power, decentralization has never appeared to us other than as a division of the essential rights of sovereignty, that is, as the most active agent of oppression and anarchy. Today, we have not learned better; the word decentralization represents in our mind only a multitude of small sovereigns, judging with sovereignty, dispensing justice, coining money. And for us, it is even quite difficult to place this power, divided in this way, in hands other than those of an envious, haughty, exclusive aristocracy. *Iudex irae*. England, on the contrary, alone among all the peoples of Europe, had the good fortune that, from the beginning, the part of the central power was largely established. In that country, the system of decentralization, contained right away within true limits, awakens only ideas of order, prosperity and glory. The system of decentralization made and still makes the strength of England. England had strong and despotic kings at a time when royalty was too crude to want to take charge of everything. The kings created governmental centralization; the mores and the social state, administrative decentralization.

Moreover, we must not be mistaken about this. It is democratic governments that arrive most quickly at administrative centralization while losing their political liberty. Aristocracies struggle an infinitely longer time, because the power of resistance is greater in each of the parts of the social body organized in this way.

1. The American Union, which is a confederation, is more centralized on this point than was the *absolute monarchy of France*.

2. Thus in France, when the King intervened in the administration of justice, the abuse of governmental centralization was pointed out; when, on the contrary, the courts were free to establish judicial anarchy, all minds felt the abuse of administrative decentralization. But no one perceived the precise limits of the one and the other" (YTC, CVe, pp. 57–60, and BIIb, pp. 6–8).

In the old monarchy, the King alone made the law.

Below the sovereign power were found some remnants, half destroyed, of provincial institutions. These provincial institutions were incoherent, poorly ordered, often absurd. In the hands of the aristocracy, they had sometimes been instruments of oppression.

The Revolution has declared itself against royalty and provincial institutions at the same time. It has mingled in the same hatred all that had preceded it, absolute power and what could temper its rigors; it has been simultaneously republican and centralizing.

This double character of the French Revolution is a fact that the friends of absolute power have laid hold of with great care. When you see them defend administrative centralization, do you think that they are working in favor of despotism? Not at all; they are defending one of the great conquests of the Revolution.^K In this way, they can remain a man of the people and an enemy of the rights of the people, secret servant of tyranny, and declared friend of liberty.^f

I have visited the two nations that have developed the system of provincial liberties to the highest degree, and I have heard the voice of the parties dividing these nations.

In America, I found men who secretly longed to destroy the democratic institutions of their country. In England, I found others who openly attacked the aristocracy; I did not meet a single one who did not view provincial liberty as a great good.^g

In these two countries, I saw the ills of the State imputed to an infinity of diverse causes, but never to town liberty.

I heard citizens attribute the greatness or the prosperity of their native land to a multitude of reasons; but I heard all of them put provincial liberty in the first rank and list it at the head of all the other advantages.

When men, who are naturally so divided that they do not agree on either religious doctrines or on political theories, fall into agreement on a single

f. The manuscript indicates that Tocqueville at one moment considered the possibility of placing here a section entitled OF THE EXCELLENCE OF TOWN INSTITUTIONS.

g. To the side: "≠Aristocrats and democrats, royalists and republicans.≠"

fact, a fact that they can best judge, since it occurs everyday before their eyes, am I to believe that this fact might be wrong?

Only peoples who have only a few or no provincial institutions deny their utility; that is, only those who do not know the thing at all, speak ill of it.



CHAPTER 6^a

Of the Judicial Power in the United States and Its Action on Political Society^b

The Anglo-Americans have kept all the characteristics that distinguish the judicial power among other peoples.—They have,

a. This chapter and the following one are not found in the copy read by friends and family, which suggests that they were included belatedly in the project. From the beginning of the voyage, Tocqueville, as a lawyer, showed a lively interest in how the American judicial power functioned. Notebook F of his travel notes is devoted exclusively to civil and criminal law in America (YTC, BIIa, and *Voyage, OC*, V, 1, pp. 296–335); and in the first plans of the book (YTC, CVh, 1, pp. 20–31) the judicial power, as well as the civil and criminal laws, occupy an important place. Beyond the notebook cited, a great number of commentaries on the American judicial power appear in the other notebooks of the travel diaries and in the correspondence. There are certain indications that Tocqueville had in particular asked his friend, Élie de Beaumont, judge at Versailles, for information about the French judicial power. We recall that Tocqueville used this method of comparing the situation in France with that in the United States when he considered centralization. A letter from Tocqueville to another magistrate, Ernest de Chabrol, dated November 26, 1831 (YTC, BI a2) contains, along with a description of the American jurisdictional organization, a reference to an earlier note on justices of the peace; the note was a reflection made in a letter (apparently lost) addressed to Élie de Beaumont. Another possible source of information is mentioned in a rough draft: “Speak to Mr. Livingston about the American judicial system” (YTC, CVh, 3, p. 10).

b. Judicial power./

The most original and most difficult part to understand of all the American constitution. Elsewhere there have been confederations, a representative system, a democracy; but no where a judicial power organized as that of the Union.

How the judicial power of the Union is conservative without harming that great principle of the necessity of a single dominating principle in constitutions. It slows, it cannot stop the people, because the latter by changing the constitution can always arrive at what they desire.

How all the laws that challenge the judicial power in America are truly destructive of order and of liberty (YTC, CVh, 5, p. 40).

*however, made it into a great political power.—How.—
How the judicial system of the Anglo-Americans differs
from all others.—Why American judges have the right to
declare laws unconstitutional.—How American judges
exercise this right.—Precautions taken by the law-maker
to prevent abuse of this right.*

I have thought that a separate chapter must be devoted to the judicial power. Its political importance is so great that it seemed to me that talking about it in passing would diminish it in the eyes of readers.

There have been confederations elsewhere than in America; we have seen republics in places other than on the shores of the New World; the representative system is adopted in several States in Europe; but I do not think that until now any nation in the world has constituted the judicial power in the same way as the Americans.^c

[≠The Americans have established the judicial power as counterbalance and barrier to the legislative power. They have made it a political power of the first order.≠]

What is most difficult for a foreigner to understand in the United States is the judicial organization. There is, so to speak, no political event in which he does not hear the authority of the judge invoked; and he naturally concludes that in the United States the judge is one of the premier political powers. Then when he comes to examine the constitution of the courts, he discovers at first view only judicial attributions and habits. In his eyes, the magistrate seems never to get into public affairs except by chance; but this very chance recurs daily.

When the Parlement of Paris made remonstrances and refused to register an edict, when on its own it summoned a corrupt official to appear before it, the political action of the judicial power could be recognized. But nothing similar is seen in the United States. [{The American judge never enters

c. “≠In my eyes, the constitution of the judicial power forms the newest and most original portion of the entire political system of the Americans≠” (YTC, CVh, 4, pp. 16–17).

into direct conflict [v: is never found battling] with the political powers strictly defined.}]

The Americans have kept all the characteristics by which the judicial power is customarily recognized. They have enclosed it exactly within the circle where it habitually moves.

The first characteristic of the judicial power, among all peoples, is to serve as arbiter. For the courts to take action, a case must be brought. For there to be a judge, there must be proceedings. As long as a law does not give rise to a case, the judicial power has no occasion to get involved with it. The judicial power is there, but it doesn't see the law. When a judge, as part of a trial, attacks a law relating to the trial, he extends the circle of his attributions, but he does not go beyond them, since in a way he must judge the law in order to be able to judge the trial. When he delivers a verdict on a law, outside of a trial, he goes completely beyond his sphere and enters into that of the legislative power.

The second characteristic of the judicial power is to deliver a verdict concerning particular cases and not concerning general principles. Should a judge, while deciding a particular question, make it certain that each of the consequences of the same principle is struck down in the same way, the principle becomes sterile. While destroying the general principle in this way, he remains within the natural circle of his action. But should a judge directly attack the general principle and destroy it without having a particular case in view, he goes beyond the circle where all peoples have agreed to enclose him; he becomes something more important, perhaps more useful than a magistrate, but he ceases to represent the judicial power.

The third characteristic of the judicial power is to be able to act only when it is called upon, or, following the legal expression, when it is apprised. This characteristic is not found as generally as the other two. I believe, however, that, despite exceptions, it can be considered as essential. By its nature, the judicial power is passive; to stir, it must be put in motion. Someone denounces a crime before it and it punishes the guilty; someone calls upon it to redress an injustice and it redresses it; someone submits an act to it and it interprets it; but it does not go on its own to pursue criminals, seek out injustice and examine facts. In a way the judicial power would do vi-

olence to this passive nature if it took initiative on its own and set itself up as censor of the laws.

[<Two things must not be confused. The same man can be vested with political and judicial powers without thereby mingling political and judicial power. The mind sees them as distinct in the very midst of the confusion of actions. When the Parlement of Paris issued decisions, registered edicts and made regulations for public order, it formed only a single body; but within it three different powers were easily distinguished>.]

The Americans have kept these three distinctive characteristics for the judicial power. The American judge can deliver a verdict only when there is a lawsuit. He can never get involved except in a particular case; and to act he must always wait to be apprised.

So the American judge perfectly resembles the magistrates of other nations. He is vested, however, with an immense political power [that the latter do not have. His power forms the most formidable barrier to the encroachments of the legislature].

What causes that? He moves within the same circle and uses the same means as other judges; why does he possess a power that the latter do not have?

The cause is this single fact: the Americans have recognized the right of judges to base their decisions on the *constitution* rather than on the *laws*. In other words, they have allowed them not to apply laws that would appear unconstitutional to them.

I know that a similar right has sometimes been claimed by the courts of other countries; but it has never been granted to them. In America, it is recognized by all powers; no party, not even a man is met who contests it.

The explanation for this must be found in the very principle of American constitutions.

In France, the constitution is, or is considered to be, an immutable work.^d No power can change anything in it; such is the accepted theory.^e ^L

d. In the margin: “#The oath is therefore a very rational consequence of very absurd principles.#”

e. In the margin, with a mark: “#Is this true?#”

In England, Parliament is recognized to have the right to modify the constitution. In England, therefore, the constitution can change constantly, or rather it does not exist at all. Parliament is, at the same time, the legislative body and the constituent body.^M

In America, political theories are simpler and more rational.

An American constitution is not considered to be immutable, as in France; it cannot be modified by the ordinary powers of society, as in England. It forms a work apart that, representing the will of all the people, binds legislators as well as ordinary citizens; but it can be changed by the will of the people following established forms and in cases for which provisions have been made.

So in America, the constitution can vary; but as long as it exists, it is the source of all powers. Predominant force resides in it alone.

It is easy to see how these differences must influence the position and rights of the judicial body in the three countries that I have cited.

If, in France, the courts could disobey the laws on the grounds that they found them unconstitutional, the constituent power would actually be in their hands, since they alone would have the right to interpret a constitution whose terms no one could change. They would therefore take the place of the nation and would dominate society, at least in so far as the inherent weakness of the judicial power would allow them to do so.^f

f. If the French judge had the right to disregard the laws on the grounds that they are unconstitutional, not only would he usurp the constituent power, but also he would escape from all constraint, for in France the courts are answerable only to themselves. Political jurisdiction is introduced only against the principal organs of the government. Therefore the judge, while becoming a political power, would continue to be answerable only to a judicial power, which implies an obvious confusion in all ideas.

In America the judge interprets the constitution, but his opinion is not necessarily followed; he takes a place naturally among the principal political powers, but he answers for his actions to a central political court. He cannot shield either his actions [v. opinions] or his person from the control of society.

In the United States political jurisdiction is a weapon always hanging over the head of the magistrate, a weapon all the more formidable because by his position the judge is the habitual censor of those who are called to deliver his decision.

So the high prerogatives granted to American magistrates never put them beyond

I know that by denying judges the right to declare laws unconstitutional, we indirectly give the legislative body the power to change the constitution, since it no longer encounters a legal barrier that stops it. But better to grant the power to change the constitution of the people to men who imperfectly represent the will of the people, than to others who represent only themselves.

It would be still more unreasonable to give English judges the right to resist the will of the legislative body, because Parliament, which makes the law, makes the constitution as well, and because, as a result, a law cannot

the reach of the majority; and their independence is not such that there is not always a single dominant power in society before which all must definitively submit. Judicial power slows the people; it cannot stop them.

When you examine the constitution of the different powers that govern society, you easily discover that the weakest of all is the judiciary when it finds itself abandoned solely to its own resources.¹ The legislature relies on the moral force that belongs to the whole nation; the executive power has its right to initiate and the physical strength of its agents; but the magistracy represents only the authority of reason. The judicial power only becomes formidable when united with another power. There is no more powerful agent of tyranny in the world than the body of magistrates when it joins its action with that of a despot. Because it then delivers to him the only thing that force alone cannot create: the support of the law [in the margin, with a bracket: a commonplace]. Then human liberty does not know where to flee and comes to expire at the very door of the temple of laws. In America the magistrate cannot seek the principle of power outside of himself. The executive power would willingly come to his aid; but it [is (ed.)] without influence. The people would be able to offer him more real help, but the people often see him only as an inconvenient censor. The American judge is therefore isolated among the crowd. To the passions that swirl around him, to the impetus of public opinion, he can only oppose his word; he commands only as long as they want to obey.

It must be remarked, moreover, that in the United States the judge could only get involved in politics through the unconstitutionality of laws. When the people act within the circle drawn by the constitution, whatever the nature of their acts, the judge is reduced to silence. Actually the American magistrates do not have the right to constrain the will of the people; they can only force the people not to be unfaithful to their will and not to fall into self-contradiction.

If, against the view of the majority and after public opinion has had the time to come to a decision, the magistrate persists in his refusal, the people can always change or clarify the terms of the constitution. And immediately resistance ceases along with the motive or the pretext that gave it birth.

1. Don't I previously say the opposite? (YTC, CVh, 5, pp. 16–19).

in any case be called unconstitutional when it issues from the three powers.

Neither of these two arguments applies to America.

In the United States, the constitution dominates the legislators as well as ordinary citizens. It is, therefore, the highest law and cannot be modified by a law. So it is right that the courts obey the constitution in preference to all laws [and by doing so, they do not make themselves masters of society since the people, by changing the constitution, can always reduce the judges to obedience. So American judges refuse without hesitation to apply laws that seem to them contrary to the constitution]. This follows from the very essence of the judicial power: to choose from among legal provisions those that bind him most strictly is in a way the natural right of the magistrate.

In France, as well, the constitution is the highest law, and judges have an equal right to base their decisions on it. But by exercising this right, they would not be able to avoid encroaching upon another right still more sacred than theirs: that of the society in whose name they act. Here ordinary reason must yield to reason of state.^g

In America, where the nation can always reduce magistrates to obedience by changing its constitution, a similar danger is not to be feared. On this point, therefore, politics and logic are in agreement, and the people as well as the judges equally retain their privileges.

When a law that the judge considers contrary to the constitution is invoked before the courts of the United States, he can refuse to apply it. This power is the only one particular to the American magistrate, but a great political influence follows from it.

There are, in fact, very few laws that can by nature escape judicial analysis for long, for there are very few of them that do not harm an individual interest, and that litigants cannot or must not cite before the courts.

Now, from the day when the judge refuses to apply a law in a trial, it

g. "In France {during the Restoration}, we have often seen the executive power seek to reduce judicial authority, while the democratic party sought with all its efforts to raise it up. It seems to me that on both sides they acted against themselves" (YTC, CVh, 5, pp. 26–27).

instantly loses part of its moral force. Those who have been wronged by the law are then alerted that a way exists to escape the obligation to obey it; trials multiply, and it becomes powerless. Then one of these two things happens: the people change the constitution or the legislature revokes its law.

So the Americans have given their courts an immense political power; but by forcing them to challenge laws only by judicial means, they have greatly diminished the dangers of this power.

If the judge had been able to challenge laws in a theoretical and general fashion; if he had been able to take the initiative and censure the legislator, he would have burst upon the political scene. Having become the champion or the adversary of one party, he would have called upon all the passions that divide the country to join in the struggle. But when the judge challenges a law in an obscure debate and on a particular application, he partially conceals the importance of the challenge from the eyes of the public. His decision intends only to strike an individual interest; the law is harmed only by chance.

The law censured in this way, moreover, is not destroyed; its moral force is lessened, but its material effect is not suspended. Only little by little, and under the repeated blows of jurisprudence, does it finally succumb. [{If the law were challenged directly it would triumph or succumb in a day.}]

Furthermore, it is easily understood that by charging individual interest with provoking the censure of laws, by intimately linking the trial of the law to the trial of a man, you assure that legislation will not be lightly challenged. In this system legislation is no longer exposed to the daily aggression of parties. By pointing out the mistakes of the legislator, you obey a real need; you start with a definite and appreciable fact, since it must serve as the basis for a trial.

I do not know whether the way in which the American courts act, at the same time that it is most favorable to public order, is not most favorable to liberty as well.

If the judge could challenge the legislators only head on, there are times when he would be afraid to do so; there are other times when partisan spirit would push him daily to dare to do so. Thus the laws would be challenged when the power from which they came was weak, and you would submit

to them in silence when that power was strong. That is to say that the laws would often be challenged when respect for them would be most useful, and would be respected when oppression in their name would become easy.^h

But the American judge is led onto political terrain despite himself. He judges the law only because he has a trial to judge and cannot avoid judging the trial. The political question that he must resolve is linked with the interest of the litigants, and he cannot refuse to settle it without committing a denial of justice. By fulfilling the strict duties imposed on the profession of magistrate, he performs the act of a citizen. It is true that judicial censure, exercised by the courts on legislation, cannot be extended in this way to all laws without distinction, for there are some that can never give rise to this kind of clearly formulated dispute that is called a trial. And when such a dispute is possible, it is still conceivable that there will be no one who wants to submit it to the courts.

The Americans have often felt this drawback, but they have left the remedy incomplete for fear of making it dangerously effective in all cases.

Enclosed within its limits, the power granted to the American courts to rule on the unconstitutionality of laws still forms one of the most powerful barriers that has ever been raised against the tyranny of political assemblies.^j

h. Note: “#This is what happened particularly at the time of the constitution of the year VIII. The senate was established as overseer of the other powers, and it had to denounce to the legislative bodies attacks against the constitution. We know that it refrained from doing so on any occasion. Under Napoleon’s son, this very senate could perhaps have hindered the legal course of government.#”

j. “#The absence of administrative centralization is more a fortunate circumstance than the result of the wisdom of the law-maker. But the judicial power in the United States is a barrier raised by design against the omnipotence of the majority. It can be considered as the only powerful or real obstacle that the American laws have placed before the steps of the people#” (YTC, CVh, 4, pp. 16–17).

“Judicial power in general./

“Utility of the judicial power to oppose the encroachments of popular power. See Kent, vol. 1, p. 275” (YTC, CVh, 5, p. 41).

Other Powers Granted to American Judges

In the United States, all citizens have the right to accuse public officials before ordinary courts.—How they exercise this right.—

Art. 75 of the French constitution of the year VIII.—

The Americans and the English cannot understand the sense of this article.

I do not know if I need to say that among a free people, like the Americans, all citizens have the right to accuse public officials before ordinary judges, and that all judges have the right to condemn public officials, it is so natural a thing.

To allow the courts to punish agents of the executive power when they violate the law is not giving the courts a particular privilege. To forbid them to do so is taking away a natural right.

It did not appear to me that in the United States, by making all officials responsible to the courts, the forces of government had been weakened.

It seemed to me, on the contrary, that the Americans, by acting in this way, had increased the respect that is owed to those who govern, the latter being much more careful to avoid criticism.

Nor did I observe in the United States that many political trials were instituted, and it is easily explained. A trial is always, whatever its nature, a difficult and costly enterprise. It is easy to accuse a public man in the newspapers, but it is not without grave motives that someone decides to bring him before the law. So to bring legal proceedings against an official, it is necessary to have just grounds of complaint; and officials hardly provide such grounds when they fear having proceedings brought.

This does not result from the republican form that the Americans have adopted, for the same experience can occur every day in England.

These two peoples did not believe that their independence had been assured by allowing the principal agents of power to be put on trial. Instead, they thought that they succeeded in guaranteeing liberty, much more by small trials, placed daily within the reach of the least citizen, than by great proceedings that were never used or were used too late.

In the Middle Ages, when it was very difficult to reach criminals, judges, when they got hold of some of them, often inflicted terrible punishments on these unfortunates; this did not reduce the number of those guilty. Since then, we have discovered that by making justice both more certain and milder, we have made it more effective at the same time.

The Americans and the English think that arbitrariness and tyranny must be treated like theft: make it easier to take legal action and make the penalty more mild.

In the year VIII of the French Republic, a constitution appeared whose article 75 was worded thus: "The agents of the government, other than the ministers, cannot have legal proceedings instituted against them for facts relating to their functions, except by virtue of a decision of the *Conseil d'État*; in this case, the proceedings take place before the ordinary courts."

The constitution of the year VIII passed from the scene, but not this article, which remained after it [{and we are still so inexperienced in the art of [being (ed.)] free.}]; and it is still used every day to oppose the just complaints of citizens.

[{But this is particular to France.}]

I have often tried to explain the sense of this art. 75 to some Americans or Englishmen, and it has always been very difficult for me to succeed in doing so.

What they noticed first was that the *Conseil d'État*, in France, was a high court seated at the center of the kingdom; there was a kind of tyranny in sending all complainants before it as a preliminary step.

But when I tried to make them understand that the *Conseil d'État* was not a judicial body at all, in the ordinary sense of the term, but an administrative body, whose members were dependent on the King; and that the King, as sovereign, after ordering one of his servants, called prefect, to commit a wrongful act, could order, as sovereign, another of his servants, called councilor of the *Conseil d'État*, to prevent someone from having the first punished; when I showed them the citizen harmed by the order of the prince, reduced to asking the prince himself for the authorization to seek justice, they refused to believe in such enormities and accused me of lying and of ignorance.

Often, in the old monarchy, the *parlement* ordered the arrest of the public official who made himself guilty of a crime. Sometimes the royal au-

thority, intervening, had the procedure annulled. Despotism then showed itself openly, and people, while obeying, submitted only to force.

So we have retreated far from the point reached by our fathers; for we allow, under the color of justice, and consecrate, in the name of law, deeds that violence alone imposed on them.



CHAPTER 7

Of Political Jurisdiction in the United States^{TN 4}

What the author understands by political jurisdiction.—How political jurisdiction is understood in France, England and the United States.—In America, the political judge concerns himself only with public officials.—He orders dismissals rather than punishments.—Political jurisdiction, customary method of government.—Political jurisdiction, as understood in the United States, is, despite its mildness, and perhaps because of it, a very powerful weapon in the hands of the majority.

[≠Political jurisdiction is a violation of the great principle of the separation of powers; you resort to it as an extreme measure to reach certain guilty individuals.≠]

I understand by political jurisdiction the decision delivered by a political body temporarily vested with the right to judge.

In absolute governments, it is useless to give judgments extraordinary forms. The prince, in whose name the accused is prosecuted, is master of the courts as of everything else, and he has no need to seek a guarantee beyond the idea that is held of his power.^a The only fear that he can imagine

TRANSLATOR'S NOTE 4: For this chapter, there is no totally satisfactory way to translate *jugement politique*. The most direct translation, *political judgment*, is extremely ambiguous. For want of a better alternative, I have decided to use the traditional translation, *political jurisdiction*, since the chapter has to do with the right of a political body, in particular circumstances, to bring to trial, to judge and to punish a public figure.

a. In the margin:

It was necessary to give the superior political power control of all powers for the *unity* of government, and for that it was necessary to give the legislature the entirely administrative power to *dismiss* or the entirely judicial power to *judge*.

is that not even the external appearances of justice are kept, and that his authority is dishonored in the desire to assert it.

But in most free countries, where the majority can never act on the courts as an absolute prince would, judicial power is sometimes placed temporarily in the hands of the very representatives of society. Temporarily mixing powers in this way is preferred to violating the necessary principle of the unity of government. England, France and the United States have introduced political jurisdiction into their laws; it is curious to examine how these three great peoples have turned it to good account.

In England and in France, the chamber of peers forms the highest criminal court¹ of the nation. It does not judge all political crimes, but it can do so.

Alongside the chamber of peers is another political power, vested with the right to accuse. On this point, the only difference that exists between the two countries is this: in England, the members of the House of Commons can accuse whomever they choose before the Lords; while in France the deputies can only prosecute the ministers of the King in this way.^b

In these two countries, moreover, the chamber of peers finds all the penal laws at its disposal for striking the delinquents.

In the United States, as in Europe, one of the two branches of the legislature is vested with the right to accuse, and the other with the right to judge. The representatives denounce the guilty party; the Senate punishes him.

But a matter can be *referred* to the Senate only by the *representatives*; and before the Senate, the representatives can accuse only *public officials*. Therefore the Senate has a more limited competence than the French court of

On the other hand, it was very dangerous to liberty and humanity to vest a political power with the most formidable rights of a judicial body.

From that the mixed American system. Political jurisdiction more than dismissal, less than a ruling.

1. *The court of Lords in England furthermore forms the last appeal in certain civil matters. See Blackstone, book III, chap. IV.*

b. In the margin: "I find nothing in Blackstone that justifies this distinction. However I think it is correct."

the peers, and the representatives have a broader right to accuse than our deputies.

But here is the greatest difference that exists between America and Europe. In Europe, political courts can apply all the provisions of the penal code. In America, when they have removed from the guilty party the public character with which he was vested, and have declared him unworthy to hold any political offices whatsoever in the future, their right is exhausted, and the task of the ordinary courts begins.

I suppose that the President of the United States has committed a crime of high treason.

The House of Representatives accuses him; the senators decide his removal. Afterward he appears before a jury that alone can take away life or liberty.

This succeeds in throwing a bright light on the subject that occupies us.

By introducing political jurisdiction into their laws, Europeans wanted to reach great criminals whatever their birth, rank or power in the State. To achieve that, they temporarily united, within a great political body, all the prerogatives of the courts.

The legislator is then transformed into a magistrate; he can establish the crime, classify and punish it. By giving him the rights of the judge, the law imposed all of the judge's obligations on him, and bound him to the observation of all the forms of justice.

When a political court, French or English, has a public official as a defendant and delivers a verdict condemning him, by doing so, it removes him from office and can declare him unworthy to hold any office in the future. But here the dismissal and political interdiction are a consequence of the decision and not the decision itself.

So in Europe, political jurisdiction is more a judicial act than an administrative measure.

The opposite is seen in the United States, and it is easy to be persuaded that political jurisdiction there is more an administrative measure than a judicial act.

It is true that the decision of the Senate is judicial in form; to make it, the senators are obliged to conform to the solemnity and customs of the procedure. It is also judicial by the grounds on which it is based; the Senate

is, in general, obliged to base its decision on a crime of the common law. But it is administrative in its objective.

If the principal aim of the American law-maker had really been to arm a political body with a great judicial power, he would not have restricted its action to the circle of public officials, for the most dangerous enemies of the State may hold no office at all. This is true above all in republics, where the favor of parties is the first of powers, and where someone is often much stronger when not legally exercising any power.

If the American law-maker had wanted to give society itself, like judges, the right to prevent great crimes by fear of punishment, he would have put at the disposal of the political courts all the resources of the penal code. But he only provided them with an incomplete weapon that cannot reach the most dangerous of criminals. For what use is a judgment of political interdiction against someone who wants to overturn the laws themselves?

The principal aim of political jurisdiction in the United States is, therefore, to withdraw power from someone who is making poor use of it, and to prevent the same citizen from being vested with power in the future. That, as we see, is an administrative act that has been given the solemnity of a judgment.

So in this matter, the Americans have created something mixed. They have given all the guarantees of political jurisdiction to administrative dismissal, and they have removed from political jurisdiction its greatest rigors.

This point settled, everything closely follows; we then discover why the American constitutions submit all civil officials to the jurisdiction of the Senate, and exempt the military whose crimes are, however, more to be feared [in republics]. In the civil order, the Americans have, so to speak, no removable officials; some are irremovable; others hold their rights by a mandate that cannot be abrogated. So to remove them from power, they must all be judged.^c But military officers depend on the head

c. To the side: “≠Action of the two systems.

“French system more effective, more dangerous.

“American system more *just*, more rational in the *separation* of power. Less effective in times of crisis, more everyday.≠”

of State, who himself is a civil officer. By reaching the head of State, they strike them all with the same blow.²

Now, if we come to compare the European and American systems in the effects that each produces or can produce, we discover differences no less noticeable.

In France and in England, political jurisdiction is considered as an extraordinary weapon that society should use only to save itself in moments of great peril.

We cannot deny that political jurisdiction, as understood in Europe, violates the conservative principle of the separation of powers and constantly threatens the life and liberty of men.

Political jurisdiction in the United States strikes only an indirect blow at the principle of separation of powers. It does not threaten the existence of citizens; it does not, as in Europe, hang over all heads, since it strikes only those who, by accepting public offices, subject themselves to its rigors in advance.

It is simultaneously less to be feared and less effective.

Moreover, the law-makers of the United States did not consider it as an extreme remedy for the great ills of society, but as a customary means of government.

From this point of view, it perhaps exercises more real influence over the social body in America than in Europe. You must not in fact be fooled by the apparent mildness of the American legislation regarding political jurisdiction. It must be noted, in the first place, that in the United States the court that delivers these judgments is composed of the same elements and is subject to the same influences as the body charged with accusing; this gives an almost irresistible impulse to the vindictive passions of parties. If political judges, in the United States, cannot order punishments as severe as those ordered by political judges in Europe, there is less chance of being acquitted by them as a result. Conviction is less to be feared and more certain.

Europeans, by establishing political courts, had as their principal object

2. *Not that his rank can be taken from an officer, but he can be removed from his command.*

to *punish* the guilty; Americans, to *remove* them from power. Political jurisdiction in the United States is a preventive measure in a way. So judges there must not be bound by very exact criminal definitions.

Nothing is more frightening than the vagueness of American laws, when they define political crimes strictly speaking. The crimes that will justify the conviction of the President, says the Constitution of the United States, section IV, art. I [*sic*: Article II, Section 4], are "Treason, Bribery, or other high Crimes and Misdemeanors." Most of the state constitutions are even more obscure.

"Public officials, says the constitution of Massachusetts,^d will be condemned for their culpable behavior and for their bad administration.³ All officials who put the State in danger by bad administration, corruption or other misdemeanors, says the constitution of Virginia, are impeachable by the House of Delegates." There are constitutions that, in order to let an unlimited responsibility weigh upon the public officials, specify no crime.⁴

But what makes the American laws in this matter so formidable arises, I dare say, from their very mildness.

We have seen that in Europe the dismissal of an official, and his political interdiction, were consequences of the penalty, and that in America it was the penalty itself. The result is this. In Europe, the political courts are vested with terrible rights that sometimes they do not know how to use; and it happens that they do not punish for fear of punishing too much. But in America, they do not back away from a penalty that humanity does not bemoan. To condemn a political enemy to death, in order to remove him from power, is in everybody's eyes a horrible assassination. To declare an adversary unworthy to possess this same power and to take it away from him, while leaving him his life and liberty, can appear as the honest outcome of the struggle.

d. The Massachusetts Constitution reads: "The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices."

3. *Chap. I, sect. II, § 8.*

4. *See the constitutions of Illinois, Maine, Connecticut and Georgia.*

Now, this judgment, so easy to decide, is nonetheless the height of misfortune for the ordinary man among those to whom it is applied. Great criminals will undoubtedly defy its empty rigors; ordinary men will see in it a decision that destroys their position, stains their honor, and that condemns them to a shameful inaction worse than death.

So the less formidable political jurisdiction in the United States seems, the greater the influence it exercises on the course of society. It does not act directly on the governed, but it makes the majority entirely master of those who govern. It does not give the legislature an immense power that could be exercised only in a day of crisis; it allows the legislature to have a moderate and regular power that can be used every day. If the power is less, on the other hand, its use is more convenient and its abuse easier.

By preventing political courts from ordering judicial punishments, the Americans seem to me therefore to have avoided the most horrible consequences of legislative tyranny, rather than tyranny itself. And all things considered, I do not know if political jurisdiction, as it is understood in the United States, is not the most formidable weapon ever put in the hands of the majority.

When the American republics begin to degenerate, I believe that it will be easy to recognize; it will be enough to see if the number of cases of political jurisdiction increases.^N



CHAPTER 8

Of the Federal Constitution

Until now I have considered each state as forming a complete whole, and I have shown the different mechanisms that the people put in motion there, as well as the means of action that they use. But all these states that I have envisaged as independent are, in certain cases, forced to obey a supreme authority, which is that of the Union. The time has come to examine the portion of sovereignty that has been conceded to the Union, and to cast a rapid glance over the federal constitution.¹

Historical Background of the Federal Constitution^a

*Origin of the first Union.—Its weakness.—Congress
summons the constituent power.—Interval of two years that*

1. See the text of the federal Constitution. [In Appendix in the first editions (ed.)]

a. In the margin: “#Where to find the outline of the first federation?”

“Bad result of the first federation. See *Federalist*, p. 60 [No. 15 (ed.)]. #”

The *Federalist* is, without any doubt, the work that Tocqueville cites most often. Its decisive influence on the drafting of this chapter must be recognized, even if such an influence on the whole book is difficult to define and remains to be determined. When Tocqueville reads the *Federalist*, he certainly has in mind, and at hand, Montesquieu and Rousseau. He rediscovers many of their ideas in the American work. An initial examination of the citations taken from the work seems to indicate that, above all, Tocqueville found in it a confirmation of his own ideas. This does not mean, as has often been asserted, that he intentionally omitted citations of the text in other chapters. If undeniable similarities exist between the American text and the *Democracy*, they demonstrate the result of a shared origin of ideas between the two texts more than a direct influence of the first book on the second. Another important work concerning information on the political organization of the United States is the commentaries on the Constitution by Justice Joseph Story. In a letter to Francis Lieber of May 9, 1840, Story, apparently

*passes between this moment and that when the
new Constitution is promulgated.*

[≠I am not among those who profess a blind faith in legal prescriptions and who think that it is sufficient to change the laws of a people in order to modify easily their social and political state. Laws act only in two ways, either by their long duration, when a power superior to society manages to impose them over many years, or by their perfect harmony with the mores, habits and civilization of the people. In this last case, the laws are only the conspicuous and legal manifestation of a preexistent fact.^b

But I admit that when laws are found to be in harmony with the needs {the social state} of a country, its mores and its habits, their effect is often something of a miracle.

unable to recognize the significance of the *Democracy*, judges that Lieber's knowledge of the American political system is much superior to that of Tocqueville; according to Story, Tocqueville simply took his ideas from the *Federalist* and from Story's own book on the American Constitution (*Life and Letters of Joseph Story*, Boston: Charles C. Little and James Brown, 1851, vol. II, p. 330). John W. Henry Canoll ("The Authorship of Democracy in America," *Historical Magazine* 8, no. 9 (1864): 332–33), who reports the words of Mgr. Alexander Vattemare, asserts that the American author who had a direct influence on Tocqueville's thought is John C. Spencer. According to Canoll, Tocqueville would have shown Spencer a plan of his work; the latter would have reviewed and criticized it and, after numerous interviews, would have given the canvas of the *Democracy* to the author.

b. In the margin:

≠The government of the United States is not truly speaking a *federal* government, it is a *national* government whose powers are limited. *Important.*/

Mixture of *national* and *federal* in the constitution. See *Federalist*, p. 166 [No. 28 (ed.)]./

The Union enters most profoundly into the government of the United States by the right to invalidate laws that are contrary to vested rights. Note that it is the federal *judicial* power alone that acts in this case./

[To the side: I am not among those who believe that there is a force in the laws that commands obedience to such an extent that all the present and all the future of a people depend on its legislation./

You could deal with the principles of *union*, from complete independence, *league*, *confederation*, to finally *national* government.≠]

No country on earth more than America has ever given a greater example of the power of laws on the life of political society.≠]

The thirteen colonies that simultaneously threw off the yoke of England at the end of the last century had, as I have already said, the same religion, the same language, the same mores, nearly the same laws; they struggled against a common enemy. So they must have had strong reasons to unite closely together, and to be absorbed into one and the same nation.

But each of them, having always had a separate existence and a government close at hand, had created particular interests as well as customs; and each found repugnant a solid and complete union that would have made its individual importance disappear within a common importance. From that, two opposing tendencies: one that led the Anglo-Americans to unite; the other that led them to separate.

As long as the war with the mother country lasted, necessity made the principle of union prevail. And, although the laws that constituted the union were defective, the common bond continued to exist in spite of them.²

But as soon as peace was concluded, the vices of the legislation^c became clear; the State seemed to dissolve all at once. Each colony, having become an independent republic, seized full sovereignty. The federal government, condemned by its very constitution to weakness, and no longer supported by the feeling of public danger, saw its flag abandoned to the outrages of the great peoples of Europe. At the same time, it could not find sufficient resources to stand up to the Indian nations and to pay the interest on debts contracted during the war for independence. About to perish, it officially declared its own impotence and summoned the constituent power.³

2. *See the articles of the first confederation formed in 1778. This federal constitution was adopted by all the States only in 1781.*

Also see the analysis that the Federalist makes of this constitution, from No. 15 to No. 22 inclusive, and Mr. Story in his Commentaries on the Constitution of the United States, pp. 85 [84 (ed.)]–115.

c. Hervé de Tocqueville: "I do not know if you shouldn't say: *of the constitution*" (YTC, CIIb, 3, pp. 9–10).

3. *Congress made this declaration on February 21, 1787.*

If ever America was capable of rising for a few moments to the high level of glory that the proud imagination^d of its inhabitants would like constantly to show us, it was at this supreme moment when the national power had, in a way, just abdicated authority.

For a people to struggle energetically to conquer its independence is a spectacle that every century has been able to provide. The efforts made by the Americans to escape from the yoke of the English have, moreover, been much exaggerated. Separated from their enemies by 1,300 leagues of ocean, aided by a powerful ally, the United States owed their victory to their position much more than to the merit of their armies or to the patriotism of their citizens.^e Who would dare to compare the American war to the wars of the French Revolution, and the efforts of the Americans to ours? France, the object of attacks from the whole of Europe, without money, credit, allies, threw one-twentieth of its population before its enemies, with one hand putting out the conflagration that devoured its bowels and with the other carrying the torch abroad.^f But what is new in the history of societies is to see a great people, warned by its legislators that the gears of government are grinding to a halt, turn its attention to itself, without rushing and without fear; sound the depth of the trouble; keep self-control for two whole years, in order to take time to find the remedy; and, when this remedy is indicated, voluntarily submit to it without costing humanity either a tear or a drop of blood.

When the insufficiency of the first federal constitution made itself felt, the excitement of the political passions that had given birth to the revolution was partially calmed, and all the great men that it had created still lived. This was double good fortune for America. The small as-

d. The manuscript says: “. . . that the vain imagination . . .”

Hervé de Tocqueville: “I would cross out the word *vain* in order not to shock the Americans among whom the book should have a great deal of success” (YTC, CIIIb, 3, p. 10).

e. In the margin: “≠If you want to know what a people can do for its independence, it is not America that you must look at.≠”

f. Hervé de Tocqueville: “If you keep this paragraph, you must suppress this last sentence which is declamatory, vague and could be interpreted as praise for violence in the manner of Thiers” (YTC, CIIIb, 3, p. 10).

sembly,⁴ which charged itself with drafting the second constitution, included the best minds and most noble characters that had ever appeared in the New World. George Washington presided over it.^h

This national commission, after long and mature deliberations, finally offered to the people for adoption the body of organic laws that still governs the Union today. All the states successively adopted it.⁵ The new federal government began to operate in 1789, after two years of interregnum. So the American Revolution finished precisely at the moment when ours began.

4. *It was composed of only 55^g members. Washington, Madison, Hamilton, the two Morris were part of it.*

g. The manuscript says 39, which indicates the number of delegates to the convention approving the proposed constitution on September 17, 1787.

h. Great men of the early times of the republic./

Their enlightenment. Their true patriotism. Their high character. Convention that made the federal Constitution. Few prejudices that were met there; constant struggle against provincial prejudices. Sincere love of republican liberty, but courageous and constant struggle against the bad passions of the people.

Character of Washington. Still more admirable for his courage in struggling against popular passions than for what he did for liberty. The gods are disappearing!

A separate chapter on Washington. Washington has been admired for not having wanted to become a dictator, for having returned to the crowd. . . . Ignorance about the true state of things; historical memories badly applied.

Cincinnatus. Washington could not reasonably think to dominate. But *admirable* in his resistance to the exaggerations of popular opinion; there is his superiority; there is the culminating point.

Washington could not rise by arms (absurd), but by popular favor. And he did not seek it out for a moment.

Why did Washington, who in the end during his lifetime lost the majority, become more than a man after his death? (YTC, CVe, pp. 61–62).

In a bundle of notes where Tocqueville had gathered information for new chapters, the following title is found: OF THE GREAT MEN OF AMERICA AND OF WASHINGTON IN PARTICULAR (YTC, CVh, I, p. 1).

5. *It was not the legislators who adopted it. The people named deputies for this express purpose. In each of these assemblies the new Constitution was the object of thorough discussion.*

Summary Picture of the Federal Constitution^j

Division of powers between federal sovereignty and that of the states.—The government of the states remains the normal law;—the federal government, the exception.

A first difficulty must have presented itself to the minds of the Americans. It was a question of sharing sovereignty in such a way that the different states that formed the Union continued to govern themselves in everything that related only to their internal prosperity, and that the whole nation, represented by the Union, did not cease to be a body and to provide for all its general needs. A complex question, difficult to resolve.^k

It was impossible to set in advance, in an exact and complete manner, the portion of power that had to revert to each of these two governments that were going to share sovereignty.

Who would be able to anticipate in advance all the details of the life of a people?

The duties and rights of the federal government were simple and easy enough to define, because the Union had been formed for the purpose of meeting a number of great general needs. The duties and rights of the government of the states were, on the contrary, numerous and complicated, because this government penetrated into all the details of social life.

So the attributions of the federal government were defined with great care,^m and everything that was not included in the definition was declared to be part of the attributions of the government of the states. Thus, the

j. Union./

The Union has an artificial sovereignty; the states, a natural sovereignty; cause of difference in real strength (perhaps subtle)./

Power of the Union in what concerns it: The Union has more extensive and more essential prerogatives, in what concerns it, than a number of States forming only a single body have had (YTC, CVh, 1, p. 51).

k. In the margin: "I believe that the principle of the unity of the American people regarding the matters provided for in the Constitution—principle rich in consequences and which you come back to constantly—must be placed at the beginning of this part (I do not know where)."

m. ≠ Here there was a principle that was supposed to dominate the whole matter:

government of the states remained the normal law; the federal government was the exception.⁶

But it was anticipated that, in practice, questions could arise relative to the exact limits of this exceptional government, and that it would be dangerous to abandon the solution of these questions to the ordinary courts established in the different states, by the states themselves. So a high federal court,⁷ a single tribunal, was created; one of its attributions was to maintain the division of powers between the two rival governments as the Constitution had established it.⁸

The Union has only a circumscribed sovereignty, but within this circle it forms only one and the same people.¹

(You could define the Union as a people who does not enjoy all the rights of sovereignty.) Within this circle the Union is sovereign. This set forth and accepted, the rest is easy; for from the origin of societies, this point is agreed: that a people has the right to have all that involves its security and independence judged by its own courts.

Now, since the Union, for the particular matters indicated by the Constitution, forms only one people, the above rule was as applicable to it as to all others.

Nothing more was involved than determining what its interests were within the circle of its existence, traced by the Constitution.

1. Some restriction has indeed been put on these principles by introducing the states as independent powers in the Senate and by making them vote separately in the House of Representatives in the case of election of the President. But these are exceptions. The opposite principle predominates² (YTC, CVb, p. 20).

6. *See amendments to the federal Constitution*. Federalist, No. 32. Story [Commentaries (ed.)], p. 711. Kent's Commentaries, vol. 1, p. 364.

Note indeed that, whenever the Constitution has not reserved to Congress the exclusive right to regulate certain matters, the states can do so, while waiting for Congress to choose to take charge of them. Example: Congress has the right to pass a general bankruptcy law; it doesn't do so; each state could pass one in its own way. This point was established, moreover, only after discussion before the courts. It is only jurisprudence.

7. *The action of this court is indirect, as we will see later.*

8. *This is how the Federalist, in No. 45 [p. 200], explains this division of sovereignty between the Union and the particular states:*

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce. [...] The powers reserved to the several states will

Attributions of the Federal Government

Power granted to the federal government to make peace, war, to establish general taxes.—Matter of internal political policy with which it can be involved.—The government of the Union, more centralized on some points than was the royal government under the old French monarchy.

Peoples in relation to one another are only individuals. Above all, a nation needs a single government to appear with advantage in regard to foreigners.

So the Union was granted the exclusive right to make war and peace; to conclude treaties of commerce; to raise armies, to equip fleets.⁹

The necessity of a national government does not make itself as strongly felt in the direction of the internal affairs of society.

Nonetheless, there are certain general interests for which only a general authority can usefully provide.

The Union was left the right to regulate all that relates to the value of money; it was charged with the postal service; it was given the right to open

extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the state.

I will often have the occasion to cite the Federalist in this work. When the proposal that has since become the Constitution of the United States was still before the people, and submitted for adoption, three men who were already celebrated and have since become even more famous, John Jay, Hamilton and Madison, joined together for the purpose of making the advantages of the proposal clear to the nation. With this idea, they published, in the form of a newspaper, a series of articles that together form a treatise. They gave the newspaper the name Federalist, which has remained the title of the work.

The Federalistⁿ is a fine book that, though particular to America, should be familiar to the statesmen of all countries.

n. James T. Schleifer has identified the English edition used by Tocqueville. It was the one published in Washington by Thomson & Homans, in 1831. In his notes, Tocqueville also cites a French edition of 1792 (probably that of Buisson, Paris).

9. See *Constitution*, sect. VIII. *Federalist*, Nos. 41 and 42. *Kent's Commentaries*, vol. I, p. 207 and following. *Story [Commentaries (ed.)]*, pp. 358–82; id., pp. 409–26.

the great avenues of communication that had to unite the various parts of the territory.¹⁰

The government of the different states was generally considered free in its sphere, but it could abuse this independence and compromise the security of the entire Union through imprudent measures. For these rare cases, defined in advance, the federal government was permitted to intervene in the internal affairs of the states.¹¹ That explains how, while still recognizing in each of the confederated republics the power to modify and change its legislation, each was, nevertheless, forbidden to make retroactive laws and to create bodies of noblemen within its midst.¹²

Finally, since the federal government had to be able to fulfill the obligations imposed on it, it was given the unlimited right to levy taxes.¹³

When you pay attention to the division of powers as the federal constitution has established it; when, on the one hand, you examine the portion of sovereignty that the particular states have reserved to themselves and, on the other, the share of power that the Union took, it is easily discovered that the federal law-makers had formed very clear and very sound ideas about what I earlier called governmental centralization.^o

The United States forms not only a republic, but also a confederation.^p But the national authority there is, in several respects, more centralized than it was in the same period under several of the absolute monarchies of Europe. I will cite only two examples.

10. *There are also several other rights of this type, such as that to pass a general law on bankruptcy, to grant patents. . . . What made the intervention of the whole Union necessary in these matters is felt well enough.*

11. *Even in this case, its intervention is indirect. The Union intervenes through its courts, as we will see further on.*

12. *Federal Constitution, sect. X, art. 1.*

13. *Constitution, sect. VIII, IX and X. Federalist, Nos. 30–36, inclusive. Id., 41, 42, 43,*

44. *Kent's Commentaries, vol. I, pp. 207 and 381. Story, id., pp. 329–514.*

o. In a variant of the manuscript: “*≠You can even say that the necessity of governmental centralization was better understood by them than it was in several of the monarchies of Europe.≠*”

p. Throughout the book, Tocqueville uses the words *federation* and *confederation* with not much precision.

France counted thirteen sovereign courts that, most often, had the right to interpret the law without appeal. It possessed, in addition, certain provinces called *pays d'États* that could refuse their support, after the sovereign authority, charged with representing the nation, had ordered the raising of a tax.

The Union has only a single court to interpret the law, as well as a single legislature to make the law; a tax voted by the representatives of the nation obligates all the citizens. So the Union is more centralized on these two essential points than the French monarchy was; the Union, however, is only a collection of confederated republics.

In Spain, certain provinces^q had the power to establish their own customs system, a power that, by its very essence, stems from national sovereignty.

In America, Congress alone has the right to regulate commerce among the states. So the government of the confederation is more centralized on this point than that of the kingdom of Spain.

It is true that, in the end, you arrived at the same point, since in France and in Spain the royal power is always able to execute, by force if necessary, what the constitution of the kingdom denied it the right to do. But I am talking here about theory.

Federal Powers

After having enclosed the federal government within a clearly drawn circle of action, it was a matter of knowing how to make it work.

q. In the manuscript: "each province."

Legislative Powers^r

[DIFFERENCE BETWEEN THE CONSTITUTION OF THE SENATE AND
THAT OF THE HOUSE OF REPRESENTATIVES]

Division of the legislative body into two branches.—Differences in the way the two houses are formed.—The principle of the independence of the state triumphs in the formation of the Senate.—The dogma of national sovereignty, in the composition of the House of Representatives.—Singular effects that result from this, that constitutions are logical only when peoples are young.

In the organization of the powers of the Union, the plan that was traced in advance by the particular constitution of each of the states was followed on many points.

The federal legislative body of the Union was composed of a Senate and a House of Representatives.

The spirit of conciliation caused different rules to be followed in the formation of each of these assemblies.

I brought out above that, when the Americans wanted to establish the federal constitution, two opposing interests found themselves face to face. These two interests had given birth to two opinions.

Some wanted to make the Union a league of independent states, a sort of congress where the representatives of distinct peoples would come to discuss certain points of common interest.

Others wanted to unite all the inhabitants of the old colonies into one and the same people, and give them a government that, although its sphere would be limited, would be able to act within this sphere, as the one and only representative of the nation. The practical consequences of these two theories were very different.

Thus, if it was a matter of organizing a league and not a national government, it was up to the majority of the states to make laws, and not up

r. In the manuscript: "legislative power."

to the majority of the inhabitants of the Union. For each state, large or small, would then conserve its character of independent power and would enter into the Union on a perfectly equal footing.

On the contrary, from the moment when the inhabitants of the United States were considered to form one and the same people, it was natural that only the majority of the citizens of the Union made the law.

Understandably, the small states could not consent to the application of this doctrine without completely abdicating their existence in what concerned federal sovereignty; for, from co-regulating power, they would become an insignificant fraction of a great people. The first system would have granted them an unreasonable power; the second nullified them.

In this situation, what almost always happens when interests are opposed to arguments happened: the rules of logic were made to bend. The law-makers adopted a middle course that forced conciliation of two systems theoretically irreconcilable.

The principle of the independence of the states triumphed in the formation of the Senate;^s the dogma of national sovereignty, in the composition of the House of Representatives.^t

s. Senate./

The constitution of the Senate is the least *logical* and the least *rational* part of the Constitution of the United States. That is what Hamilton remarks in the *Federalist*. All of his discussion on this point shows great distress to see this system introduced, though he considers it a necessity given the state of opinion.

The equal representation of the states in the Senate goes directly against the principle of the Constitution to create a *national*, not a *federal* government.

In practice, however, I believe few disadvantages result from this anomaly. Once the majority is well and *constitutionally* established in the House of Representatives, a power *enormously popular* by its nature, the Senate is forced to go along.

You could be astonished to see the Senate charged with participating in a treaty. . . . But this power, though not expressed in all constitutions, exists in fact among all free peoples, even in monarchies.

In America, as among us, all the preliminary negotiations are done, moreover, by the executive power acting alone. It is the treaty itself that needs the support of the Senate (YTC, CVh, I, pp. 42–43).

t. "Political assemblies./

"The more numerous they are, the more prone they are to the oligarchical direction of some members. See *Federalist*, p. 235 [No. 58 (ed.)].

Each state had to send two senators to Congress and a certain number of representatives,^u in proportion to its population.¹⁴

Today, as a result of this arrangement, the state of New York has forty representatives in Congress and only two senators; the state of Delaware, two senators and only one representative. So in the Senate, the state of Delaware is the equal of the state of New York, while the latter has, in the House of Representatives, forty times more influence than the first. Thus, it can happen that the minority of the nation, dominating the Senate, entirely paralyzes the desires of the majority, represented by the other chamber; this is contrary to the spirit of constitutional governments.

All this shows clearly how rare and difficult it is to link all the parts of legislation together in a logical and rational manner.

In the long run, time always gives birth to different interests and consecrates diverse rights in the same people. Then, when it is a question of establishing a general constitution, each of these interests and rights serves as so many natural obstacles that are opposed to following all of the consequences of any one political principle. So only at the birth of societies can you be perfectly logical in the laws. When you see a people enjoy this advantage, do not rush to conclude that they are wise; instead, think that they are young.

"January 30, 1832, Washington. Small number of the members of Congress" (YTC, CVe, p. 51; this note is not reproduced in *Voyage*, OC, V, 1).

u. "Ask Mr. Livingston or other Americans at the nomination of the King what the current rule of *apportionment* for the representatives is" (YTC, CVb, p. 34).

14. *Every ten years, Congress again fixes the number of deputies that each state must send to the House of Representatives. The total number was 69 [65 (ed.)] in 1789; it was 240 in 1833.* (American Almanac, 1834, p. 194 [124 (ed.)].)

The Constitution had said that there would not be more than one representative for 30,000 inhabitants; but it did not set a lower limit. Congress has not believed that it had to increase the number of representatives in proportion to the growth of the population. By the first law that dealt with this subject, April 14, 1792 (see Laws of the United States by Story, vol. I, p. 235), it was decided that there would be one representative for 33,000 inhabitants. The last law, which occurred in 1832, set the number at 1 representative for 48,000 inhabitants. The population represented is composed of all free men and three-fifths of the number of slaves.

At the time when the federal Constitution was formed, only two interests positively opposed to each other existed among the Anglo-Americans: the interest of individuality for the particular states, and the interest of union for the whole people. It was necessary to come to a compromise.

You must recognize, nonetheless, that up to now this part of the Constitution has not produced the evils that could be feared.

All the states are young;^v they are near each other; they have homogeneous mores, ideas and needs; the difference that results from their greater or lesser size is not sufficient to give them strongly opposed interests. So the small states have never been seen to join together in the Senate against the plans of the large. There is, moreover, such an irresistible force in the legal expression of the will of an entire people that, when the majority expresses itself in the organ of the House of Representatives, the Senate, facing it, finds itself quite weak.

Beyond that, it must not be forgotten that it did not depend on the American law-makers to make one and the same nation out of the people to whom they wanted to give laws. The aim of the federal Constitution was not to destroy the existence of the states, but only to restrain it. So, from the moment when a real power was left to those secondary bodies (and it could not be taken from them), the habitual use of constraint to bend them to the will of the majority was renounced in advance. This said, the introduction of the individual strengths of the states into the mechanism of the federal government was nothing extraordinary. It only took note of an existing fact, a recognized power that had to be treated gently and not violated.

v. Hervé de Tocqueville: "I would prefer *new*, for if they are young in terms of establishment, they are old in terms of civilization" (YTC, CIIb, 3, p. 12).

Another Difference between the Senate and the House of Representatives^w

*The Senate named by the provincial legislators.—
The representatives, by the people.—Two levels of election
for the first.—A single one for the second.—Length of the
different mandates.—Attributions.*

The Senate differs from the other chamber not only by the very principle of representation, but also by the mode of election, by the length of mandate and by the diversity of attributions.

The House of Representatives is named by the people; the Senate, by the legislators of each state.

The one is the product of direct election; the other, of indirect election.

The mandate of representatives lasts only two years; that of the senators, six.

The House of Representatives has only legislative functions; it participates in judicial power only by accusing public officials. The Senate participates in the making of laws; it judges political crimes that are referred to it by the House of Representatives; it is, in addition, the great executive council of the nation. Treaties, concluded by the President, must be validated by the Senate; his choices, to be definitive, need to receive the approval of the same body.¹⁵

w. In the manuscript: "OTHER DIFFERENCES BETWEEN . . ."

15. See *Federalist*, Nos. 52–66, inclusive. *Story* [Commentaries (*ed.*)], pp. 199–314. *Constitution*, sect. II and III.

Of Executive Power¹⁶

*Dependence of the President.—Elective and accountable.—
Free in his sphere; the Senate oversees him and does not direct
him.—The salary of the President fixed at his entry into
office.—Qualified veto.*

The American law-makers had a difficult task to fulfill: they wanted to create an executive power that depended on the majority and yet was strong enough by itself to act freely in its sphere.^x

The maintenance of the republican form required that the representative of the executive power be subject to the national will.

The President is an elective magistrate. His honor, goods, liberty, life answer continually to the people for the good use that he will make of his power. While exercising his power, moreover, he is not completely independent. The Senate watches over him in his relations with foreign powers, as well as in the distribution of positions; so he can be neither corrupted nor corrupt.

The law-makers of the Union recognized that the executive power could not fulfill its task usefully and with dignity, if they did not succeed in giving it more stability and strength than it had been granted in the particular states.

16. *Federalist*, Nos. 67–77, inclusive. *Constitution*, art. 2. *Story* [Commentaries (ed.)], p. 315, pp. 515–80. *Kent's Commentaries* [vol. I (ed.)], p. 255 [235 (ed.)].

x. The President and in general the executive power of the Union./
Some advantages of a strong executive power:

1. It executes the *constitutional* desires of the legislatures with more skill and sagacity than they would be able to do themselves.

2. It is a barrier against the abuse of their power; it prevents their omnipotence from degenerating into tyranny (see, on the subject of the requisite conditions for the creation of a sufficient executive power, the *Federalist*, pp. 301 and 316 [No. 70 (ed.)]).

To divide the executive power, to subordinate its movements to the desires of a council, is to diminish its accountability.

It was necessary to liberty that the President depended on the national will. He is elective, not inviolable (YTC, CVh, 1, p. 53).

The President was named for four years and could be re-elected. With a future, he had the courage to work for the public good and the means to implement it.

The President was made the one and only representative of the executive power of the Union. Care was even taken not to subordinate his will to those of a council: a dangerous measure that, while weakening the action of the government, lessens the accountability of those who govern. The Senate has the right to strike down some of the acts of the President, but it can neither force him to act, nor share the executive power with him.

The action of the legislature on the executive power can be direct; we have just seen that the Americans took care that it was not. It can also be indirect.

The chambers, by depriving the public official of his salary, take away a part of his independence; it must be feared that, masters of making laws, they will little by little take away the portion of power that the Constitution wanted to keep for him.

This dependence of the executive power is one of the vices inherent in republican constitutions. The Americans have not been able to destroy the inclination that leads legislative assemblies to take hold of government,^y but they have made this inclination less irresistible.

y. In the manuscript: "The Americans have not been able to destroy the inclination [v: tendency], but they have made it less irresistible [v: rapid]."

Gustave de Beaumont:

On this page there is an error of style. *Executive power* is taken here in a double sense; first, as presenting the idea of the persons who govern, and then, as including the idea of the administration itself. This word can indeed be used in this double sense, but not in places so close together, because it sows confusion in the mind. That is so true that, when we read: The Americans have not been able to destroy the inclination to drag the *executive power* into the legislative assemblies . . . , we think we are going to see the President of the United States brought into the House of Representatives, because you were speaking about him a moment before under the name executive power. This is certainly not the thought of the author, since he means, on the contrary, that the legislative assemblies are always led toward taking hold of the executive power. I would put: *The Americans have not been able to destroy the inclination that leads legislative assemblies to take hold of power, but . . .*" (YTC, CIIb, 3, pp. 51–52).

The salary of the President is fixed, at his entry into office, for the entire time that his leadership lasts. In addition, the President is armed with a qualified veto that permits him to stop the passage of laws that would be able to destroy the portion of independence that the constitution left to him. There can only be an unequal struggle, however, between the President and the legislature, since the latter, by persevering in its intentions, always has the power to overcome the resistance that opposes it. But the qualified veto at least forces it to retrace its steps; it forces the legislature to consider the question again; and this time, it can no longer decide except with a two-thirds majority of those voting. The veto, moreover, is a kind of appeal to the people; the executive power pleads its cause and makes its reasons heard. Without this guarantee, it could be oppressed in secret. But if the legislature perseveres in its intentions, can it not always overcome the resistance that opposes it? To that I will answer that in the constitution of all peoples, no matter what its nature, there is a point where the law-maker is obliged to rely on the good sense and virtue of the citizens. This point is closer and more visible in republics, more removed and more carefully hidden in monarchies; but it is always found somewhere. There is no country where the law can foresee everything and where the institutions must take the place of reason and mores.

How the Position of the President of the United States Differs from That of a Constitutional King in France

The executive power, in the United States, limited and exceptional, like the sovereignty in the name of which it acts.—

The executive power in France extends to everything, like the sovereignty there.—The King is one of the authors of the law.—The President is only the executor of the law.—Other differences that arise from the duration of the two powers.—The President hampered in the sphere of executive power.—The King is free there.—France, despite these differences, resembles a republic more than the Union does a monarchy.—Comparison of the number of officials who depend on the executive power in the two countries.

The executive power plays such a great role in the destiny of nations that I want to stop for an instant here in order to explain better what place it occupies among the Americans.

In order to conceive a clear and precise idea of the position of the President of the United States, it is useful to compare it to that of the King in one of the constitutional monarchies of Europe.^z

z. Dissimilarity and similarity between the President and the King of England. *Federalist*, pp. 295 and 300 [No. 69 (ed.)].

America.

1. Elective magistrate.
2. Subject to the courts, accountable.
3. Qualified veto.
4. Commands the militia, but only in time of war.
5. Cannot pardon in case of impeachment.
6. He cannot *adjourn* the legislature except in a case allowed.
7. He can make treaties only with two-thirds of the Senate.
8. He can only appoint to office with the advice and consent of the Senate.
9. He can prescribe no rule concerning commerce and monetary system of the country.
10. He has no ecclesiastical jurisdiction whatsoever.

In this comparison, I will attach little importance to the external signs of power; they fool the observer more than they help.

When a monarchy is gradually transformed into a republic, the executive power there keeps titles, honors, respect, and even money, long after it has lost the reality of power. The English, after having cut off the head of one of their kings and having chased another from the throne, still knelt to speak to the successors of these princes.

On the other hand, when republics fall under the yoke of one man, power continues to appear simple, plain and modest in its manners, as if it had not already risen above everyone. When the emperors despotically disposed of the fortune and the life of their citizens, they were still called Caesar when spoken to, and they went informally to have supper at the homes of their friends.

So we must abandon the surface and penetrate deeper.

Sovereignty, in the United States, is divided between the Union and the states; while among us, it is one and compact. From that arises the first and greatest difference that I notice between the President of the United States and the King in France.

In the United States, executive power is limited and exceptional,^a like

England.

1. Hereditary.
2. Inviolable.
3. Absolute veto.
4. At all times and throughout the kingdom.
5. In all cases.
6. He can always *prorogue* and *dissolve* Parliament.
7. He alone makes treaties. He is the only representative of England abroad.
8. He appoints to all offices, even creates offices, and beyond that can confer a multitude of graces, either *honorary* or *lucrative*.
9. On certain points he is the arbiter of commerce; he can establish markets, regulate weights and measures, strike money, set an embargo.
10. He is the head of the national church (YTC, CVh, 1, pp. 58–59).

a. Édouard de Tocqueville:

How is the sovereignty represented by the executive power (that is the national sovereignty) limited and exceptional? That can only be applied to the executive power, which is in fact very limited.

Upon reflection, I understand the thought. As we saw in the preceding chapter,

the very sovereignty in whose name it acts; in France, it extends to everything, like the sovereignty there.

The Americans have a federal government; we have a national government.

This is a primary cause of inferiority that results from the very nature of things; but it is not the only one. The second in importance is this: strictly speaking, sovereignty can be defined as the right to make laws.

The King, in France, really constitutes one part of the sovereign power, since laws do not exist if he refuses to sanction them. In addition, he executes the law.

The President also executes the law, but he does not really take part in making the law, since, by refusing his consent, he cannot prevent it from existing. So he is not part of the sovereign power; he is only its agent.

Not only does the King, in France, constitute one portion of the sovereign power, but he also participates in the formation of the legislature, which is the other portion. He participates by naming the members of one chamber and by ending at his will the term of the mandate of the other. The President of the United States takes no part in the composition of the legislative body and cannot dissolve it.

The King shares with the Chambers the right to propose laws.

The President has no similar initiative.

The King is represented, within the Chambers, by a certain number of agents who set forth his views, uphold his opinions and make his maxims of government prevail.

The President has no entry into Congress; his ministers are excluded as he is, and it is only by indirect pathways that he makes his influence and his opinion penetrate this great body.

the Union was granted, by the Constitution, only a limited power, very defined and perhaps exceptional. But, it seems to me, the President does not represent only this portion of sovereignty that has been attributed to the federal government; he also represents the entire sovereignty of the country, its internal as well as external will; in a word, he is the instrument of national sovereignty (YTC, CIIB, 3, pp. 1–2).

So the King of France operates as an equal with the legislature, which cannot act without him, as he cannot act without it.

The President is placed beside the legislature, as an inferior and dependent power.

In the exercise of executive power strictly speaking, the point on which his position seems closest to that of the King in France, the President still remains inferior due to several very great causes.

First, the power of the King in France has the advantage of duration over that of the President. Now, duration is one of the first elements of strength. Only what must exist for a long time is loved and feared.

The President of the United States is a magistrate elected for four years. The King in France is a hereditary leader.

In the exercise of executive power, the President of the United States is constantly subject to jealous oversight. He prepares treaties, but he does not make them; he designates people for offices, but he does not appoint them.¹⁷

The King of France is the absolute master in the sphere of executive power.

The President of the United States is accountable for his actions. French law says that the person of the King of France is inviolable.

But above the one as above the other stands a ruling power, that of public opinion. This power is less defined in France than in the United States; less recognized, less formulated in the laws; but, in fact, it exists there. In America, it proceeds by elections and by decisions; in France, by revolutions. Hence France and the United States, despite the diversity of their constitutions, have this point in common: public opinion is, in effect, the dominant power.^b So the generative principle of the laws is, in actual fact, the

17. *The Constitution had left it doubtful whether the President was required to ask the advice of the Senate in the case of removal, as in the case of nomination of a federal official. The Federalist, in No. 77, seemed to establish the affirmative; but in 1789, Congress decided with all good reason that, since the President was accountable, he could not be forced to use agents that did not have his confidence. See Kent's Commentaries, vol. I, p. 289.*

b. In the margin: “#This fact, the sovereignty of the people, the capital point common to the two countries, gives a similarity to their constitutions despite the diversity of the laws.#”

same among the two peoples, although its developments are more or less free, and the consequences that are drawn from it are often different. This principle, by its nature, is essentially republican. Consequently, I think that France, with its King, resembles a republic more than the Union, with its President, resembles a monarchy.

In all that precedes, I have been careful to point out only the main points of difference. If I had wanted to get into details, the picture would have been still more striking. But I have too much to say not to want to be brief.

I remarked that the power of the President of the United States, in his sphere, exercises only a limited sovereignty, while that of the King, in France, acts within the circle of a complete sovereignty.

I could have shown the governmental power of the King in France surpassing even its natural limits, however extensive they were, and penetrating into the administration of individual interests in a thousand ways.

To this cause of influence, I could join that which results from the great number of public officials, nearly all of whom owe their mandate to the executive power. This number has surpassed all known limits among us; it reaches 138,000.¹⁸ Each of these 138,000 nominations must be considered as an element of strength. The President does not have an absolute right to appoint to public positions, and those positions hardly exceed 12,000.¹⁹

18. *The sums paid by the State to these various officials amount annually to 200,000,000 francs.*

19. *Each year in the United States an almanac, called the National Calendar, is published; the names of all the federal officials are found there. The National Calendar of 1833 furnished me with the figure I give here.*

It would follow from what precedes that the King of France has at his disposal eleven times more places than the President of the United States, although the population of France is only one and a half times greater than that of the Union.

Accidental Causes That Can Increase the Influence of the Executive Power

*External security that the Union enjoys.—Cautious policy.—
Army of 6,000 soldiers.—Only a few ships.—The President
possesses some great prerogatives that he does not have the
opportunity to use.—In what he does have the opportunity
to execute, he is weak.*

If the executive power is less strong in America than in France, the cause must be attributed to circumstances perhaps more than to laws.

It is principally in its relations with foreigners that the executive power of a nation finds the opportunity to deploy skill and force.

If the life of the Union were constantly threatened, if its great interests were found involved daily in those of other powerful peoples, you would see the executive power grow in opinion by what would be expected of it and by what it would execute.

The President of the United States is, it is true, the head of the army, but this army is composed of 6,000 soldiers;^c he commands the fleet, but the fleet numbers only a few vessels; he directs the foreign affairs of the Union, but the United States has no neighbors. Separated from the rest of the world by the ocean, still too weak to want to dominate the sea, they have no enemies; and their interests are only rarely in contact with those of the other nations of the globe.

This demonstrates well that the practice of government must not be judged by theory.

The President of the United States possesses some nearly royal prerogatives that he does not have the opportunity to use; and the rights that, up to now, he is able to use are very circumscribed. The laws allow him to be strong; circumstances keep him weak.

On the contrary, circumstances, still more than the laws, give royal authority in France its greatest strength.

c. 4,000 in the manuscript.

In France, the executive power struggles constantly against immense obstacles and disposes of immense resources to overcome them. It increases with the greatness of the things that it executes and with the importance of the events that it directs, without thereby modifying its constitution.

Had the laws created it as weak and as circumscribed as that of the Union, its influence would soon become very much greater.

Why the President of the United States, to Lead Public Affairs, Does Not Need to Have a Majority in the Chambers

It is an established axiom in Europe that a constitutional King cannot govern when the opinion of the legislative chambers is not in agreement with his.

Several Presidents of the United States have been seen to lose the support of the majority of the legislative body, without having to leave power, nor without causing any great harm to society.

I have heard this fact cited to prove the independence and strength of the executive power in America. A few moments of reflection are sufficient, on the contrary, to see there the proof of its weakness.

A European King needs to obtain the support of the legislative body to fulfill the task that the constitution imposes on him, because this task is immense. A European constitutional King is not only the executor of the law; the care of its execution so completely devolves onto him that, if the law is against him, he would be able to paralyze its force. He needs the chambers to make the law; the chambers need him to execute it; they are two powers that cannot live without each other; the gears of government stop at the moment when there is discord between them.

In America, the President cannot stop the making of laws; he cannot escape the obligation to execute them. His zealous and sincere support is undoubtedly useful, but it is not necessary to the course of government. In everything essential that he does, he is directly or indirectly subject to the legislature; where he is entirely independent of it, he can hardly do anything. So it is his weakness, and not his strength, that allows him to live in opposition to the legislative power.

In Europe, there must be agreement between the King and the Chambers, because there can be a serious struggle between them. In America, agreement is not required, because the struggle is impossible.

Of the Election of the President

The danger of the system of election increases in proportion to the extent of the prerogatives of the executive power.—The Americans can adopt this system because they can do without a strong executive power.—How circumstances favor the establishment of the elective system.—Why the election of the President does not make the principles of government change.—Influence that the election of the President exercises on the fate of secondary officials.

The system of election, applied to the head of the executive power among a great people, presents some dangers that experience and historians have sufficiently pointed out.

Consequently, I do not want to talk about it except in relation to America.

The dangers feared from the system of election are more or less great, depending on the place that the executive power occupies and its importance in the State, depending on the method of election and the circumstances in which the people who elect are found.

Not without reason, the elective system, applied to the head of State, is criticized for offering such a great lure to individual ambitions and inflaming them so strongly in the pursuit of power that often, when legal means are no longer sufficient, they appeal to force when right happens to desert them.

It is clear that the greater the prerogatives of the executive power, the greater the lure; also, the more the ambition of the pretenders is excited, the more it finds support among a host of men of lesser ambition who hope to share power after their candidate has triumphed.^d

d. The wording of this paragraph is a bit different in the manuscript. The published version was suggested by Beaumont (YTC, CIIb, 3, pp. 52–53).

The dangers of the elective system increase therefore in direct proportion to the influence exercised by the executive power in the affairs of the State.

The Polish revolutions should not be attributed only to the elective system in general, but to the fact that the elected magistrate was the head of a large monarchy.^e

So before discussing the absolute goodness of the elective system, there is always an intervening question to resolve, that of knowing if the geographic position, laws, habits, mores and opinions of the people among whom you want to introduce it allow you to establish a weak and dependent executive power. To want the representative of the State to be simultaneously armed with great power and elected is, to my mind, to express two contradictory desires. For my part, I know only one way to make hereditary royalty change to a state of elected power. Its sphere of action must be contracted in advance; its prerogatives gradually reduced; and little by little, the people accustomed to living without its aid. But the republicans of Europe are hardly concerned with this. Since many among them hate tyranny only because they are the objects of its rigors, the extent of executive power does not offend them; they attack only its origin, without noticing the tight bond that links these two things.

No one has yet been found who cared about risking his honor and his life to become President of the United States, because the President has only a temporary, limited and dependent power. Fortune must put an immense prize at stake in order for desperate players to enter the lists. [≠For my part, I would prefer to be *Premier Ministre* in France than President of the Union.≠] No candidate, until now, has been able to raise ardent sympathies and dangerous popular passions in his favor.^f The reason is simple. Once at the head of the government,^g he can distribute to his friends nei-

e. Cf. Rousseau, *Considérations sur le gouvernement de Pologne*, chapters VIII and XIV.

f. Hervé de Tocqueville: "Carefully check if this paragraph agrees well with what the author says in the chapters on the crisis [of election] and on re-election. You must be careful about even the appearance of contradiction. Later you talk about intrigues, about the efforts of the President to get himself re-elected and about the development of his power in this regard" (YTC, CIIb, 3, p. 13).

g. In the manuscript: "... the President has only a few places . . ."

Hervé de Tocqueville: "These sentences are in clear opposition to what the author

ther much power, nor much wealth, nor much glory; and his influence in the State^h is too weak for factions to see their success or their ruin in his elevation to power.

Hereditary monarchies have a great advantage. Since the particular interest of a family is continually tied in a close way to the interest of the State, there is never a single moment when the latter is left abandoned to itself. I do not know if in these monarchies public affairs are better conducted than elsewhere; but at least there is always someone who takes charge for good or ill, depending on his capacity.ⁱ

In elective States, on the contrary, at the approach of the election and a long time before it happens, the gears of government no longer function, in a way, except by themselves. The laws can undoubtedly be put together so that the election takes place at one go and rapidly, and the seat of executive power never remains vacant so to speak; but no matter what is done, an empty place exists mentally despite the efforts of the law-maker.

At the approach of the election, the head of the executive power thinks only of the struggle to come; he no longer has a future; he can undertake nothing, and pursues only languidly what someone else perhaps is going to achieve. "I am so near the moment of my retirement," wrote President Jefferson on 21 [28 (ed.)] January 1809 (six weeks before the election), "that I no longer take part in public affairs except by expressing my opinion. To me, it seems just to leave to my successor the initiation of measures that he will have to execute and for which he will have to bear responsibility."

On its side, the nation has its eyes focused only on a single point; it is occupied only with overseeing the birth about to take place.

says on pages 346 and 347. Moreover, can one say that a man has only a few places to distribute when 20,000 nominations depend on him in a machine as simple as the American organization?" (YTC, CIIIb, 3, p. 14).

h. Cf. non-alphabetic notebook 1, conversation with John (?) Livingston (YTC, BIIa, and *Voyage*, OC, V, 1, p. 60).

j. "In France, for society to work, social power must be not only *centralized*, but also *stable*."

"Power can be centralized in an assembly; then it is *strong*, but not *stable*. It can be centralized in a man. Then it is less strong, but more stable" (YTC, Cve, p. 64).

The more vast the place occupied by the executive power in the leadership of public affairs, the greater and more necessary is its habitual action, and the more dangerous such a state of things is. Among a people who have contracted the habit of being governed by the executive power, and with even more reason, of being administered by it, election cannot help but produce a profound disturbance.

In the United States, the action of the executive power can slow down with impunity, because this action is weak and circumscribed.

When the head of government is elected, a lack of stability in the internal and external policies of the State almost always follows. That is one of the principal vices of this system.

But this vice is felt more or less, depending on the portion of power granted to the elected magistrate. In Rome, the principles of government never varied, although the consuls were changed annually, because the Senate was the directing power; and the Senate was an hereditary body. In most of the monarchies of Europe, if the King were elected, the kingdom would change faces with each new choice.

In America, the President exercises a fairly great influence on affairs of State, but he does not conduct them; the preponderant power resides in the whole national representation. Therefore, the mass of people must be changed, and not only the President, in order for the maxims of policy to change. Consequently, in America, the system of election, applied to the head of the executive power, does not harm the steadiness of government in a very tangible way.

The lack of steadiness is an evil so inherent in the elective system, moreover, that it still makes itself keenly felt in the President's sphere of action, no matter how circumscribed.

Mr. Quincy Adams, when he took power, dismissed most of those appointed by his predecessor; and of all the removable officials that the federal administration uses, I do not know of a single one who was left in office by General Jackson in the first year that followed the election.^k

k. This paragraph, which does not appear in the manuscript, is included in the edition of 1835 and eliminated from the sixth and later editions, following a letter from John Quincy Adams, dated June 12, 1837:

The Americans thought correctly that the head of the executive power, in order to fulfill his mission and bear the weight of full responsibility, had to remain free, as much as possible, to choose his agents himself and to remove them at will;^m the legislative body watches over rather than directs

The truth is that I never dismissed a single individual named by my predecessor. It was a principle of my administration to dismiss no person from office but for misconduct, and there were in the course of four years that I presided, only two persons dismissed from civil executive office, both of them for gross official misdemeanors. My successor it is true did pursue a different principle. He dismissed many subordinate officer executive [*sic*] not however so generally as the remainder of the paragraph in your book, which I have cited, supposes. He left in office many of those who had been appointed by his predecessors, and would probably have left many more but for the influences by which he was surrounded (YTC, CId).

On December 4, 1837, Tocqueville answers from Paris:

I receive with great pleasure the complaint that you very much wanted to address to me relating to a sentence in my book that concerns you. You can be assured that this sentence will disappear in the sixth edition which is supposed to appear, I believe, this winter. I am delighted that you have given me this occasion to please you and to correct an error that I regret having made. The fact you complain about and that you say is inaccurate had been affirmed to me in America itself (my notes prove it) by a man on whose veracity I thought I could count (YTC, CId, and *OC*, VII, pp. 67–68). See, in the non-alphabetic notebooks 2 and 3, the second conversation with Mr. Walker (YTC, BIIa, and *Voyage*, *OC*, V, 1, p. 130).

m. In the manuscript:

The legislative body therefore interferes only very little in the choices of men to whom public positions are entrusted. It limits itself to supervising the President; it does not direct him. What is the result? At each election, a complete replacement takes place in the federal administration. [In the margin: This happened only under Quincy Adams and under Jackson.] There is not an employee so lowly who can claim to escape from the result of the vote. His place belongs in advance to the friends of the new power. People in the constitutional monarchies of Europe complain about seeing the fate of the secondary employees of the administration depend on the fate of the ministers. It is still much worse in States where the head of government is elected. Of the [blank (ed.)] revocable officials employed by the federal administration, I do not think that there was a single one that General Jackson left in place the first year that followed his election. The reason for this difference is easily understood. In monarchies, the ministers, in order to come to power and remain there, have no need to extend the circle of their influence very far; as long as they obtain the majority in the chambers, it is enough. But to bring about his election or reelection, the President needs to reach the popular masses; and in order to succeed in that, he must not neglect

the President. From that it follows that at each new election, the fate of all federal employees is as if in suspense.

a single means of action. Each election, therefore, brings to public affairs a new administration whose education is completed at the expense of the administered. As for the individual misfortunes that result . . .

(In the margin) *False*, for to bring about election and reelection of the deputies, the ministers need the same means.

Hervé de Tocqueville:

Here is a piece that Alexis proposes to delete. But it contains views and a fact worth keeping; perhaps it could be modified in the following way:

After the sentence: *The legislative body therefore interferes only very little in*, I would like a short note that explained how the legislative body intervenes in nominations. The flaw in this explanation is that something is missing.

A complete replacement takes place in the administration. Here a note at the bottom of the page where you will say that, because this replacement has taken place at the election of the last two Presidents, it may be believed that this precedent will be followed by their successors (YTC, CIIb, 3, p. 14).

Gustave de Beaumont:

I would very much hesitate to delete the piece crossed out. Possibly it contains some ideas and opinions that need to be revised and modified. But as a whole it is very interesting and will be especially for the public, because it touches on a question *extremely exciting* to the *personal interests* of all public officials.

The contrast between the President and the ministers does not exist; they are in an analogous position in the sense that the ministers of a French monarchy have an interest in bringing their weight to bear on the least agents, in order to gain the majority in the chambers from the electoral body. And they cannot remain ministers if they do not have this majority, just as the President will not be elected if he does not gain it.

But here is the difference: a minister cannot think of dismissing everyone in order to remain minister; and if he wanted to do it, he would not be able to do so. Because public opinion, on which he depends, would never understand that the *end* justified the *means*. It is the opposite when it is a matter, for a man, of being head of the State (YTC, CIIb, 3, pp. 53–54).

Édouard de Tocqueville:

Whatever your decision regarding this piece, I will make several observations; first this sentence: *to remove them at will* is trite. But the most serious flaw in this piece is to present a striking contradiction to what you said a few sentences earlier. Here you say that all the employees are replaced at the coming into office of the President and that he is obligated, in the machinery he puts in motion, *to reach the popular masses*, without neglecting a *single means of action*. While you say, p. 324, that no one cares about *risking his honor and his life to become President*, that no candidate

In the constitutional monarchies of Europe, the complaint is that the destiny of the obscure agents of the administration often depends on the fate of the ministers. It is even worse in States where the head of government is elected. The reason for this is simple. In constitutional monarchies, ministers replace each other rapidly; but the principal representative of the executive power never changes, which contains the spirit of innovation within certain limits. So administrative systems there vary in the details rather than in the principles; one cannot be suddenly substituted for another without causing a kind of revolution. In America, this revolution takes place every four years in the name of law.

As for the individual misfortunes that are the natural consequence of such legislation, it must be admitted that the lack of stability in the lot of officials does not produce in America the evils that would be expected elsewhere. In the United States, it is so easy to make an independent living that to remove an official from an office that he holds sometimes means taking away the comforts of life, but never the means to sustain it.

I said at the beginning of this chapter that the dangers of the mode of election, applied to the head of the executive power, were more or less great, depending on the circumstances in which the people who elect are found.

Efforts to reduce the role of the executive power are made in vain. There is something over which this power exercises a great influence, whatever the place that the laws have given it. That is foreign policy; a negotiation can hardly be started and successfully carried through except by a single man. [{Physical force can only be adequately put in motion [v: directed] by a single will.}]

The more precarious and perilous the position of a people, the more the need for consistency and stability makes itself felt in the direction of foreign

has been able to raise *ardent sympathies in his favor* and that he can attach to his cause neither *personal interest* nor party interest, that he has only a few *places* to distribute *to his friends*.

How then do you say afterwards, p. 330, that *the place of the lowliest employee belongs in advance to the friends of the new power*, and that General Jackson did not leave a single official in place? And again, page 346, *the positions he has at his disposal*, etc. (YTC, CIIb, 3, p. 3).

affairs, and the more dangerous the system of election of the head of State becomes.

The policy of the Americans in relation to the whole world is simple; you would almost be able to say that no one needs them, and that they need no one. Their independence is never threatened.

So among them, the role of executive power is as limited by circumstances as by laws. The President can frequently change his views without having the State suffer or perish.

Whatever the prerogatives with which the executive power is vested, the time that immediately precedes the election and the time while it is taking place can always be considered as a period of national crisis.

The more the internal situation of a country is troubled and the greater its external perils, the more dangerous this moment of crisis is for it. Among the peoples of Europe, there are very few who would not have to fear conquest or anarchy every time that they chose a new leader.

In America, society is so constituted that it can maintain itself on its own and without help; external dangers are never pressing. The election of the President is a cause for agitation, not for ruin.

Mode of Election

Skill which the American law-makers have demonstrated in the choice of the mode of election.—Creation of a special electoral body.—Separate vote of special electors.—In what case the House of Representatives is called to choose the President.—What has happened in the twelve elections that have taken place since the Constitution has been in force.

Apart from the dangers inherent in the principle, there are many others that arise from the very forms of election and that can be avoided by the care of the law-maker.ⁿ

n. The draft of this passage has been corrected by Gustave de Beaumont (YTC, CIIIb, 3, p. 55).

When a people gather in arms in the public square to choose a leader, it exposes itself not only to the dangers presented by the elective system itself, but also to all those of civil war which arise from such a method of election.

When Polish laws made the choice of the king depend on the *veto* of a single man, they invited the murder of this man or created anarchy in advance.

As you study the institutions of the United States and look more attentively at the political and social situation of this country, you notice a marvelous accord there between fortune and human efforts. America was a new country; but the people who lived there had already long made use of liberty elsewhere: two great causes of internal order. Furthermore, America had no fear of conquest. The American law-makers, taking advantage of these favorable circumstances, had no difficulty in establishing a weak and dependent executive power; having created it so, they could make it elective without risk.

Nothing remained for them to do except to choose, from among the different systems of election, the least dangerous; the rules that they drew up in this respect completed admirably the guarantees that the physical and political constitution of the country already provided.

The problem to solve was to find a mode of election that, while still expressing the real will of the people, little excited their passions and kept the people in the least possible suspense. First, they granted that a *simple* majority would make the law. But it was still very difficult to obtain this majority without having to fear delays that they wanted to avoid above all.

It is rare, in fact, to see a man get the majority of votes on the first try from among a large population. The difficulty increases still more in a republic of confederated states where local influences are much more developed and more powerful.

A way to obviate this second obstacle presented itself: to delegate the electoral powers of the nation to a body that represented it.

This mode of election made a majority more probable; for the fewer the electors, the easier it is for them to agree among themselves. It also presented more guarantees for a good choice.

But should the right to elect be entrusted to the legislative body itself,

the usual representative of the nation; or, on the contrary, must an electoral college be formed whose sole purpose would be to proceed to the naming of the President?^o

The Americans preferred this last option. They thought that the men sent to make ordinary laws would only incompletely represent the wishes of the people relating to the election of the first magistrate. Being elected, moreover, for more than a year, they could represent a will that had already changed. They judged that, if the legislature was charged with electing the head of the executive power, its members would become, long before the election, the objects of corrupting maneuvers and the playthings of intrigue; while special electors, like jurors, would remain unknown in the crowd until the day when they must act and would only appear at one moment to deliver their decision.

So they established that each state would name a certain number of electors,²⁰ who would in turn elect the President. And, since they had noticed that assemblies charged with choosing heads of government in elective countries inevitably became centers of passions and intrigue, that sometimes they took hold of powers that did not belong to them, and that often their operations, and the uncertainties that followed, lasted long enough to put the State in danger, they decided that the electors would all vote on a set day, but without meeting together.²¹

The mode of election in two stages made a majority probable, but did not guarantee it, for it could be that the electors would differ among themselves as those who named them would have differed.

In this case, the Americans were led necessarily to take one of three measures: it was necessary to have new electors named, or to consult once again those already named, or finally to refer the choice to a new authority.

o. Gustave de Beaumont: "335, 336, 337, 338, etc. . . . All these pages seem excellent to me and I very strongly urge the author not to make the corrections that are advised by *imprudent* friends" (YTC, CIIb, 3, pp. 55–56).

20. *As many as the members they send to Congress. The number of electors for the election of 1833 was 288* (The National Calendar [1833] [p. 19 (ed.)]).

21. *The electors of the same state meet; but they send to the seat of the central government the list of individual votes and not the result of the majority vote.*

The first two methods, apart from the fact that they were not very certain, led to delays and perpetuated an always dangerous excitement.

So they settled on the third and agreed that the votes of the electors would be transmitted in secret to the president of the Senate. He would count the votes on the day fixed and in the presence of the two houses. If no candidate had gained a majority, the House of Representatives would itself proceed immediately to the election; but they took care to limit its right. The Representatives could only elect one of the three candidates who had obtained the largest number of votes.²²

As you see, only in a rare case, difficult to foresee in advance, is the election left to the ordinary representatives of the nation; and even then, they can only choose a citizen already designated by a strong minority of the special electors; a happy combination, that reconciles the respect owed to the will of the people with the rapidity of execution and the guarantees of order required by the interest of the State. Yet, by making the House of Representatives decide the question, in case of division, the complete solution of all difficulties had still not been achieved; for the majority in the House of Representatives could in turn be doubtful, and this time the Constitution offered no remedy. But by establishing required candidates, by restricting their number to three, by relying on the choices of some enlightened men, it had smoothed all the obstacles²³ over which it could have some power; the others were inherent in the elective system itself.^p

22. *In this circumstance, it is the majority of the states, and not the majority of the members, that decides the question. So that New York does not have more influence on the deliberation than Rhode Island. Thus the citizens of the Union, considered as forming one and the same people, are consulted first; and when they cannot agree, the division by states is revived, and each of the latter is given a separate and independent vote.*

That again is one of the strange things that the federal constitution presents and only the clash of opposing interests can explain.

23. *In 1801, however, Jefferson was named only on the thirty-sixth ballot.*

p. Tocqueville writes to Corcelle:

There is a piece of your work that particularly pleased me a great deal. It is where you indicate, as a remedy for the excesses of democracy, election by stages. In my opinion that is a capital idea that must be introduced very prudently and that is very

During the forty-five years the federal Constitution has existed, the United States has already elected its President twelve times.

Ten elections were done immediately, by the simultaneous vote of the special electors seated at different points of the territory.

The House of Representatives has used the exceptional right with which it is vested in case of division only twice. The first, in 1801, was at the time of the election of Jefferson; and the second, in 1825, when Quincy Adams was named.

Election Crisis

The moment of the election of the President can be considered a moment of national crisis.—Why.—Passions of the people.—Preoccupation of the President.—Calm which follows the agitation of the election.

I have talked about the favorable circumstances in which the United States was found for adopting the elective system, and I have shown the precautions taken by the law-makers to reduce its dangers. The Americans are used to having all kinds of elections. Experience has taught them what level of agitation they can reach and where they must stop. The vast extent of their territory and the distribution of the inhabitants make a collision

important to introduce gradually to the thinking of those who love liberty and the equality of men. I firmly believe, without yet saying it as strongly as I think it, that different stages of election form the most powerful and perhaps the only means that democratic peoples have to give the direction of society to the most skillful, without making them independent of everyone else (Letter of October 1835 (?) *Correspondance avec Corcelle*, OC, XV, I, p. 57. Cf. *Souvenirs*, OC, XII, pp. 188–90).

In the report that he did as a member of the Commission charged with the revision of the constitution (“Rapport fait à l’Assemblée législative au nom de la Commission chargée d’examiner les propositions relatives à la révision de la constitution . . .,” *Moniteur Universel*, July 9, 1851, pp. 1943–1945, and OCB, IX, pp. 574–606), Tocqueville praises the American system of indirect election of the President. He sees there a way to avoid revolutions as well as the temptation to resort to dictatorship. In a letter of 1853 (partially reproduced in OCB, VI, pp. 212–20), he will share with W. R. Greg, English essayist and ardent defender of free trade, extremely lucid views on French electoral laws under the monarchy and the republic.

among the different parties less probable and less perilous than anywhere else. Until now, the political circumstances in which the nation has found itself during elections have not presented any real danger. [<Finally, the power of the President is so dependent and so limited that the passions of the candidates and those of their partisans can never be either very ardent or very long-lasting.>]

But the moment of the election of the President of the United States can still be considered a period of national crisis.

The influence that the President exercises on the course of public affairs is undoubtedly weak and indirect, but it extends over the entire nation; the choice of President has only a moderate importance for each citizen, but it matters to all citizens. Now, an interest, however small, assumes a character of great importance from the moment it becomes a general interest.

Compared to a king of Europe, the President has certainly few means to create partisans for himself; nonetheless, the places he has at his disposal are numerous enough^q for several thousands of the voters to be either directly or indirectly interested in his cause.

In the United States as elsewhere, moreover, parties feel the need to gather around a man, in order to be more easily understood by the crowd. So they generally use the name of the candidate for President as a symbol; in him, they personify their theories. Thus, parties have a great interest in determining the election in their favor, not so much for making their doctrines triumph with the help of the elected President, as for showing, by his election, that these doctrines have won the majority.

Long before the fixed moment arrives, the election becomes the greatest and, so to speak, the sole matter that preoccupies minds. Factions redouble their ardor [the administration finds itself attacked from all directions; {slanders, insults, rantings of all types are thrown lavishly against it}]; all the artificial passions that can be imagined, in a happy and tranquil country, are stirred up at this moment in full view.

q. Hervé de Tocqueville: "Check if that agrees with page 324 where it is said: *no candidate, until now, has been able to raise, etc.*" (YTC, CIIb, 3, p. 15).

On his side, the President is absorbed by the care to defend himself. He no longer governs in the interest of the State, but in that of his re-election; he grovels before the majority; and often, instead of resisting its passions, as his duty requires, he runs ahead of its caprices.

As the election approaches, intrigues become more active; agitation, more intense and more widespread. The citizens divide into several camps, each taking the name of its candidate. The entire nation falls into a feverish state; the election is then the daily story of the public papers, the subject of individual conversations, the goal of all moves, the object of all thoughts, the sole interest of the moment. [≠The danger certainly is more apparent than real.≠]

It is true that as soon as fortune has decided, this ardor dissipates; everything becomes calm, and the river, once overflowing, retreats peacefully to its bed. But shouldn't we be astonished that the storm could arise? [<For the choice that so strongly preoccupied the nation can influence its prosperity and its dreams only in a very indirect way; the passions that arose did not find their source in those real interests and penchants [doubtful reading (ed.)] that so profoundly trouble the human heart [v: society] [v: stirring the deepest levels of the human heart and turning society upside down to be satisfied]. For the election of the President of the United States cannot put into play any of those dangerous human passions that find their source in profound beliefs or in great positive interests.>]

Of the Re-election of the President

When the head of the executive power is eligible for re-election, it is the State itself that schemes and corrupts.—Desire to be re-elected that dominates all the thoughts of the President of the United States.—Disadvantage of re-election, special to America.—The natural vice of democracies is the gradual subservience of all powers to the slightest desires of the majority.—The re-election of the President favors this vice.

Were the law-makers of the United States wrong or right to allow the re-election of the President?^r

To prevent the head of the executive power from being re-elected seems, at first glance, contrary to reason.^s We know what influence the talents or character of one man exercise over the destiny of an entire people, especially in difficult circumstances and in times of crisis. Laws that forbid citizens to re-elect their primary magistrate would deny them the best means of ensuring the prosperity of the State or of saving it. You would, moreover, arrive at this bizarre result, that a man would be excluded from the government at the very moment when he would have finally proved that he was capable of governing well.^t

These reasons are certainly powerful; but can't they be opposed by still stronger ones?^u

r. In the *Souvenirs*, Tocqueville reproaches himself for having supported, in the committee to draft the Constitution of 1848, Beaumont's proposal that urged that a president leaving office not be re-elected. "On this occasion, we both fell into a great error that, I am very afraid, will have very damaging consequences," wrote Tocqueville in March 1851 (*Souvenirs*, OC, XII, p. 190). The impossibility of being re-elected was, we know, one of the reasons that pushed Louis Napoleon to the *coup d'état*.

s. In the margin: "≠Eight years, term indicated by experience.≠" See note y p. 229.

t. In the margin: "≠1. The great end of the laws is to mingle individual interest and State interest.

2. Weakening of the executive power, capital vice to avoid in republics.≠"

u. Variant:

<The great object of the laws [v: of the law-maker] must always be intimately to mingle individual interest and State interest. Certainly laws can never reach such a

Intrigue and corruption are the natural vices of elective governments. But when the head of the State can be re-elected, these vices spread indefinitely and compromise the very existence of the country. When an ordinary candidate wants to succeed by intrigue, his maneuvers can only be

degree of perfection, but it can be said that the more difficult it is to separate these two interests, the better the laws.

If the President were not eligible for re-election, he would have only one goal, to leave a great recollection in the memory of men and to return to private life surrounded by the respect as well as the love of his fellow citizens. To obtain this goal, he could hardly follow another path than to govern well; for at the bottom of the human heart, there is a secret instinct that constantly calls out that the approval of the present [v: the sincere approval of contemporaries] and the admiration of posterity belong to virtue alone.

In place of this entirely non-material and distant interest, the American laws have given the President a positive and current interest that, if not contrary to, is at least distinct from that of the State.

The President has naturally two goals to pursue: to govern well and to be re-elected. I know you will stop me here by saying: the two interests are the same, for the only way to be re-elected is to govern well. This argument is far from satisfying to me; it goes back to the argument that the majority is not subject to error, that it has neither prejudice to be flattered nor passions to be inflamed, that favor [added: and intrigue] have no hold on it, a proposition that cannot be sustained and that does not merit the effort to refute. It is incontestable that there are two ways for the President to be re-elected. The first, it is true, consists of governing well, but that is within reach of only great souls. Even then, success is always uncertain. Washington had lost the majority when he voluntarily removed himself from public activities. The second, easier and more within the reach of ordinary minds, is to buy partisans at any cost, to make offices the recompense for services rendered to the President, not to the country, to exploit public power in favor of individual interests, and to turn all laws into a combination of personal and party interests.

It is impossible to examine the ordinary course of public affairs in the United States without noticing that the desire to be re-elected dominates the thoughts of the President, that the entire policy of his administration focuses on this point, that his slightest declarations are subordinated to this end, that above all, as the moment of crisis nears, the interest of the State becomes more and more incidental to him and re-election becomes his principal interest.

By allowing re-election of the President, the Americans introduced intrigue and corruption [v: a new element] into government.>

#That is still not the most frightening result of the system of re-election. Certain physicians believe that when each man comes into the world, he already has the seed of the illness that one day will kill him. This remark may be applied to government.#

Each government . . .

extended over a circumscribed space. When, on the contrary, the head of the State himself gets into the fray, he borrows for his own use the strength of the government.^v

In the first case, it is one man with his limited means; in the second, it is the State itself with its immense resources that schemes and corrupts.

The ordinary citizen who uses reprehensible maneuverings to gain power can harm public prosperity only in an indirect manner; but if the representative of the executive power enters the lists, concern for the government becomes, for him, something of secondary interest; the main interest is his election. Negotiations, like laws, are, for him, nothing more than electoral schemes; positions become recompense for services rendered, not to the nation, but to its leader. Even if the action of the government would not always be contrary to the interest of the country, it would at least no longer serve it. Yet the action of the government is undertaken for its use alone.

It is impossible to consider the ordinary course of affairs in the United States, without noticing that the desire to be re-elected dominates the thoughts of the President; that the entire policy of his administration leads to this point; that his smallest steps are subordinated to this end; that above all, as the moment of crisis approaches, individual interest replaces general interest in his mind.

So the principle of re-election makes the corrupting influence of elective government more widespread and more dangerous. It tends to degrade the political morality of the people and to replace patriotism with cleverness.

In America, it attacks the sources of national existence even more fundamentally.

Every government carries within itself a natural vice that seems attached to the very principle of its life; the genius of the law-maker is to discern

v. Hervé de Tocqueville: "Isn't Alexis drawing too excited a picture there, relative to what precedes? He tried hard in several places to show us that the President has only limited means at his disposal. Here he exalts his strength and his immense resources. Perhaps the imagination of the author has sought to prove too much, for fear of not proving enough" (YTC, CIIIb, 3, p. 16).

this well.^w A State can overcome many bad laws, and the evil they cause is often exaggerated. But every law whose effect is to develop this seed of death cannot miss becoming fatal in the long run, even if its bad effects do not immediately make themselves felt.

The principle of ruin in absolute monarchies is the unlimited and unreasonable expansion of royal power. A measure that removes the counterweight that the constitution left to this power would therefore be radically bad, even if its effects seemed unnoticeable for a long time.

In the same way, in countries where democracy governs and where the people constantly draw everything to themselves, laws which make their action more and more immediate and irresistible attack, in a direct way, the existence of the government.

The greatest merit of the American law-makers is to have seen this truth clearly and to have had the courage to put it into practice. [{The greatest glory of this people is to have known how to appreciate it and to submit themselves to it.}]

They understood that beyond the people there needed to be a certain number of powers that, without being completely independent of the people, nonetheless enjoyed in their sphere a fairly large degree of liberty; so, though forced to obey the permanent direction of the majority, they could nevertheless struggle against its caprices and refuse its dangerous demands.

To this effect, they concentrated all the executive power of the nation in one pair of hands; they gave the President extensive prerogatives, and armed him with a veto, to resist the encroachments of the legislature.^x

w. Cf. Montesquieu, *De l'esprit des lois*, particularly books II and VIII.

x. Hervé de Tocqueville:

This locution seems contradictory to what has been said and repeated earlier about the slight power of the President. Isn't it to be feared that Alexis will be accused of reducing or augmenting this power as his theory requires? Perhaps this chapter has the fault of not coming to a conclusion. It is clear that the author blames re-election, and I believe he is right. What would he want in its place? Four years in office are very few.

Édouard de Tocqueville:

It doesn't seem to me that there is a contradiction here. They armed the President with great power and *took from him the will to make use of it*. That is why this power, strong in appearance, is weak in reality.

But by introducing the principle of re-election, they have partially destroyed their work. They have granted great power to the President, and have taken from him the will to use it.

Not re-eligible, the President was not independent of the people, for he did not cease being responsible to them; but the favor of the people was not so necessary to him that he had to bend in all cases to their will.

Re-eligible (and this is true above all in our time when political morality is becoming lax and when men of great character are disappearing), the President of the United States is only a docile instrument in the hands of the majority. He loves what it loves, hates what it hates; he flies ahead of its will, anticipates its complaints, bends before its slightest desires. The law-makers wanted him to lead the majority, and he follows it.

Thus, in order not to deprive the State of the talents of one man, they have rendered his talents almost useless; and to arrange for a resource in extraordinary circumstances, they have exposed the country to daily dangers.^y

Of the Federal Courts²⁴

Political importance of the judicial power in the United States.—Difficulty in treating this subject.—Utility of the judicial system in confederations.—What courts could the Union

Everything has its advantages and disadvantages. Here Alexis presents those of the principle of election, without claiming, by doing so, that it must be destroyed (YTC, CIIIb, 3, pp. 17–18).

y. “In my opinion the President of the United States should be chosen for a longer term and not be re-eligible” (YTC, CVh, I, p. 58).

24. See *ch. VI* entitled “Of the Judicial Power in the United States.” *This chapter shows the general principles of the Americans in the matter of the judicial system. Also see the federal Constitution, art. 3.*

See the work with the title: The Federalist, Nos. 78–83 inclusive. Constitutional Law, Being a View of the Practice and Jurisdiction of the Courts of the United States, by Thomas Sergeant.

See Story [Commentaries (ed.)], pp. 134–62, 489–511, 581–668. See the organic law of September 24, 1789, in the collection entitled: Laws of the United States, by Story, vol. I, p. 53.

[Kent’s Commentaries, vol. I, p. 275 [273 (ed.)] and following.]

*use?—Necessity of establishing federal courts of justice.—
Organization of the federal judicial system.—The Supreme
Court.—How it differs from all the courts of justice that we know.*

I have examined the legislative power and the executive power of the Union. It still remains for me to consider the judicial power.

Here I must reveal my fears to readers.

The judicial institutions exercise a great influence on the destiny of the Anglo-Americans; they hold a very important place among political institutions properly so called. From this point of view, they particularly merit our attention.

But how to make the political action of the American courts understood, without entering into some of the technical details of their constitution and of their forms; and how to get into the details without discouraging, by the natural dryness of such a subject, the curiosity of the reader? How to remain clear and still be concise?

[<So I have said only what I believed indispensable for someone to judge the political action of courts within the confederation.> So often, I have assumed the reader's pre-existent ideas on the administration of justice among the people of the English race; even more often I counted on him searching in the sources that I point out in order to fill out my ideas. In a word, I have said only what I believed indispensable for someone to be able to understand the political action of the federal courts.]

I do not flatter myself that I have escaped these different dangers. Men of the world will still find that I go on too long; legal specialists will think that I am too brief. But that is a disadvantage connected to my subject in general and to the special matter that I am treating at this moment.

The greatest difficulty was not to know how the federal government would be constituted, but how obedience to its laws would be assured.

Governments generally have only two means to overcome the efforts of the governed to resist them: the physical force that they find within themselves; the moral force that the decisions of the courts bestow on them.

A government that would have only war to enforce obedience to its laws would be very close to its ruin. One of two things would probably happen to it. If it were weak and moderate, it would use force only at the last ex-

tremity and would let a host of incidents of partial disobedience go by unnoticed; then the State would fall little by little into anarchy.

If it were audacious and powerful, it would resort daily to the use of violence, and soon you would see it degenerate into pure military despotism. Its inaction and its action would be equally harmful to the governed.

The great object of justice is to substitute the idea of law for that of violence; to place intermediaries between the government and the use of physical force.

The power of opinion generally granted by men to the intervention of the courts is something surprising. This power is so great that it is still attached to judicial form when the substance no longer exists; it gives flesh to the shadow.

The moral force with which the courts are vested renders the use of physical force infinitely rarer, substituting for it in most cases; and when, finally, physical force must be exerted, its power is doubled by the moral force that is joined with it.

A federal government, more than another government, must desire to obtain the support of the judicial system, because it is weaker by its nature; and efforts at resistance can more easily be organized against it.²⁵ If it always and immediately had to resort to the use of force, it would not be adequate to its task.^z

25. It is federal laws that most need courts, and yet federal laws have least accepted them. The cause is that most confederations have been formed by independent states that had no real intention of obeying the central government; and, while giving it the right to command, they carefully reserved to themselves the ability to disobey.

z. The great interest of the law-maker is to substitute as many intermediaries as possible between man and the use of physical force. All men have known propensities, based on known needs, interests and passions. The natural inclination of man will always be to gain for himself what he desires, or to avoid what displeases him, by the shortest and most effective of all means: physical force. It does not depend on the laws to prevent men, absolutely and in all cases, from using physical force. But it does depend on them to reduce the occasions greatly. For that, the *legal* means of action and of resistance must be multiplied. Reduced in this way to using force only in extremely rare circumstances, or for satisfying clearly evil passions, man will renounce the use of *violence* almost completely. That is why, where the agents of the administration are *open to attack* before the courts, administrative power is more respected within the circle of its attributions, and revolts are more rare.

To make citizens obey its laws, or to repel the aggressions that would be directed against it, the Union therefore had a particular need for courts.

But what courts could it use? Each state already had a judicial power organized within it. Would it be necessary to resort to these courts? Would it be necessary to create a federal judicial system? It is easy to prove that the Union could not adapt to its use the judicial power established in the states.

It is undoubtedly important to the security of each person and to the liberty of all that the judicial power should be separated from all the others; but it is no less necessary to national existence that the different powers of the State have the same origin, follow the same principles and act in the same sphere, in a word, that they are *correlative* and *homogeneous*. No one, I imagine, has ever thought to have crimes committed in France judged by foreign courts in order to be more certain of the impartiality of the magistrates.

The Americans form only a single people, in relation to their federal government. But in the midst of this people, political bodies, dependent on the national government on certain points and independent on all the others, have been allowed to continue to exist; they have their particular origins, their own doctrines and their special means of action. To entrust the enforcement of the laws of the Union to courts instituted by these political bodies, was to deliver the nation to foreign judges.

When the American Union had only \neq war to make the different states obey, it was not obeyed at all; and if the Union had wanted to be, it would have enveloped America in a series of violent scenes. From the moment when it was able to use the courts [text interrupted (ed.)] \neq There is such a social state¹ where power, to exist, needs the prompt and passive obedience of its agents. (This is the case of several European nations.) Then, it avoids the legal impediments that would hamper its march and prefers to risk insurrections more than trials. But the closer you get to this situation, the further you get from civilization. In Turkey, where there is only a single intermediary between obedience and revolt, either you submit to the Sultan or you strangle him.

1. There are governments for which the rapidity of enforcement is a condition of life (YTC, CVb, pp. 21–22).

Cf. note m for p. 90, where Hervé de Tocqueville also refers to strangling the Sultan of Turkey. For Montesquieu and his entire period, the government of this country was the best possible example of oriental despotism.

Even more, each state is not only a foreigner in relation to the Union, but it is also a daily adversary, since the sovereignty of the Union can only be lost to the profit of that of the states.

So by having the laws of the Union applied by the courts of the individual states, the nation would be delivered, not only to foreign judges, but also to partial judges.

It was not their character alone, moreover, that made the state courts incapable of serving a national end; it was above all their number.

At the moment when the federal Constitution was formed, there were already in the United States thirteen supreme courts of justice from which there was no appeal. Today they number twenty-four. How to accept that a State can endure when its fundamental laws can be interpreted and applied in twenty-four different ways at once! Such a system is as contrary to reason as to the lessons of experience.

So the law-makers of America agreed to create a federal judicial power, in order to apply the laws of the Union and to decide certain questions of general interest which were carefully defined in advance.

All of the judicial power of the Union was concentrated in a single tribunal called the Supreme Court of the United States. But to facilitate the dispatch of affairs, inferior courts were added to assist and were charged with judging with sovereign power cases of little importance or with ruling on more important disputes in the first instance. The members of the Supreme Court were not elected by the people or the legislature; the President of the United States had to choose them with the advice of the Senate.

In order to make them independent of the other powers, they were made irremovable, and it was decided that their salary, once fixed, would be beyond the control of the legislature.²⁶

26. *The Union was divided into districts; in each^[*] of these districts a federal judge was seated. The court where this judge presided was called the district court.*

In addition, each of the judges of the Supreme Court must travel annually over a certain part of the territory of the Republic, in order to decide certain more important cases on site; the court over which this magistrate presides was given the name circuit court.

It was easy enough to proclaim the establishment of a federal judicial system in principle, but a host of difficulties arose the moment its attributions had to be set.

Way of Determining the Jurisdiction^{TN 5} of the Federal Courts

Difficulty of determining the jurisdiction of the various courts in confederations.—The courts of the Union given the right to determine their own jurisdiction.—Why this rule attacks the portion of sovereignty that the individual states reserved to themselves.—The sovereignty of these states limited by laws and

Finally, the most serious matters must come, either directly or on appeal, before the Supreme Court where all the judges of the circuit courts gather once each year to hold a formal session.

The jury system was introduced in federal courts, in the same way as in state courts, and in similar cases.

There is hardly any analogy at all, as you see, between the Supreme Court of the United States and our Cour de cassation. The Supreme Court can be apprised of a case in the first instance, and the Cour de cassation can be only in the second or third instance.^a The Supreme Court indeed forms, like the Cour de cassation, a single court charged with establishing a uniform jurisprudence; but the Supreme Court judges fact as well as law, and decides itself, without sending the matter to another court; two things that the cour de cassation cannot do.

See the organic law of September 24, 1789, Laws of the United States, by Story, vol. I, p. 53.

[*]. “#See, for the organization, the organic law of 1789, *Kent’s Commentaries*, vol. I, p. 273 and following. *Sargent’s* [*sic: Sergeant’s*] *Constitutional Law*.#”

a. In the manuscript: “only in the third instance.”

Gustave de Beaumont:

This is inexact. The *Cour de cassation* can be apprised of any judgment or decision made in the *last resort*; and many judgments are made in the last resort without having been appealed. Such are judgments about simple offenses, judgments of the justices of the peace not exceeding 50 francs; *id.* of courts of the first instance not exceeding 1,000 francs, etc. You must say in the *second or third instance* (YTC, CIIb, 3, pp. 28–29).

TRANSLATOR’S NOTE 5: *Compétence*, in relation to the courts, has a more narrowly legal, a more restricted meaning in French than *competence* would have in English; the English word *jurisdiction* is closer to the meaning.

by the interpretation of laws.—The individual states thus risk a danger more apparent than real.

A first question arose. The Constitution of the United States set up, face to face, two distinct sovereignties, represented in terms of judicial structure by two different court systems; no matter what care was taken to establish the jurisdiction of each of these two court systems, you could not prevent frequent conflicts between them. Now, in this case, who would have the right to establish jurisdiction?

Among peoples who form only one and the same political society, when a question of jurisdiction arises between two courts, it is usually brought before a third that serves as arbiter.

This is easily done because, among these peoples, questions of judicial jurisdiction do not have any relation to questions of national sovereignty.

But above the highest court of an individual state and the highest court of the United States, it was impossible to establish any kind of court that was not either one or the other.

So one of these two courts had to be given the right to judge in its own case and to take or accept cognizance of the matter in dispute. This privilege could not be granted to the various courts of the states; that would have destroyed the sovereignty of the Union in fact, after having established it in law; for interpretation of the Constitution would soon have given back to the individual states the portion of independence that the terms of the Constitution took away from them.

By creating a federal court, the desire had been to remove from the courts of the states the right to settle, each in its own way, questions of national interest and, by doing so, to succeed in shaping a uniform body of jurisprudence for the interpretation of the laws of the Union. The goal would not have been reached at all if the courts of the individual states, while abstaining from judging cases considered federal, had been able to judge them by pretending that they were not federal.

The Supreme Court of the United States was therefore vested with the right to decide all questions of jurisdiction.²⁷

27. Moreover, to make the cases of jurisdiction less frequent, it was decided that, in a very

That was the most dangerous blow brought against the sovereignty of the states. It thus found itself limited not only by the laws, but also by the interpretation of the laws; by a known limit and by another that was unknown; by a fixed rule and by an arbitrary one. It is true that the Constitution had set precise limits to federal sovereignty; but each time this sovereignty is in competition with that of the states, a federal court must decide.

The dangers, moreover, with which this way of proceeding seemed to menace the sovereignty of the states were not as great in reality as they appeared to be.

We will see further along that, in America, real strength resides more in the provincial governments than in the federal government. Federal judges sense the relative weakness of the power in whose name they act; and they are more likely to abandon a right of jurisdiction in cases where it is granted to them by law, than they are led to claim it illegally.

Different Cases of Jurisdiction

The matter and the person, bases of federal jurisdiction.—Proceedings against ambassadors,—against the Union,—against an individual state.—Judged by whom.—Proceedings that arise from the laws of the Union.—Why judged by the federal courts.—Proceedings relating to breach of contracts judged by the federal judicial system.—Consequence of this.

After having recognized the means to set federal jurisdiction, the law-makers of the Union determined the cases in which that jurisdiction must be exercised.

large number of federal cases, the courts of the individual states would have the right to decide concurrently with the courts of the Union; but then the losing party would always have the right to appeal to the Supreme Court of the United States. The Supreme Court of Virginia contested the right of the Supreme Court of the United States to hear an appeal of its decisions, but unsuccessfully. See Kent's Commentaries, vol. I, pp. 300, 370, and following. See Story's Commentaries, p. 646, and the organic law of 1789, Laws of the United States, vol. I, p. 53.

They acknowledged that there were certain litigants who could only be judged by the federal courts, no matter what the subject of the proceedings.

They then established that there were certain proceedings that could only be decided by these same courts, no matter what the qualification of the litigants.

So the person and the matter became the two bases of federal jurisdiction.

Ambassadors represent nations friendly to the Union; everything that involves ambassadors involves in a way the entire Union. When an ambassador is party to a legal proceeding, the proceeding becomes an affair that touches on the welfare of the nation; it is natural that a federal court decides.

The Union itself can be the subject of proceedings; in this case, it would have been contrary to reason as well as to the custom of nations, to bring it for judgment before courts representing a sovereignty other than its own. It is for the federal courts alone to decide.

When two individuals, belonging to two different states, have a legal proceeding, you cannot, without disadvantage, have them judged by the courts of one of the two states. It is safer to choose a court that cannot incite the suspicion of any of the parties, and the court that very naturally presents itself is that of the Union.

When the two litigants are no longer isolated individuals, but states, this reason for equity is joined by a political reason of the first order. Here the status of the litigants gives a national importance to all proceedings; the smallest litigious issue between two states involves the peace of the entire Union.²⁸

Often the very nature of the proceedings must serve as a rule of juris-

28. *The Constitution says as well that the proceedings that can arise between a state and the citizens of another state will be under the jurisdiction of the federal courts. Soon the question arose of knowing if the Constitution meant all proceedings that can arise between a state and the citizens of another state, whether the ones or the others were plaintiffs. The Supreme Court decided affirmatively; but this decision alarmed the individual states who feared being brought despite themselves, for the slightest reason, before the federal court system. So an amendment was introduced to the Constitution, by virtue of which the judicial power of the Union could not extend to judging the cases that had been initiated against one of the United States by the citizens of another. See Story's Commentaries, p. 624.*

diction. Thus all questions that are related to maritime commerce must be settled by federal courts.²⁹

The reason is easy to point out: nearly all these questions get into an estimation of the law of nations. From this perspective, they essentially involve the whole Union in relation to foreigners. Since the sea, moreover, does not fall into one judicial circumscription rather than another, only the national court system can have a claim on legal proceedings that have a maritime origin.

The Constitution has enclosed in a single category nearly all the proceedings that, by their nature, must be under the jurisdiction of the federal courts.

In this regard, the rule that it indicates is simple, but it comprises in itself alone a vast system of ideas and a multitude of facts.

The federal courts, it says, must judge all proceedings that *arise in the laws of the United States*.

Two examples will make the thought of the law-maker perfectly clear.

The Constitution forbids the states the right to make laws on the circulation of money; despite this prohibition, a state makes such a law. Interested parties refuse to obey it, understanding that it is contrary to the Constitution. The matter must be brought before a federal court, because the grounds for the case are drawn from the laws of the United States.

Congress establishes a tariff law. Difficulties arise over the understanding of this law. Again, the matter must be presented before the federal courts, because the cause for the proceeding is in the interpretation of a law of the United States.

This rule is in perfect agreement with the bases adopted for the federal Constitution.

The Union, as constituted in 1789, had, it is true, only a limited sovereignty, but the desire was that, within this circle, the Union formed only one and the same people.³⁰ Within this circle, it is sovereign. This point

29. *Example: all acts of piracy.*

30. *A few restrictions were certainly placed on this principle by introducing the individual states as independent powers in the Senate, and by having them vote separately in the House of Representatives in the case of election of the President; but these are exceptions. The opposite principle is the dominant one.*

set forth and accepted, all the rest becomes easy; for if you recognize that the United States, within the limits posed by their Constitution, form only one people, the rights belonging to all peoples must surely be granted to them.

Now, since the origin of societies, this point is agreed upon: each people has the right to have all questions relating to the enforcement of its own laws judged by its courts. But you answer: the Union is in the singular position that it forms one people only relative to certain matters; for all others, it is nothing. What is the result? At least for all the laws that relate to these matters, the Union has the rights that would be granted to complete sovereignty. The real point of difficulty is knowing what those matters are. This point settled (and we have seen above, while treating jurisdiction, how it was settled), no question truly speaking remains; for once you have established that a proceeding was federal, that is, came within the portion of sovereignty reserved to the Union by the Constitution, it naturally followed that a federal court alone would decide.

So whenever someone wants to attack the laws of the United States, or invoke them in self-defense, it is the federal courts that must be addressed.

Thus, the jurisdiction of the courts of the Union expands or contracts depending on whether the sovereignty of the Union itself expands or contracts.

We have seen that the principal aim of the law-makers of 1789 had been to divide sovereignty into two distinct portions. In one, they placed the direction of all the general interests of the Union; in the other, the direction of all the interests particular to some of its parts.

Their principal concern was to arm the federal government with enough power for it to be able to defend itself, within its sphere, against the encroachments of the individual states.

As for the latter, the general principal adopted was to leave them free in their sphere. Within that sphere, the central government can neither direct them nor even inspect their conduct.

I have indicated in the chapter on the division of powers that this last principle had not always been respected. There are certain laws that an individual state cannot enact, even though the laws apparently involve only that state.

When a state of the Union enacts a law of this nature, the citizens who are harmed by the execution of this law can appeal to the federal courts.^b

Thus, the jurisdiction of the federal courts extends not only to all the proceedings that have their source in the laws of the Union, but also to all those that arise in the laws that the individual states have enacted unconstitutionally.

The states are forbidden to promulgate *ex post facto* laws in criminal matters; the man who is sentenced by virtue of a law of this type can appeal to the federal judicial system.

The Constitution also forbids the states to make laws that can destroy or alter rights acquired by virtue of a contract (*impairing the obligations [sic: obligation] of contracts*).³¹

From the moment when an individual believes that he sees a law of his state that harms a right of this type, he can refuse to obey and appeal to the federal justice system.³²

b. "Other defect of federal jurisdiction. The federal courts can only be apprised by an individual interest. Now, what would happen if a state passed an unconstitutional act that harmed only the sovereignty of the Union? Nearly impossible case" (YTC, CVh, I, pp. 50–51).

31. *It is perfectly clear, says Mr. Story, p. 503, that every law that expands, contracts or changes in whatever way the intention of the parties, such as result from the stipulations contained in a contract, impairs this contract. In the same place, this same author carefully defines what federal jurisprudence understands by a contract. The definition is very broad. A concession made by a state to an individual and accepted by him is a contract, and cannot be taken away by the effect of a new law. A charter granted by the state to a company is a contract, and binds the state as well as the concessionary. The article of the Constitution that we are speaking about therefore assures the existence of a great portion of vested rights, but not all. I can very legitimately own a property without its having passed into my hands by a contract. Its possession is for me a vested right, and this right is not guaranteed by the federal constitution.*

32. *Here is a remarkable example cited by Mr. Story, p. 508. Dartmouth [Dartmouth (ed.)] College, in New Hampshire, had been founded by virtue of a charter granted to certain individuals before the American Revolution. Its administrators formed, by virtue of this charter, a constituted body, or, following the American expression, a corporation. The legislature of New Hampshire believed it necessary to change the terms of the original charter and transferred to new administrators all the rights, privileges and immunities that resulted from this charter. The former administrators resisted and appealed to the federal court, which agreed to hear the case, understanding that, since the original charter was a true contract between the state and the concessionaries, the new law could not change the disposition of this charter without violating the vested rights of a contract and consequently violating article I, section X, of the Constitution of the United States.*

To me, this disposition seems to attack the sovereignty of the state more profoundly than all the rest.^c

The rights granted to the federal government, for ends clearly national, are defined and easy to understand. Those that are indirectly conceded to it by the article that I have just cited are not easily felt, and their limits are not easily traced. There is, in fact, a multitude of political laws that act upon the existence of contracts, and that could therefore furnish grounds for encroachment by the central power.

The Federal Courts' Way of Proceeding

Natural weakness of the judicial system in confederations.—Efforts that law-makers must make to place, as much as possible, only isolated individuals and not states before the federal courts.—How the Americans succeeded in doing this.—Direct action of the federal courts on ordinary individuals.—Indirect attack against states that violate the laws of the Union.—The decision of the federal judicial system does not destroy provincial law; it enervates it.

I have made known the rights of the federal courts; it is no less important to know how they are exercised.

The irresistible strength of the judicial system, in countries where sovereignty is not divided, comes from the fact that, in those countries, the courts represent the entire nation in a contest with a single individual who has been struck by a judgment. To the idea of law is joined the idea of the force that supports the law.

But in countries where sovereignty is divided, it is not always so. There, the judicial system most often finds itself facing, not an isolated individual,

c. In a first version: “#. . . than all the rest. But it is so difficult to calculate in advance the impact of laws, that it is not unusual to see the most numerous assemblies consecrate long discussions to uninteresting points, while an article that will lead to the most characteristic effect of the law is precisely the one that passes unnoticed and is revealed only by experience.#”

but a fraction of the nation. Its moral power and its physical power are diminished as a result.

So in federal States, the judicial system is naturally weaker; and the one subject to trial, stronger.

The law-maker, in confederations, must constantly work to give the courts a position analogous to the one they occupy among peoples who have not divided sovereignty. In other words, his most constant efforts must strive toward having the federal judicial system represent the nation, and having the one subject to trial represent an individual interest.

A government, whatever its nature, needs to act on the governed in order to force them to give the government what it is owed; it needs to take action against them in order to defend itself from their attacks.

As for the direct action of the government on the governed, in order to force them to obey the law, the Constitution of the United States saw to it that the federal courts, acting in the name of these laws, never had any dealing except with individuals (and that was its highest achievement). In fact, since it had been declared that the confederation formed only one and the same people within the circle drawn by the Constitution, the government, created by this Constitution and acting within its limits, was, as a result, vested with all the rights of a national government, the principal one being to have its injunctions reach ordinary citizens without an intermediary. So when the Union levied a tax, for example, it did not have to apply to the states to collect it, but to each American citizen, according to his share. In turn, the federal judicial system charged with assuring the enforcement of this law of the Union, had to condemn not the recalcitrant State, but the taxpayer. Like the judicial system of other peoples, it found only an individual facing it.^d

Note that here the Union itself has chosen its adversary. It has chosen a weak one; it is entirely natural that he succumbs.

But when the Union, instead of attacking, is reduced to defending itself, the difficulty increases. The Constitution recognizes the power of the states

d. In the margin: “≠In this, the judicial power only follows the laws of its nature which lead it to judge only on particular cases. Only a political court can break a legislative measure.≠”

to make laws. These laws can violate the rights of the Union. Here, necessarily, the Union finds itself in conflict with the sovereignty of the state that enacted the law. Nothing remains except to chose, from among the means of action, the least dangerous. This means was indicated in advance by the general principles that I stated before.³³

You see that, in the case that I have just supposed, the Union would have been able to cite the state before a federal court that would have declared the law void; this would have followed the most natural course of ideas. But, in this way, the federal judicial system would have found itself directly facing a state, something it wanted to avoid as much as possible.

The Americans have thought that it was nearly impossible for a new law, in its execution, not to harm some individual interest.

It is on this individual interest that the authors of the federal constitution rely to attack a legislative measure about which the Union could complain. To this individual interest, they offer a protection.

A state sells lands to a company; one year later, a new law disposes of the same lands in another way, and thus violates the part of the Constitution which forbids changing rights vested by contract. When the one who bought by virtue of the new law presents himself in order to take possession, the owner, who holds his rights from the former law, brings an action before the courts of the Union and has the title of the new owner voided.³⁴ Therefore, in reality, the federal judicial system is grappling with the sovereignty of the state; but it attacks that sovereignty only indirectly and on an application of detail. It thus strikes the law in its consequences, not in its principle. It does not destroy the law; it enervates it.

A final hypothesis remained.

Each state formed a corporation that had a separate existence and separate civil laws; consequently, it could sue or be sued before the courts. A state could, for example, bring suit against another state.

In this case, it was no longer a matter for the Union of attacking a provincial law, but of judging a case in which a state was a participant. It was

33. See the chapter entitled: "*Of the Judicial Power in America [in the United States (ed.)]*."

34. See Kent's Commentaries, vol. I, p. 387.

a case like any other; only the status of the litigants was different. Here the danger noted at the beginning of this chapter still exists. But this time it cannot be avoided; it is inherent in the very essence of federal constitutions that they will always result in creating, in the midst of the nation, individuals powerful enough to make it difficult to use the judicial system against them.

Elevated Rank That the Supreme Court Occupies among the Great Powers of the State

No other people have constituted a judicial power as great as the Americans.—Extent of its attributions.—Its political influence.—The peace and the very existence of the Union depend on the wisdom of seven federal judges.

When, after examining the organization of the Supreme Court in detail, you come to consider all of the attributions that it has been given, you easily discover that never has a more immense judicial power been constituted among any people.

The Supreme Court is placed higher than any known court, both by the *nature* of its rights and by the *type* of those subject to trial.

In all the civilized nations of Europe, the government has always shown a great reluctance to allow the ordinary judicial system to decide questions that involve the government itself. This reluctance is naturally greater when the government is more absolute. As liberty increases, on the contrary, the circle of the attributions of the courts is always going to widen; but not one of the European nations has yet thought that every judicial question, of no matter what origin, could be left to judges of ordinary law.

In America, this theory has been put in practice. The Supreme Court of the United States is the one and only national court.

It is charged with the interpretation of laws and of treaties; questions relating to maritime trade, and all those generally relating to the law of nations, are exclusively within its competence. You can even say that its attributions are almost entirely political, although its constitution is entirely

judicial. Its unique purpose is to have the laws of the Union enforced. And the Union determines only the relations of the government with the governed and of the nation with foreigners; nearly all of the relations of citizens among themselves are governed by the sovereignty of the states.

To this first cause of importance, another still greater must be added. In the nations of Europe, only individuals are subject to trial before the courts; but you can say that the Supreme Court of the United States makes sovereigns appear before it. When the bailiff, climbing the steps of the court, comes to proclaim these few words: "The State of New York versus the State of Ohio," you feel that you are not within the realm of an ordinary court of justice. And when you consider that one of these litigants represents a million men, and the other, two million, you are astonished at the responsibility that weighs upon the seven judges whose decision is going to delight or sadden such a large number of their fellow citizens.

In the hands of seven federal judges rest unceasingly the peace, prosperity, the very existence of the Union. Without them, the Constitution is a dead letter. To them, the executive power appeals in order to resist the encroachments of the legislative body; the legislature, to defend itself against the undertakings of the executive power; the Union, to make the states obey; the states, to repulse the exaggerated pretensions of the Union; public interest against private interest; the spirit of conservation against democratic instability. Their power is immense; but it is a power of opinion. They are omnipotent as long as the people consent to obey the law; they can do nothing once the people scorn the law. Now, the power of opinion is the most difficult one to exercise, because it is impossible to know its limits exactly. Often it is as dangerous to fall short, as to go beyond those limits.

So the federal judges must be not only good citizens, learned and upright men, qualities necessary for all magistrates, but they must also be statesmen; they must know how to discern the spirit of the times, to brave the obstacles that can be overcome, and to change direction when the current threatens to carry away, with them, the sovereignty of the Union and the obedience due to its laws.

The President can fail without having the State suffer, because the President has only a limited duty. Congress can go astray without having the

Union perish, because above Congress resides the electoral body that can change the spirit of Congress by changing its members.

But if imprudent or corrupt men ever came to compose the Supreme Court, the confederation would have to fear anarchy or civil war.

But make no mistake; the root cause of the danger is not in the constitution of the court, but in the very nature of federal governments. We have seen that nowhere is it more necessary to constitute a strong judicial power than among confederated peoples, because nowhere are individual existences, which can struggle against the social body, greater and in better condition to resist the use of the physical force of the government.

Now, the more necessary it is that a power be strong, the more scope and independence it must be given. The more extensive and independent a power, the more dangerous is the abuse that can be made of it. So the origin of the evil is not in the very constitution of this power, but in the very constitution of the State that necessitates the existence of such a power.

How the Federal Constitution Is Superior to the State Constitutions

How the Constitution of the Union can be compared to those of the individual states.—The superiority of the federal Constitution must be attributed particularly to the wisdom of the federal law-makers.—The legislature of the Union less dependent on the people than those of the states.—The executive power freer in its sphere.—The judicial power less subject to the desires of the majority.—Practical consequences of this.—The federal law-makers have mitigated the dangers inherent in democratic government; the law-makers of the states have heightened these dangers.

The federal Constitution differs essentially from the constitutions of the states in the purpose that it intends, but it is highly similar in the means to achieve this purpose. The object of government is different, but the forms of government are the same. From this special point of view, they can usefully be compared.

I think that the federal Constitution is superior to all of the state constitutions. This superiority stems from several causes.

The present Constitution of the Union was formed only after those of most of the states; so the Union could profit from acquired experience.

You will be convinced, nonetheless, that this cause is only secondary, if you consider that, since the establishment of the federal Constitution, the American confederation has increased by eleven new states, and that these new states have nearly always exaggerated rather than mitigated the defects existing in the constitutions of their precursors.

The great cause of the superiority of the federal Constitution is in the very character of the law-makers.

At the time when it was formed, the ruin of the American confederation seemed imminent; it was obvious to all, so to speak. In this extremity, the people chose, perhaps not the men they loved most, but those they respected most.

I have already pointed out above that nearly all the law-makers of the Union had been remarkable by their enlightenment and more remarkable still by their patriotism.

They had all risen in the midst of a social crisis, during which the spirit of liberty had constantly to struggle against a strong and dominating authority. When the struggle ended, and while the excited passions of the crowd were, as usual, still fixed on combating dangers that for a long time no longer existed, these men had stopped; they had cast a calmer and more penetrating eye on their country; they had seen that a definitive revolution was accomplished, and that henceforth the perils that threatened the people could only arise from the abuses of liberty.^e What they thought, they had the courage to say, because deep in their hearts they felt a sincere and passionate love for this very liberty; they dared to speak of limiting it, because they were certain of not wanting to destroy it.³⁵

e. In the manuscript: "of their power {of their liberty}."

35. *In this period, the celebrated Alexander Hamilton, one of the most influential framers of the Constitution, was not afraid to publish the following in the Federalist, No. 71 [p. 307]. He said:*

Most of the constitutions of the states give a term of one year to the house of representatives and two years to the senate. In this way the members of the legislative body are tied constantly and in the closest way to the slightest desires of their constituents.

The law-makers of the Union thought that this extreme dependence of the legislature distorted the principal effects of the representative system, by placing in the people themselves not only the source of powers, but also the government.

They increased the length of the electoral mandate in order to allow the deputy greater use of his free will.

The federal Constitution, like the different constitutions of the states, divided the legislative body into two branches.

But in the states, these two parts of the legislature were composed of the same elements and followed the same mode of election. As a result, the

There are some," he said, "who would be inclined to regard the servile pliancy of the executive to a prevailing current, either in the community or in the legislature, as its best recommendation. But such men entertain very crude notions, as well of the purposes for which government was instituted, as of the true means by which the public happiness may be promoted.

The republican principle demands that the deliberate sense of the community should govern the conduct of those to whom they entrust the management of their affairs; but it does not require an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men, who flatter their prejudices to betray their interests.

It is a just observation that the people commonly intend the public good. This often applies to their very errors. But their good sense would despise the adulator who should pretend that they always reason right about the means of promoting it. They know from experience that they sometimes err; and the wonder is that they so seldom err as they do, beset as they continually are by the wiles of parasites and sycophants, by the snares of the ambitious, the avaricious, the desperate, by the artifices of men who possess their confidence more than they deserve it, and of those who seek to possess rather than to deserve it.

When occasions present themselves in which the interests of the people are at variance with their inclinations, it is the duty of the persons whom they have appointed to be the guardians of those interests to withstand the temporary delusion in order to give them time and opportunity for more cool and sedate reflection. Instances might be cited in which a conduct of this kind has saved the people from very fatal consequences of their own mistakes, and has procured lasting monuments of their gratitude to the men who had courage and magnanimity enough to serve them at the peril of their displeasure.

passions and will of the majority emerged as easily and found an organ and an instrument as rapidly in one as in the other of the houses. This gave a fierce and hasty character to the making of laws.

The federal Constitution also had the two houses come out of the votes of the people; but it varied the conditions of eligibility and the mode of election. So, if one of the two legislative branches did not represent interests different from those represented by the other, as in certain nations, at least it represented a higher wisdom.

To be a Senator you had to have reached a mature age; and a small assembly, itself already elected, was charged with the election.

Democracies are naturally led to concentrate all social force in the hands of the legislative body. The latter, being the power that comes most directly from the people, is also the one that most partakes of the omnipotence of the people.

So, in the legislative body, you notice an habitual tendency that leads it to gather all kinds of authority within itself.

This concentration of powers, at the same time that it singularly harms the good management of public affairs, establishes the despotism of the majority.

The law-makers of the states have frequently surrendered to these democratic instincts; those of the Union always fought courageously against them.

In the states, executive power is placed in the hands of a magistrate who appears to be placed alongside the legislature, but who, in reality, is only a blind agent and passive instrument of its will. From where would he draw his strength? In the length of his term in office? Generally, he is named for only one year. In his prerogatives? He has, so to speak, none at all. The legislature can reduce him to impotence by granting the execution of its laws to special committees drawn from its midst. If it wanted, it could, in a way, nullify him by taking away his salary.

The federal Constitution has concentrated all the rights of the executive power, as well as all of its responsibility, in a single man. It gave the President a four-year term; it assured him his salary during the entire length of his term in office; it created a group of supporters for him and armed him with a qualified veto. In a word, after carefully drawing the sphere of executive

power, it sought, within this sphere, to give the executive power as strong and as free a position as possible.

The judicial power, of all the powers, is the one that, in the state constitutions, remained least dependent on the legislative power.

Nonetheless, in all the states, the legislature retained the authority to set the salaries of judges, which necessarily subjected the former to immediate legislative influence.

In certain states, judges are appointed only for a time, which again removes a large part of their strength and freedom.

In others, legislative and judicial powers are entirely mixed. The Senate of New York, for example, serves as the highest court of the state for certain trials.

The federal Constitution has, on the contrary, carefully separated the judicial power from all the others. In addition, it made judges independent by declaring their salaries fixed and making their office irrevocable.

The practical consequences of these differences are easy to see. It is clear to all attentive observers that the affairs of the Union are conducted infinitely better than the particular affairs of any state.

The federal government is more just and more moderate in its action than the state governments. There is more wisdom in its views, more continuity and intelligent design in its projects, more skill, steadiness and firmness in the execution of its measures.

A few words suffice to summarize this chapter.

Two principal dangers menace the existence of democracies:

The complete subservience of the legislative power to the will of the electoral body.

The concentration, in the legislative power, of all the other powers of government.

The law-makers of the states favored the development of these dangers. The law-makers of the Union did what they could to make them less to be feared.

What Distinguishes the Federal Constitution of the United States of America from All Other Federal Constitutions

The American confederation outwardly resembles all confederations.—Its effects are different, however.—What causes that?—How this confederation stands apart from all others.—The American government is not a federal government, but an incomplete national government.^f

The United States of America has not presented the first and only example of a confederation. Without mentioning antiquity, modern Europe has furnished several. Switzerland, the German Empire, the Dutch Republic have been or still are confederations.

When you study the constitutions of these different countries, you notice with surprise that the powers they confer on the federal government are more or less the same as those granted by the American Constitution to the government of the United States. Like the latter, they give the central power the right to make war or peace, the right to raise an army, to levy taxes, to provide for general needs and to regulate the common interests of the nation.

Among these different peoples, however, the federal government has almost always remained deficient and weak, while that of the Union conducts public affairs with vigor and ease.

Even more, the first American Union could not continue to exist because of the excessive weakness of its government. Yet this government, so weak,

f. In the margin: "Temporary alliance, *league*.

"Lasting alliance, confederation.

"*Limited* [v: incomplete] national government.

"*Complete* national government.

"The Union is not a confederation [v: federal government], but an incomplete national government."

had received rights as extensive as the federal government of today. You can even say that in certain respects its privileges were greater.^g

So several new principles are found in the current Constitution of the United States that are not striking at first, but make their influence profoundly felt.

This Constitution, which at first sight you are tempted to confuse with previous federal constitutions, rests as a matter of fact on an entirely new theory that must stand out as a great discovery in the political science of today.

In all the confederations that have preceded the American confederation of 1789, peoples who combined for a common purpose agreed to obey the injunctions of a federal government; but they retained the right to command and to supervise the execution of the laws of the Union at home.

The American states that united in 1789 agreed not only that the federal government could dictate laws to them, but also that the federal government itself would execute its laws.

In the two cases, the right is the same; only the exercise of the right is different. But this single difference produces immense results. [Such is the power of laws over the fate of societies.]^h

In all the confederations that have preceded the American Union of today, the federal government, in order to provide for its needs, applied to the individual governments. In the case where the prescribed measure displeased one of them, the latter could always elude the need to obey. If it was strong it appealed to arms; if it was weak, it tolerated a resistance to the laws of the Union that had become its own, pretended weakness and resorted to the power of inertia.

Consequently, one of these two things has constantly happened: the

g. "The old constitution gave Congress great power to command the different states (illegible word) in order to compel them other than by war. It established a *league* among independent states, not a *federal government*" (YTC, CVh, 1, p. 47).

h. Hervé de Tocqueville: "I believe that this paragraph could be deleted. It develops an idea that springs from what precedes and comes naturally to the mind of the reader. By removing it, the pace will be faster. Be careful about slowing the pace by reflections, when they are not absolutely necessary. The last sentence of the paragraph is a useless commonplace" (YTC, CIIb, 3, p. 22).

most powerful of the united peoples, taking hold of the rights of the federal authority, has dominated all the others in its name;³⁶ or the federal government has been left to its own forces. Then anarchy has become established among the confederated peoples, and the Union has fallen into impotence.³⁷

In America, the Union governs not the states, but ordinary citizens. When it wants to levy a tax, it does not apply to the government of Massachusetts, but to each inhabitant of Massachusetts. Former federal governments faced peoples; the Union faces individuals. It does not borrow its strength, but draws upon its own. It has its own administrators, courts, officers of the law, and army.

Certainly the national [*sic*: state] spirit, collective passions, provincial prejudices of each state still strongly tend to diminish the extent of federal power so constituted, and to create centers of resistance to the will of the federal power. Limited in its sovereignty, it cannot be as strong as a government that possesses complete sovereignty; but that is an evil inherent in the federal system.

In America, each state has far fewer opportunities and temptations to resist; and if the thought occurs, the state can act on it only by openly violating the laws of the Union, by interrupting the ordinary course of justice, and by raising the standard of revolt. In a word, it must suddenly take an extreme position, something men hesitate to do for a long time.

In former confederations, the rights granted to the Union were causes of war rather than of power, since these rights multiplied its demands without augmenting its means of enforcing obedience. Consequently, the real weakness of federal governments has almost always been seen to grow in direct proportion to their nominal power.

36. *This is what was seen among the Greeks under Philip, when this prince took charge of enforcing the decree of the Amphictyons. This is what happened to the republic of the Netherlands, where the province of Holland has always made the law. The same thing is still going on today among the Germans. Austria and Prussia are the agents of the Diet and, in its name, dominate the entire confederation.*

37. *It has always been so for the Swiss confederation.—Were it not for the jealousy of its neighbors, Switzerland, for several centuries, would no longer exist.*

This is not so for the American Union; the federal government, like most ordinary governments, can do everything that it has the right to do.

The human mind invents things more easily than words; this is what causes the use of so many incorrect terms and incomplete expressions.^j

Several nations form a permanent league and establish a supreme authority that, without acting on ordinary citizens as a national government could, nonetheless acts on each of the confederated peoples, taken as a group.

This government, so different from all the others, is given the name federal.

Next, a form of society is found in which several peoples truly blend together as one for certain common interests, and remain separate and only confederated for all the others.

Here the central power acts without intermediary on the governed, administering and judging them as national governments do, but it acts this way only within a limited circle. Clearly that is no longer a federal government; it is an incomplete national government. So a form of government, neither precisely national nor federal, is found. But here things have stopped, and the new word needed to express the new thing does not yet exist.^k

Because this new type of confederation was unknown, all unions have arrived at civil war, or slavery, or inertia. The peoples who composed them have all lacked either the enlightenment to see the remedy to their ills, or the courage to apply them.

j. Hervé de Tocqueville: "In my opinion, this paragraph and the four following must be deleted and replaced by one or two sentences. It is long and a bit heavy; its importance does not justify its defects. I therefore advise pruning the grammatical discussion and quickly going straight to the paragraph: *Because this new type of confederation was unknown . . .*"

Édouard de Tocqueville: "I cannot share this opinion. This reflection seems very profound to me. Moreover, if you went to the paragraph beginning *Because this new type . . .*, it would have absolutely no sense, since it relates only to the deleted paragraph" (YTC, CIIb, 3, p. 22).

k. In the margin: "≠The thing is new [v: other], but an old word is still needed to designate it.≠"

The first American Union had also lapsed into the same faults.

But in America, the confederated states, before achieving independence, had been part of the same empire for a long time; so they had not yet contracted the habit of complete self-government, and national prejudices had not been able to become deeply rooted. Better informed than the rest of the world, they were equal to each other in enlightenment; they only weakly felt the passions that ordinarily, among peoples, resist the extension of federal power; and these passions were fought against by the greatest citizens. The Americans, at the same time that they felt the evil, resolutely envisaged the remedy. They corrected their laws and saved the country.

Of the Advantages of the Federal System in General, and of Its Special Utility for America^m

*Happiness and liberty that small nations enjoy.—Power of large nations.—Large empires favor the developments of civilization.—That strength is often the first element of prosperity for nations.—The purpose of federal systems is to combine the advantages that peoples gain from the largeness and the smallness of their territory.—Advantages that the United States derives from this system.—The law yields to the needs of the populations; the populations do not yield to the necessities of the law.—Activity, progress, taste for and practice of liberty among the American peoples.—The public spirit of the Union is only the sum of provincial patriotism.—Things and ideas circulate freely within the territory of the United States.—
The Union is free and happy, like a small nation;
respected, like a large one.*

Among small nations, society keeps its eye on everything; the spirit of improvement gets down to the smallest details. Since the weakness of the people profoundly tempers their ambition, their efforts and resources are

m. In the margin: “Perhaps this chapter should be shifted to the place where I will talk about the future of the Union.”

almost entirely focused on their internal well-being and are not likely to be wasted on the empty illusion of glory. Since the capacities of each one are generally limited, desires are limited as well. The mediocrity of wealth makes conditions nearly equal; and mores have a simple and peaceful air. Thus, considering everything and taking into account various degrees of morality and enlightenment, more comfort, population and tranquillity are usually found in small nations than in large ones.

When tyranny establishes itself within a small nation, it is more troublesome than anywhere else; acting inside a smaller circle, it extends to everything within this circle. Unable to undertake some great objective, it is busy with a multitude of small ones; it appears both violent and meddlesome. From the political world, which is strictly speaking its domain, it penetrates into private life. After dictating actions, it aspires to dictate tastes; after governing the State, it wishes to govern families. But that rarely happens; as a matter of fact, liberty forms the natural condition of small societies. There, government offers too little attraction to ambition, and the resources of individuals are too limited, for sovereign power to be easily concentrated in the hands of one man.ⁿ Should it happen, it is not difficult for the governed to unite together and, by a common effort, to overthrow the tyrant and the tyranny at the same time. [≠Liberty is, moreover, something so natural and so easy within a small nation that abuse can hardly be brought about.≠]

So small nations have at all times been the cradle of political liberty. It has happened that most of them have lost this liberty by growing larger, which clearly reveals that liberty is due to the small size of a people and not to the people themselves.

The history of the world provides no example of a large nation that remained a republic for long;³⁸ this has led men to say that the thing was impractical. As for me, I think that it is very imprudent for man to want to limit the possible and to judge the future; the real and the present elude

n. In the margin: “≠The power of one man easily succeeds in putting itself above the law and the interest of all.≠”

38. *I am not speaking here about a confederation of small republics, but of a large consolidated republic.*

him every day, and he finds himself constantly surprised by the unexpected in the things he knows best. What can be said with certainty is that the existence of a large republic will always be infinitely more at risk than that of a small one.^o

All the passions fatal to republics grow with the extent of the territory, while the virtues that serve to support them do not increase in the same measure.^p

The ambition of individuals increases with the power of the State; the strength of parties, with the importance of the end that they have in mind; but love of country, which must combat these destructive passions, is not stronger in a vast republic than in a small one. It would even be easy to prove that love of country there is less developed and less powerful. Great riches and profound poverty, large cities, depravity of mores, individual egoism, complexity of interests are so many perils that almost always result from the large size of the State. Several of these things do not harm the existence of a monarchy; some can even work toward its duration. In monarchies, moreover, government has a strength of its own; it makes use of the people and does not depend on them; the more numerous the people, the stronger the prince. But to these dangers, republican government can oppose only the support of the majority. Now, this element of strength is not proportionately more powerful in a vast republic than in a small one. Thus, while the means of attack constantly increase in number and power, the strength of resistance remains the same. It can even be said that it decreases, for the more numerous the people and the more varied the nature

o. "I suspect that this doctrine that presents small States to us as the only ones that are suitable for republican forms will be refuted by experience. Perhaps it will be recognized that in order to establish a republic in which justice reigns, the republic must be large enough so that local egoism is never able to harm the whole, nor corrupt the major part of those who lead it; so that on every question you will always be sure to find in the councils a majority free of particular interests and capable of making solely the principles of justice prevail."

Jefferson to Davernois [d'Ivernois (ed.)], 6 February 1795. (YTC, CVh, 5, p. 2). Citation from Louis P. Conseil, editor. *Mélanges politiques et philosophiques extraits des mémoires et de la correspondance de Thomas Jefferson* (Paris: Paulin, 1833), vol. I, pp. 407–9.

p. The wording of this sentence comes from Beaumont (YTC, CIIIb, 3, p. 34).

of minds and interests, the more difficult it is, as a result, to form a compact majority.

[≠Republican government is fragile by nature. It lasts much more because of the weakness of the attacks directed against it than because of a strength of its own [v: its own power]. It relies only on a certain sentiment of order, virtue and moderation on the part of the governed. The immoderate desires of parties, great riches and great poverty, vast cities, and the profound corruption of mores that they engender, constantly threaten the existence of republics. Now, all of these things are found only among large nations alone. A government that has the source of its power outside of the people can continue to exist for a long time, whatever the opinions of the people; but a republican government has strength only in the support of the majority; the more numerous the people, the harder to form a majority. Here my reasoning is based only upon a numerical calculation.≠]

We have been able to note, moreover, that human passions acquired intensity, not only from the greatness of the end that they wanted to attain, but also from the multitude of individuals who felt them at the same time. There is no one who does not find himself more moved in the middle of an agitated crowd that shares his emotion than if he were to feel it alone. In a large republic, political passions become irresistible, not only because the objective that they pursue is immense, but also because millions of men experience those political passions in the same way and at the same moment.

So it is permissible to say that, in general, nothing is so contrary to the well-being and to the liberty of men as large empires.

Large States have particular advantages, however, that must be recognized.

In them, the desire for power is more passionate among common men than elsewhere. So too the love of glory there is more developed among certain souls who find in the applause of a great people an objective that is worthy of their efforts and appropriate for raising them, in a way, above themselves. There, thought in all fields is given a more rapid and powerful impetus; ideas circulate more freely; large cities are like vast intellectual centers where all the lights of the human mind come to shine and combine.

This fact explains for us why large nations bring more rapid progress to enlightenment and to the general cause of civilization than small ones.^q It must be added that important discoveries often require a development of national strength of which the government of a small people is incapable; among large nations, the government has a greater number of general ideas; it is more completely free from the routine of antecedents and from local egoism. There is more genius in its conceptions, more boldness in its ways of doing things.

Internal well-being is more complete and more widespread among small nations as long as they remain at peace; but a state of war is more harmful to them than it is to large nations. In the latter, great distance from the borders sometimes allows most people to remain far from danger for centuries. For them, war is more a cause of discomfort than of ruin. [≠Large nations are at war more than small ones, but all things considered, among the large ones, there are more men at peace.≠]

Moreover, in this matter as in many others, there is a consideration that predominates over all the rest: that of necessity.

If there were only small nations and not any large ones, humanity would certainly be freer and happier; but the existence of large nations cannot be avoided.

This introduces into the world a new element of national prosperity, which is strength. What good is it for a people to present a picture of comfort and liberty, if they are exposed each day to devastation or conquest? What good is it that they have manufacturing and commerce, if another people commands the seas and establishes the law for all markets? Small nations are often miserable, not because they are small, but because they are weak; large nations prosper, not because they are large, but because they are strong. So for nations, strength is often one of the first conditions of happiness and even of existence. Because of that, barring particular circumstances, small peoples always end up being violently united with large ones or uniting with them on their own. I know of no condition more deplorable than that of a people able neither to defend itself nor to be self-sufficient.

q. This sentence and the preceding one have been corrected by Beaumont (YTC, CIIIb, 3, pp. 34–35).

The federal system has been created to unite the various advantages that result from the large and the small sizes of nations.^r

It is enough to look at the United States of America to see all the good that comes to those who adopt this system.

Among large centralized nations, the legislator is forced to give laws a uniform character that does not allow for the diversity of places and mores; never learning about individual cases, he can only proceed by general rules. Men are then obliged to bend to the necessity of legislation, for legislation cannot adapt to the needs and mores of men; this is a great cause of trouble and misery.^s

This disadvantage does not exist in confederations. The congress regulates the principal actions of social existence; all the detail is left to the provincial legislatures.

You cannot imagine to what degree this division of sovereignty serves the well-being of each of the states that compose the Union. In these small societies, not preoccupied by the need to defend themselves or to expand, all public power and all individual energy are turned toward internal improvements.^t The central government of each state, situated close to the governed, is alerted daily to needs that make themselves felt. Consequently, each year new plans are presented; these plans, discussed in town assemblies or the state legislature and then reproduced in the press, excite universal

r. Rousseau made the following recommendation to the Poles: "Apply yourselves to expanding and perfecting the system of federative governments, the only one that unites the advantages of large and small States" (*Considérations sur le gouvernement de Pologne*, chapter V, in *Œuvres complètes*, III, Paris: Pléiade, 1964, p. 971). The same idea is set forth at the beginning of *Jugement sur le projet de paix perpétuelle*, and it appears in a note at the end of chapter XV of book III of the *Contrat social* (*ibid.*, p. 431). The advantages of the federal form had been equally praised by Montesquieu in the first chapter of book IX of *Esprit des lois* (in *Œuvres complètes*, Paris: Pléiade, 1951, II, p. 369).

s. Cf. conversation with Mr. Bowring (*Voyage en Angleterre*, OC, V, 2, p. 35).

t. "Nevertheless, the greatest difficulty is not to find some peoples who know how to manage their own affairs, but to find some with this habit who can understand federal sovereignty and submit to it" (YTC, CVh, 4, p. 4).

interest and the zeal of the citizens. This need to improve agitates the American republic constantly and does not trouble them; there, ambition for power is replaced by the love of well-being, a more vulgar, but less dangerous passion. It is an opinion generally shared in America that the existence and duration of republican forms in the New World depend on the existence and the duration of the federal system. A great part of the miseries engulfing the new States of South America is attributed to the desire to establish large republics there, instead of dividing sovereignty.^u

As a matter of fact, it is incontestable that in the United States the taste and the practice of republican government were born in the towns and within the provincial assemblies. In a small nation such as Connecticut,^v for example, where the important political matter is opening a canal or laying out a roadway, where the state has no army to pay nor war to sustain, and where the state can give to those who lead it neither wealth nor much glory, you can imagine nothing more natural and more appropriate to the nature of things than a republic. Now, this same republican spirit, these mores and these habits of a free people, after being born and developing in the various states, are then applied easily to the whole country. In a way, the public spirit of the Union is itself only a summary of provincial patriotism. Each citizen of the United States transfers, so to speak, the interest inspired in him by his small republic to the love of the common native land. By defending the Union, he defends the growing prosperity of his district, the right to direct its affairs, and the hope of winning acceptance there for the plans for improvement that are to enrich him himself: all things that ordinarily touch men more than the general interests of the country and the glory of the nation.

u. Hervé de Tocqueville: "All that precedes is very good. A thought however: Isn't the well-being that, for the states of the Union, results from the division of sovereignty disturbed by the vices of their democratic organization that Alexis had pointed out?"

Édouard de Tocqueville: "It seems to me that this can only be related to the whole. It is certain that the United States, as they are constituted, enjoy an enormous prosperity, and that the nations of the South are in anarchy" (YTC, CIIb, 3, p. 24).

v. In the first version, the state cited was Massachusetts.

On the other hand, if the spirit and the mores of the inhabitants make them more suitable than others to cause a large republic to prosper, the federal system has made the task much less difficult. The confederation of all the American states does not show the usual disadvantages of numerous human agglomerations. The Union is a large republic in terms of expanse; but in a way, it can be likened to a small republic, because of the small number of matters that concern its government. Its acts are important, but rare. Since the sovereignty of the Union is hindered and incomplete, the use of this sovereignty is not dangerous to liberty. Nor does it excite those immoderate desires for power and reputation that are so deadly to great republics. Since everything there does not necessarily end up at a common center, you see neither vast cities,^w nor enormous wealth, nor great poverty, nor sudden revolutions. Political passions, instead of spreading instantaneously like a firestorm over the whole surface of the country, are going to break against the individual passions and interests of each state.

Within the Union, however, ideas and things circulate freely, as among one and the same people. Nothing stops the rise of the spirit of enterprise. Its government draws upon talents and enlightenment. Within the boundaries of the Union, as within the interior of a country under the same empire, a profound peace reigns. Outside, the Union ranks among the most powerful nations of the world; it offers to foreign trade more than eight hundred leagues of coastline. Holding in its hands the keys to a whole world, it enforces respect for its flag in the far reaches of the seas.^x

w. Hervé de Tocqueville: "And New York which is so large?"

Édouard de Tocqueville: "New York, it seems to me, is only a large city and not a metropolis, in the true meaning of this word" (YTC, CIIb, 3, p. 24).

x. Hervé de Tocqueville: "This peroration is beautiful, but isn't Alexis making America into too much of an El Dorado? It must not be forgotten that he thinks himself obliged to disenchant us in the following chapters. Two sentences here appear too strong to me: that of the profound peace that reigns within the interior—two recent examples have shown that this peace is easily troubled—and that of respect for the flag, which exists only because the European nations wish it or do not agree to humiliate it. Not with its small fleet would America force the maritime powers to respect its flag."

Édouard de Tocqueville: "Alexis shows in several places what the future dangers of the American government are, and what its weak side is at the present time. But, if one judges it now as a whole, one can say, as in the last sentence, '*The Union is free and happy*, etc.'" (YTC, CIIb, 3, pp. 24–25).

The Union is free and happy like a small nation, glorious and strong like a large one.^y

What Keeps the Federal System from Being within the Reach of All Peoples; And What Has Allowed the Anglo-Americans to Adopt It

There are, in all federal systems, inherent vices that the law-maker cannot fight.—Complication of all federal systems.—It requires from the governed the daily use of their intelligence.—

Practical knowledge of the Americans in the matter of government.—Relative weakness of the government of the Union, another vice inherent in the federal system.—The Americans have made it less serious, but have not been able to destroy it.—The sovereignty of the individual states weaker in appearance, stronger in reality than that of the Union.—Why.—So among confederated peoples, there must be natural causes of union, apart from the laws.—What these causes are among the Anglo-Americans.—Maine and Georgia, 400 leagues apart, more naturally united than Normandy and Brittany.—That war is the principal danger to confederations.—This proved by the very example of the United States.—The Union has no great wars to fear.—Why.—Dangers that the peoples of Europe would run by adopting the federal system of the Americans.

[Of all beings, man is assuredly the one best known; and yet his prosperity or miseries are the product of unknown laws of which only a few isolated and incomplete fragments come into our view. Absolute truth is hidden and perhaps will always remain hidden.] The law-maker sometimes succeeds, after a thousand efforts, in exercising an indirect influence on the destiny of nations, and then his genius is celebrated. While often, the geo-

y. See the conversation with Mr. MacLean (non-alphabetic notebooks 2 and 3, YTC BIIa, and *Voyage, OC*, V, 1, p. 127).

graphic position of the country, over which he has no influence; a social state that was created without his support; mores and ideas, whose origin is unknown to him; a point of departure that he does not know, impart to society irresistible movements that he struggles against in vain and that carry him along as well.

The law-maker resembles a man who plots his route in the middle of the sea. He too can navigate the ship that carries him, but he cannot change its structure, raise the wind, or prevent the ocean from heaving under his feet.

I have shown what advantages the Americans gain from the federal system. It remains for me to explain what allowed them to adopt this system; for not all peoples are able to enjoy its benefits.

Accidental vices arising from the laws are found in the federal system; these can be corrected by law-makers. Others are encountered that are inherent in the system; these could not be destroyed by the peoples who adopt it. So these peoples must find within themselves the strength to withstand the natural imperfections of their government.

Among the vices inherent to all federal systems, the most visible of all is the complication of means that they use. This system necessarily brings two sovereignties face to face. The law-maker succeeds in making the movements of these two sovereignties as simple and as equal as possible, and he can enclose both of them within clearly defined spheres of action. But he cannot make it so that there is only one of them, nor prevent them from being in contact at some point.

[The federal system of the United States consists of combining two governments: one, provincial; the other, national.

It is already not so easy to find a people who have the taste and, above all, the habit of provincial government. I have already remarked earlier that, among enterprises that can be attempted, certainly one of the most difficult was to persuade men to attend to their own affairs. It follows that the federal system is hardly ever established except among nations who, independent of one another for a long time, have naturally contracted this taste and these habits to a high degree. Notably, this is what happened in the United States. Before the Revolution, they all recognized the authority of the mother country, but each of them had its individual government as well and did not depend on its neighbor.

Nonetheless, the great difficulty is not finding some peoples who know how to run their own affairs, but finding some who can understand federal sovereignty and submit to it.]

So no matter what is done, the federal system rests on a complicated theory whose application requires, in the governed, the daily use of the light of their reason.^z

In general, only simple conceptions take hold of the mind of the people. An idea that is false, but clear and precise, will always have more power in the world than a true, but complicated, idea. It follows that parties, which are like small nations within a large one, are always quick to adopt, as a symbol, a name or a principle that often represents only very incompletely the end that they propose and the means that they employ. But without this symbol, they would be able neither to subsist nor to stir. Governments that rest only on a single idea or single sentiment, easy to define, are perhaps not the best, but they are assuredly the strongest and the most durable.

On the contrary, when you examine the Constitution of the United States, the most perfect of all known federal constitutions, you are alarmed by the many varieties of knowledge and by the discernment that it assumes among those whom it must govern. The government of the Union rests almost entirely on legal fictions. The Union is an ideal nation that exists only in the mind so to speak; intelligence alone reveals its extent and its limits.

Once the general theory is well understood, the difficulties of application remain; they are innumerable, for the sovereignty of the Union is so entangled with the sovereignty of the states that it is impossible at first

z. In the fourth lecture of his course on civilization in Europe, Guizot insisted on this point:

The federative system, logically the most simple, is in fact the most complex; in order to reconcile the degree of independence, of local liberty, that it allows, with the degree of general order, of general submission that it requires and assumes in certain cases, a very advanced civilization is clearly required. . . . The federative system is therefore the one that clearly requires the greatest development of reason, of morality, of civilization, in the society to which it applies (*Histoire générale de la civilisation en Europe*, Brussels, Société belge de Librairie, 1839, leçon IV, p. 41).

glance to perceive their limits. Everything is by convention and by artifice in such a government, and it can only suit a people accustomed, for a long time, to running their own affairs, a people among whom political knowledge has penetrated to the lowest levels of society. I have never admired the good sense and practical intelligence of the Americans more than in the way in which they escape the innumerable difficulties that arise from their federal constitution. I almost never met a common man in America who did not, with surprising ease, discriminate between the obligations arising from the laws of Congress and those originating in the laws of his state, and who, after distinguishing the matters that were among the general attributions of the Union from those that the local legislature had to regulate, could not indicate the point at which the jurisdiction of the federal courts began and the limit at which that of the state courts ended.

The Constitution of the United States resembles those beautiful creations of human industry that shower glory and wealth on those who invent them, but that remain sterile in other hands.

This is what Mexico has demonstrated in our times.

The inhabitants of Mexico, wanting to establish the federal system, took as a model and almost completely copied the federal constitution of the Anglo-Americans, their neighbors.³⁹ But while importing the letter of the law, they could not at the same time import the spirit that gives it life. So they are seen constantly encumbered by the mechanism of their double government. The sovereignty of the states and that of the Union, leaving the circle that the constitution had drawn, penetrate each other daily. Still today, Mexico is constantly dragged from anarchy to military despotism, and from military despotism to anarchy.

[But even if a people were advanced enough in civilization and versed enough in the art of government to submit intelligently to so complicated a political theory, it would still not mean that the federal system could meet all their needs.

There is, in fact, a vice inherent in this system that will manifest itself no matter what is done. That is the relative weakness of the government of the Union.]

39. *See the Mexican constitution of 1824.*

The second and more destructive of all the vices, which I regard as inherent in the federal system itself, is the relative weakness of the government of the Union.

The principle on which all confederations rest is the division of sovereignty. Law-makers make this division hardly noticeable; they even hide it from view for awhile, but they cannot keep it from existing. Now, divided sovereignty will always be weaker than complete sovereignty.

In the account of the Constitution of the United States, we saw how artfully the Americans, while enclosing the power of the Union within the limited circle of federal governments, succeeded in giving it the appearance and, to a certain extent, the strength of a national government.

By acting in this way, the law-makers of the Union reduced the natural danger of confederations; but they were not able to make it disappear entirely.

The American government, it is said, does not address itself to the states; it applies its injunctions directly to the citizens and bends them, separately, to the work of the common will.

But if federal law collided with the interests and prejudices of a state, should it not be feared that each of the citizens of this state would believe himself interested in the cause of the man who refuses to obey? When all the citizens of the state found themselves thus harmed at the same time and in the same way by the authority of the Union, the federal government would seek in vain to isolate them in order to combat them. They would instinctively feel that they must unite to defend themselves, and in the portion of sovereignty left for their state to enjoy, they would find an organization already prepared. Fiction would then disappear and give way to reality, and you would be able to see the organized power of one part of the territory joining battle with the central authority.

[This is, moreover, the spectacle most recently presented by South Carolina. The regulations of the United States concerning the tariff had become completely unpopular in Carolina; the state legislature took the initiative and suspended the enforcement of the federal law. This result is inevitable. When the interest or passions of men are left a powerful means of satisfaction, you can be assured that legal fictions will not long prevent them from noticing and making use of that means. #This is so well understood

even in America that, no matter how large certain states already are, care has been taken not to create district assemblies that could represent a collective resistance. The legislature never has to make anything obey, other than towns, without links to each other.[#]

Former federal constitutions obliged the states to *act*. The Constitution of the United States only obliges them to *allow action*, an essential difference that makes resistance very rare; for it is very much easier to refuse to act than to prevent someone else from acting. But once what you resolved simply to endure reaches a certain level of pain, the reluctance that men have to take initiative does not take long to disappear, and the precaution of the law-maker is found wanting.

The principle of federal law is that the Court of the United States must endeavor to judge only individuals. In this way, it does [not (ed.)] generally attack the laws of the states, which reduces the danger of a collision between the two sovereignties. But if, in a particular interest, it violates an important state law, or harms a general state principle or interest, the precautions of the law-maker are again useless; and the struggle, real if not obvious, is between the harmed state, represented by a citizen, and the Union, represented by its courts. The Constitution gives the Union . . . [text of note 40 (ed.)].

It is enough, moreover, to see in what a persuading and conciliatory manner the federal government calls for the execution of laws, in order to judge that, despite appearances and the efforts of the law-maker, the federal government constantly finds itself facing not individuals, but sovereigns.

It is even easy to go further, and it must be said with the famous Hamilton in the *Federalist* that of the two sovereignties, the stronger is assuredly the sovereignty of the state.

You can even go further . . . [cf. *infra* (ed.)] . . .]

I will say as much about the federal judicial system. If, in a particular trial, the courts of the Union violated an important state law, the real, if not obvious, struggle would be between the harmed state, represented by a citizen, and the Union, represented by its courts.⁴⁰

40. Example: *The Constitution gave the Union the right to have unoccupied lands sold for its benefit. I suppose that Ohio claims this same right for those that are enclosed within its*

You must have little experience in the ways of this world to imagine that, after leaving the passions of men a means of satisfaction, you will always prevent them, with the aid of legal fictions, from noticing and making use of that means.

So the American law-makers, while making the struggle between the sovereignties less probable, did not destroy the causes.

You can even go further and say that they were not able to secure preponderance to the federal power in case of conflict.^a

They gave the Union money and soldiers, but the states retain the love and the prejudices of the people.

The sovereignty of the Union is an abstract thing connected to only a small number of external matters. The sovereignty of the states is felt by all the senses; it is understood without difficulty; every moment, it is seen in action. One is new; the other was born with the people themselves.

The sovereignty of the Union is a work of art. The sovereignty of the states is natural; it exists by itself, without effort, like the authority of the father of a family.

The sovereignty of the Union touches men only through a few general interests; it represents an immense and distant country, a vague and indefinite sentiment. The sovereignty of the states envelops each citizen in a way and catches him every day by details. It is the state that takes responsibility

borders, under the pretext that the Constitution only meant territory not yet submitted to the jurisdiction of any state; and that consequently Ohio itself wanted to sell the lands. The judicial question would be posed, it is true, between the buyers who held their title from the Union and the buyers who held their title from the state, and not between the Union and Ohio. But if the court of the United States ruled that the federal buyer was in possession, and the courts of Ohio maintained the holdings of his competitor, then what would become of the legal fiction?

a. With a bracket that goes from this paragraph to the one that ends with the words “that carry them toward peace”:

To note.

I say the same thing with more development in the last chapter on the future. Ask for advice?”

Hervé de Tocqueville: “Do not put it here. One can do without it.”

Édouard de Tocqueville: “The more I reread the passage, the more I regret that there is a question of deleting it, even more because I have not read the one that it repeats” (YTC, CIIB, 3, p. 25).

for guaranteeing his prosperity, his liberty, his life; at every moment, it influences his well-being or his misery. The sovereignty of the states rests on memories, on habits, on local prejudices, on the egoism of province and of family; in a word, on all the things that make the instinct for native land so powerful in the heart of man. How can its advantages be doubted?

Since the law-makers cannot prevent the occurrence of dangerous collisions between the two sovereignties that are brought face to face by the federal system, their efforts to turn confederated peoples away from war must be joined with particular dispositions that carry them toward peace.

It follows that the federal pact cannot exist for long if, among the peoples to whom it applies, a certain number of conditions for union are not found that make this common life easy for them and facilitate the task of government.

Thus, to succeed, the federal system needs not only good laws, but also favorable circumstances.

All peoples who have been seen to form a confederation have had a certain number of common interests that serve as the intellectual bonds of the association.

But beyond material interests, man still has ideas and sentiments. For a confederation to last for a long time, there must be no less homogeneity in the civilization than in the needs of the diverse peoples who constitute it. The civilization of a *canton* in Vaud compared with that of a *canton* in Uri is like the XIXth century compared with the XVth; so Switzerland has never truly had a federal government. The union among the different *cantons* exists only on the map; and that would be clearly seen if a central authority wanted to apply the same laws over the whole territory.^b

b. Before the 1836 visit, Tocqueville probably went to Switzerland in 1829 and 1832 (Cf. Luc Monnier, "Tocqueville et la Suisse," in *Alexis de Tocqueville. Livre du centenaire*, Paris: Editions du C.N.R.S., 1960, pp. 101-13).

André Jardin indicates that in his view Tocqueville must have visited Switzerland at least five times between 1823 and 1836. The notes of the voyage to Switzerland in 1836 are known to us thanks to the text published in the *Oeuvres complètes*, Beaumont edition. André Jardin ("Tocqueville et la décentralisation," in *La décentralisation, VI colloque d'histoire*, Aix-en-Provence: Publication des Annales de la Faculté des Lettres, 1961, pp. 89-117, 97) has nonetheless remarked that certain similarities between these notes

[There are men who pretend that one of the advantages of federal constitutions is to allow each portion of the same empire to live entirely in its own way, without ceasing to be united. That is true, if confederation means a kind of offensive and defensive league, by means of which different peoples unite to repel a common danger and remain strangers to each other for everything else. But if, among confederated peoples, you want to create a common existence and a true national government, it is absolutely necessary that their civilization be homogeneous in nature. This necessity makes itself felt even much more in confederations than in monarchies, because in order to be obeyed, government has much more need for the support of the governed in the first than in the second.]

The federal system allows and favors diversity in laws dealing with specifics, which is a great good; but it often resists uniformity in general laws, which is a great evil.]

In the United States there is a fact that admirably facilitates the existence of the federal government. The different states not only have more or less the same interests, the same origin and the same language, but also the same degree of civilization; this almost always makes agreement among them easy. I do not know if there exists any European nation, however small, that, in its different parts, does not present a less homogeneous face than the American people whose territory is as large as half of Europe.

From the state of Maine to the state of Georgia, there are about four hundred leagues. However, less difference exists between the civilization of Maine and that of Georgia than between the civilization of Normandy and that of Brittany. So Maine and Georgia, placed at two extremities of a vast

and *Democracy* lead to the thought that these texts, published by Beaumont as dating from 1836, are perhaps the fruit of an earlier voyage (*Voyages en Angleterre, Irlande, Suisse et Algérie*, OC, V, 2, pp. 173–88). In his “Rapport fait à l’Académie des sciences morales et politiques sur l’ouvrage de M. Cherbuliez, intitulé *De la démocratie en Suisse*” (*Séances et travaux de l’Académie des sciences morales et politiques*, XII, 1848, pp. 97–119, reproduced as an appendix to *Democracy* beginning with the twelfth edition), Tocqueville comments on the Swiss confederation in terms entirely similar to those of this chapter, and concludes that Switzerland possesses the most ineffective federal constitution that could exist.

empire, naturally find more real ease in forming a confederation, than Normandy and Brittany, which are separated only by a stream.

With these opportunities, which the mores and habits of a people offer to the American law-makers, are joined others that arise from the geographic position of the country. It is principally to the latter that the adoption and maintenance of the federal system must be attributed.^c

[Despite all these obstacles, I believe federal governments still more appropriate for maintaining internal peace and for favoring, over a vast empire, the peaceful development of social well-being, than for struggling with advantage against foreign enemies.]

It is the difficulty that confederations find in sustaining great wars that makes so many peoples incapable of enduring federal government.]

The most important of all the actions that can mark the life of a people is war. In war, a people acts as a single individual vis-à-vis foreign peoples; it fights for its very existence.

As long as it is only a question of maintaining peace within the interior of a country and of favoring prosperity, skill in the government, reason among the governed, and a certain natural attachment that men almost always have for their country can easily suffice. But for a nation to be able to wage a great war, the citizens must impose numerous and painful sacrifices on themselves. To believe that a large number of men will be capable of submitting themselves to such social exigencies, is to know humanity very badly. [Were the necessity of war to be universally acknowledged, the natural inclination of the human mind is to reject the annoying conse-

c. In the margin:

≠General ideas./

Insular position of the Union.

Indians, nothing. 4,000 soldiers. Attacked from a distance, defended close by./

Impossibility of taxes. *Federalist*./

Difficulties over the militias in the War of 1812./

Inability of the large nations of Europe to live federally./

Fortunate Americans.≠

quences of the principle that it previously accepted. So once the principle of war is accepted, an authority capable of forcing individuals to bear its consequences must be found somewhere.]

It follows that all peoples who have had to wage great wars have been led, almost despite themselves, to augment the forces of the government. Those who have not been able to succeed in doing so have been conquered. A long war almost always puts nations in this sad alternative; their defeat delivers them to destruction, and their triumph, to despotism.

[There is a great nation in Europe where the forces of society [v: governmental forces] are centralized in such a way that in case of war, a drum-beat assembles the entire nation, so to speak, around its leader, like the inhabitants of a village. This nation, apart from its courage, must have a great advantage over others for waging war; on several occasions, therefore, we have seen it dominate all of Europe by force of arms.

The fact is that to draw from people the enormous sacrifices of men and money that war requires and to concentrate, in one place and at a given time, all national forces, nothing less is required than the efforts of complete sovereignty.

Now, the inevitable evil of confederations, I have already said, is the division of sovereignty. In the federal system, not only is there no administrative centralization or anything approaching it, but also governmental centralization itself exists only very incompletely. That is always a great cause of weakness when it is a question of defense against peoples among whom governmental centralization exists.

In the federal Constitution of the United States . . . [cf. *infra* (ed.)].

So, in general, it is during a war that the weakness of a government is revealed in a most visible and dangerous manner; and I have shown that the inherent vice of federal governments was to be very weak.

In the federal system, not only is there no administrative centralization or anything approaching it, but also governmental centralization itself exists only incompletely. That is always a great cause of weakness, when defense is necessary against peoples among whom governmental centralization is complete.

In the federal Constitution of the United States, of all federal constitutions, the one where the central government is vested with the most real

strength, this evil still makes itself acutely felt. [The law gives Congress, it is true, the right to take all measures required by the interest of the country, but the difficulty is to exercise such a right. If Congress, pressed by urgent needs, comes to impose on the governed sacrifices equal to the dangers, the discontent of those individuals who suffer does not fail to find a place of support in the sovereignty of the states, or at least in the ambition of those who lead the states and who, in turn, want the support of the malcontents. The states that do not want to wage war, or to whom the war is useless or harmful, easily find in the interpretation of the Constitution the means to refuse their support. The physical and, above all, the moral force of the nation is considerably reduced by it, for even the possibility of such an event renders the federal government weak and slow to act; it fills the government with hesitations and fears and prevents it from even attempting all that it could do.

“It is evident,” says Hamilton in the *Federalist*, no. 12, “from the state of the country, from the habits of the people, from the experience we have had on the point itself that it is impracticable to raise any very considerable sums by direct taxation.” The direct tax is in fact the most visible and burdensome of taxes; but at the same time, it is the only one that can always be resorted to during a war.]

A single example will allow the reader to judge.

The Constitution gives Congress the right to call the state militias into active duty when it is a matter of suppressing an insurrection or repelling an invasion. Another article says that in this case the President of the United States is the Commander in Chief of the militia.

At the time of the War of 1812, the President ordered the militias of the North to move toward the national borders; Connecticut and Massachusetts, whose interests were harmed by the war, refused to send their contingents.

The Constitution, they said, authorizes the federal government to use the militias in cases of *insurrection* or *invasion*; but in the present situation there was neither insurrection nor invasion. They added that the same Constitution that gave the Union the right to call the militias into active service, left the states the right to appoint the officers. It followed, according to them, that even in war, no officer of the Union had the right to command

the militias, except the President in person. But this was a matter of serving in an army commanded by someone other than him.

These absurd and destructive doctrines received not only the sanction of the Governors and the legislature, but also that of the courts of justice of these two states; and the federal government was forced to find elsewhere the troops that it needed.⁴¹

[A fact of this nature proves, better than all that I could say, the inability the American Union would have to sustain a great war, even with the improved organization that the 1789 Constitution gave it.

Allow for a moment the existence of such a nation in the midst of the aggressive peoples of Europe where sovereignty is unified and omnipotent, and the relative weakness of the American Union will become for you a proven and plain truth.]

So how is it that the American Union, all protected as it is by the relative perfection of its laws, does not dissolve in the middle of a great war? It is because it has no great wars to fear.^e

[In general, we must give up citing the example of the United States to prove that confederations can sustain great wars, for the Union has never had a single one of this nature.

Even that of 1812, which the Americans speak about with such pride, was nothing compared to the smallest of those that the ambition of Louis XIV or the French Revolution brought about in Europe. The reason is simple.]

Placed in the center of an immense continent, where human industry

41. Kent's Commentaries, vol. I, p. 244. *Note that I have chosen the example cited above from the time after the establishment of the current Constitution. If I had wanted to go back to the period of the first confederation, I would have pointed out even more conclusive facts. [Nothing more miserable can be imagined than the way the central government conducted the War of Independence and yet] Then true enthusiasm reigned in the nation; the Revolution was represented by an eminently popular man; and yet, in that period, Congress had no resources at all, so to speak. Men and money were needed at every moment; the best laid plans failed in the execution; and the Union, always at the brink of perishing, was saved much more by the weakness of its enemies than by its own strength.*^d

d. At first, the text of this note was found before "[In general . . .]."

e. In the beginning, note 41 was found at this place in the manuscript.

can expand without limits, the Union is almost as isolated from the world as if it were enclosed on all sides by the ocean.^f

Canada numbers only a million inhabitants; its population is divided into two enemy nations. The rigors of climate limit the extent of its territory and close its ports for six months of the year.

From Canada to the Gulf of Mexico, there are still a few, half-destroyed, savage tribes that six thousand soldiers^g drive before them.

In the South, the Union at one point touches the empire of Mexico; probably great wars will come from there one day [if the Anglo-Americans and the Mexicans each continue to form a single, unified nation. In Mexico, in fact, there is a numerous population that, different from its neighbors by language, religion, habits and interest [broken text (ed.)]]. But, for a long time still, the little developed state of its civilization, the corruption of its mores and its poverty will prevent Mexico from taking an elevated rank among nations. As for the great powers of Europe, their distance makes them little to be feared.^o

So the great happiness of the United States is not to have found a federal constitution that allows it to sustain great wars, but to be so situated that there are none to fear.

No one can appreciate more than I the advantages of the federal system. There I see one of the most powerful devices favoring prosperity and human liberty. I envy the fate of nations permitted to adopt it. But I refuse, nonetheless, to believe that confederated republics could struggle for long, with equal strength, against a nation where governmental power would be centralized.

The people who, in the presence of the great military monarchies of Europe, would come to divide sovereignty, would seem to me to abdicate, by this fact alone, its power and perhaps its existence and its name.

Admirable position of the New World where man has only himself as an enemy. To be happy and free, he only has to want to be.

f. In the margin, with a bracket that includes this paragraph and the two following: "*To note.*

I also say part of all of this at the *future*. Quid?"

g. The figure 4,000 appears in the manuscript as well as in a few other places.