

Democracy in Retrospect

A Brief Guide to Alexis de Tocqueville's Democracy in America, Vol 1

Merri at The Pillarist

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Introduction

Alexis de Tocqueville has occupied something of a strange position on the American right for a number of decades. A self-acknowledged champion of Enlightenment values, he nonetheless understood, with unflinching observation, the damages done to his native France thanks to the Revolution and to Napoleon. He was not one to make excuses for these affairs, either; if anything, his critique of those decades, although more lenient than that of his counterrevolutionary fellow Frenchmen, is strong in its condemnations. The failure of the Enlightenment in France's political apparatus was, for him, a failure in implementation rather than necessarily in goal.

Tocqueville's sojourn in America lasted for nine months at the beginning of the 1830s. Afterward, he published *Democracy in America*, a survey of American political, social, and economic structures and general life. Volume One, covered in this guide, was published in 1835. The second volume came out five years later. Both are somewhat self-contained studies, and for this reason, only the first is considered for our purposes. The second may be given similar treatment at a later date.

His observations in this volume have been noted as offering simultaneous defense and condemnation of the democratic—and specifically American—order, but this is not quite the case. Reading Tocqueville makes it clear that his hopes offer such defenses of the order, but his own pessimism, tempered by his observation of continental Europe and his homeland's experiences, give him plenty of reason to put forward dark prophecies for the country's then-future. Misreading this, whether done intentionally or not, has nonetheless entrenched Tocqueville's survey as a resource for both the right-liberal conservatives as well as those more inclined toward reactionary viewpoints.

Those holding to liberal sympathies, even as modest as simply believing that the way the American government presently operates is exactly how it's described in our high school civics classes, no doubt believe Tocqueville's more Enlightenment-inclined optimism. Enlightened populations, strong social mores, the innate goodness of so-called individual liberty, and the importance of suffrage all go far in Tocqueville's thought. Yet at the same time, those of us who have kept our eyes open over the past decade will recognize the pessimism with which Tocqueville predicts the American system's eventual collapse. And, for what it's worth, the system he describes in *Democracy in America* did collapse, and it happened probably sooner than he may have anticipated. Having died in 1859, however, he didn't quite live to see it.

That collapse of 1861 was not so much a radical break from American governance, however, as the French Revolution was. The same holds true for the Revolution of 1776, as Tocqueville makes clear. What has happened over the course of these last two centuries has been an incremental crawl away from the American system established in the colonies and ratified in the divorce from England. Although certain political machinations have accelerated or decelerated that crawl, there has never quite been a true political upheaval in this country—nor, in this author’s own opinion, is there likely to be. Even the assassination of sitting presidents and the far-reaching consequences of terrorism tend not to result in radical governmental restructuring so much as a continuation of long-developing tendencies in American administrative or political life that needed certain obstacles removed.

This then raises an important question: of what use is *Democracy in America* today, especially for reactionaries aware that America has time and again failed to exemplify even the ostensible elements of democracy, and especially after the sham of an election that was 2020? After all, we already know two fundamental things before walking into this work: firstly, that democracy isn’t exactly an efficient, moderate, or often even a legitimate form of government that brings out the best in a society; and secondly, that the American system has not operated as a democratic republic for nearly a generation, if not longer. The rampant growth of the administrative state since the Second World War, the ethnic conflict stirred up by the Civil Rights era, the Sexual Revolution, Free Trade, international finance, and most recently, the technological revolution of the last twenty-five years have led to a society more stratified, isolated, powerless, and disenfranchised than before. Government, internationalism, and a parasitical media apparatus have each stepped in to fill the gaps left by the retreat or destruction of small businesses, shared moral values, individual discipline, and intelligence.

So when Tocqueville writes of enlightened populations and a familiar if vague sense of rugged American exceptionalism, he really is speaking of an entirely different country. He’s speaking of one before the Federal Government had both the means and the gall to invade its own states and put whole segments of them to torch. He’s speaking of one that has yet to be significantly challenged by its neighbors in either military or economic conflicts. He’s also speaking of one that has yet to see any sort of significant immigration, apart from the small waves of English that arrived prior to the Revolution. The society of today is a far cry from the society that, in Tocqueville’s time, still faced looming possibilities of Indian raids on the frontier.

The most striking parallels to be drawn here are the ways in which Tocqueville contrasts American life with that of Continental Europe, particularly—and understandably—France. Some of the sentiments he expresses could easily be mimicked today, except to draw distinction between the lives of Coastal Urbanites and those of the rest; it is, again, one of the reasons that contemporary America is best understood as two distinct countries residing under the same flag and occupying the same geography. The values, attitudes, mores, priorities, and morals are so distinct today that proper analogue can only be found by comparing two unconnected continents in Tocqueville’s time.

This guide was written four years ago over the course of about two months at the end of Summer. The year was 2017, the President of the United States was Donald Trump, and the GOP controlled the House, the Senate, and had at least their card-carrier in the Oval Office. And yet, looking back, none of

that seemed to matter. Typical of our American government, when one party holds all three of these positions, it gets almost nothing done. Trump's election seemed to be the stick in the Regime's eye that we were all overjoyed to see; unfortunately, rather than sounding off the alarm bells and marking a turning point for the Regime, it seemed to have been little more than a four-year stall. The events of the Biden/Harris administration presently indicate that 2021's agenda will be picking up where 2016 left off—with the unfortunate side-effect of having coaxed out into the open anyone who even mildly supported Regime change.

There are still, however, many Americans who do not necessarily recognize any of this. Many still cling to the Stars and Stripes as though it represents a government rather than a people—an administrative apparatus rather than a nation. The decades-long effort to chain American government to American personality, exacerbated by “melting pot” ideology and the controlling efforts of public schooling, has resulted in a confused class of politically active citizens that cannot help but assume that the government of the United States is and always will remain Of and For the People. It's not that such terminology has always been a lie; rather, the terminology has been turned into a lie over several generations, and it has been weaponized today in order for government bureaucrats and oligarchical interests to justify crimes ranging anywhere from theft to genocide.

If Biden won the election, according to their logic, then that must be the case. Political machinations have always been a part of democratic character, but the beliefs of such citizenry hold that these machinations were never the substance of it. America functioned despite these machinations, rather than because of them. Tocqueville's survey indicates that at one point in time, this very well may have been the case. But it is not the case today.

It is therefore worth going back to reexamine what, exactly, America used to be. The period of Tocqueville's time best illustrates the American system as conceived by the Framers of the Constitution: it was broadly republican, the kinks of the first 20 years had been worked out, the Revolution had been sorted away, and the Civil War was barely even on the horizon. All things considered, whether due to technological shortcomings or social organization, the America envisioned by most of the Founding members came as close as possible to existing during this time. Agrarian, “Jeffersonian” republicanism existed alongside the administrative states of developing urban centers with almost seamless harmony, at least politically speaking.

And yet, all the same, despite Tocqueville's optimism, he maintained doubts—and all too many of those doubts revealed themselves in dark prophecies. While some of these prophecies did not come to pass in explicit letter, all of them were formed around a deep foreboding that doubted the democratic ideal. One gets the impression, as one progresses through *Democracy in America*, that even Tocqueville understood a completed democratic system as one held together by a complex system of tension but lacking a cornerstone. Once erected, it's only a matter of time until it falls apart.

With this in mind, we approach the landmark work on America's formative years. This is not intended to be a study in how far we've come or how great the differences are between the state of America two hundred years ago and that of the country today. Rather, it's an effort to bring into focus what

segments of the right presume, erroneously, what America still is. The present system does owe itself to the system Tocqueville describes; of this there should be little doubt. But it is no longer the same system, and in order to refute those who claim it is, we should be well-acquainted with what it used to be.

This book has only one work that it cites, so in the interests of brevity, I will list the citation here:

Tocqueville, Alexis. *Democracy in America*. Translated by James T. Schleifer. Edited by Eduardo Nolla. Indianapolis: Liberty Fund, 2010.

Geography, Division, and Social Structure

Part I:

Tocqueville's Introduction

Chapter 1

Chapter 2

Chapter 3

Chapter 4

The first part of this guide covers roughly the first hundred pages of *Democracy in America*, beginning with the author's introduction and ending with the fourth chapter.

Tocqueville's Introduction

Tocqueville begins his book with a thirty-some page introduction in which he states, and then later restates, that *Democracy in America* is not a travelogue. Nor, does he add, is it merely a catalogue of various American institutions. Instead, it is a work of political science that attempts to capture the growth of a liberal-democratic revolution that Tocqueville believes is sweeping the West.

This belief falls in line with his Enlightenment predecessors, and as the introduction continues—indeed, as the rest of the whole work continues—the ideological debts that Tocqueville owes to the likes of Rousseau, Locke, and even Hobbes are numerous.

Despite his liberal tendencies, Tocqueville remains erudite on his critique of democracy and the pitfalls it faces, particularly in relation to the Old World. The absolutist kings of France worked as levelers frequently throughout French history, he claims, which helped the lower classes behave as nobles “when they were ambitious and strong,” while the moderate and weak rulers “allowed the people to put themselves above kings.” He continues: “The former helped democracy by their talents, the latter by their vices”¹. Democracy, as Tocqueville sees it then, is an historical inevitability, held back only by the seemingly oppressive structures of old and somewhat broken traditions and archaic kings. The divisions of lands between nobles, the peasant revolts, and the breakdown of the feudal system presents

1 8.

a seven hundred year-long narrative that Tocqueville points to as evidence. “Everywhere you saw the various incidents in the lives of peoples turn to the profit of democracy;” he says,

*all men aided it by their efforts: 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.*²

While not quite a radical for his time, Tocqueville is not the counterrevolutionary in the vein of Boland or Chateaubriand, to be sure. It is through this particular lens of democratic progressivism that Tocqueville’s book was conceived and written. And yet, he remains uncertain as to future developments of this democratic lurching, given how equality and liberty have, for the most part, already been reached in unprecedented levels across the West at the time of his writing: “we are prevented by the magnitude of what is already done from foreseeing what can still be done”³.

Yet, while not exactly a traditionalist, is he not altogether an ideologue. He respects the order of the ancient regime, noting how, when the nobles indeed believed themselves *noble*, and the serfs accepted the nobility’s claim upon power as legitimate, art and culture flourished and living standards were generally stable. “It is not the use of power or the habit of obedience that depraves men;” Tocqueville writes, but rather “the use of a power that they consider as illegitimate and obedience to a power that they regard as usurped and oppressive”⁴. He goes on to remark how the proliferation of Enlightenment principles led to democratizing of these older structures, and, revealing again his liberal tendencies, writes of how a “free association of citizens would [...] be able to replace the individual power of the nobles, and the State would be sheltered from tyranny and license”, secure in his faith in the fundamental goodness of individualism and a government unfettered by rigid hierarchy⁵.

Egalitarianism, that dreaded horror from the French Revolution, remained an ideal even after the Terror, after Napoleon, and after the Bourbon restoration.

Still, he holds back complete embrace of his liberal tendencies:

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

2 10.

3 14.

4 20.

5 Ibid.

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.⁶

This is the portrait a man who, after putting his ideas to the test, has begun already to see the major flaws in democracy, liberalism, and the Enlightenment ideals. Equality reduces men to animals, democracy reduces the State to a regime that must preside over animals, and fraternity turns to malice between animals that have destroyed their arts, their institutions, their stories, their history, and their culture. Although not as pessimistic as his counterrevolutionary contemporaries, Tocqueville's overtures to Enlightenment thought, and in particular to liberal democracy, never reach the bright-eyed wonder of the youthful revolutionaries on the palisades. His defense is tempered by at least a reasonable understanding of what this liberal democratic social revolution is costing the West.

Tocqueville at once sees a worldwide (or at least Western/Europe-wide) democratic order and equality of conditions as the end-game toward which all of history progresses. For him, it is a mechanism that will free man of his oppressions, but at the same time, he acknowledges the degradation of the spirit that the liberal ethos inflicts upon those societies who suffer it. It's striking how parallel his belief and his acknowledgment run side by side through his introduction, and likewise throughout much of *Democracy in America*, due to how relevant such a coordination of opposites is to the modern liberal-conservative views today.

"It seems to me beyond doubt," he writes, "that sooner or later, we will arrive, like the Americans, at a nearly complete equality of conditions"⁷. This statement alone encompasses the limits of his optimism and his enthusiasm. "I did not even claim to judge if the social revolution, whose march seems irresistible to me, was advantageous or harmful to humanity", he continues, asserting that his travels in and writings on America were in order to "discern clearly its natural consequences and, if possible, to see the means to make it profitable to men"⁸. He concludes his philosophical musings with his admittance that "in America, I saw more than America; 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"⁹.

The last part of his introduction lays out his plan for the rest of the work. The first part covers the establishment of democracy in the New World, its dependency upon laws, the origins of those laws, and the stopgaps and countermeasures put in place in order to assure democracy's relative stability. A

6 22-23.

7 27.

8 28.

9 Ibid.

second part, originally, was to look at the more social and philosophical impacts that democracy had upon American life and culture, and how it shaped America differently from how Europe has traditionally been molded. Tocqueville admits, however, that he may not have been successful in this task.

He concludes his introduction by acknowledging that this book, due to its construction and its content, will be easy to criticize by any reader looking to tear it apart. Likewise:

*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; and while they are concerned with the next day, I wanted to think about the future.*¹⁰

This was not written with any particular political aim in mind. As a work that, he emphasized at the beginning, would be the start of a new political science, its goal was to service theory above agenda, to make the ideas fit the facts, and, of course, to first discern the facts on the ground. Close to two hundred years have passed since Tocqueville published this work, and it remains among the most poignant and insightful commentaries on American democracy ever written. It's safe to say that he succeeded in his endeavor, possibly beyond his wildest dreams.

Chapter 1 – Exterior Configuration of North America

The first chapter is little more than a topographical overview of the North American continent north of the Rio Grande. After explaining the importance of the Rockies to the west and the Allegheny mountains to the east, Tocqueville makes special note of the Mississippi river and its tributaries. Navigable rivers were imperative to a strong and functioning integrated economy, as railroads had only just begun to see very limited use. Networks of steam engines were still on the horizon, so steamships, riverboats, and barges remained the linchpins of both civilian travel and trade.

It's important to note that Tocqueville's sojourn in the United States took place from between 1828 to 1834, some two decades after Lewis & Clarke first embarked to explore the Louisiana Purchase and make contact with the Pacific Ocean up in what is now Washington State. While the details of the unorganized territories acquired with the Louisiana Purchase still remained elusive, certain geographical details had been established and recorded by numerous travelers, traders, and frontiersmen by the time Tocqueville made landfall in the US. Additionally, Louisiana and Missouri had already gained statehood, with the organized territories of Arkansas and Michigan not far behind.

He also mentions the Indian Nations that populated much of this continent at the time, making brief note of how alien their cultures and ways were to the arriving Europeans. Of "[t]he social state of these peoples," he says,

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

10 32.

*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.*¹¹

A certain Rousseauian sense of noble savagery is the first most striking feature of his observation. However, rather than a glorification of Native barbarism, closer inspection and context reveals that Tocqueville admires the Indian peoples only inasmuch as they are a comparatively quaint and alien culture to his own. Americans, descended from and removed only by a few generations from the European and English homelands, are an intriguing offshoot of the Western ethos. Indians, however, aren't. There was no culture known to Westerners that warrants comparison to them, not even the South American civilizations conquered by Spanish several centuries prior.

Whatever awe Tocqueville reserves for the Indians, it's weighted with the amusing parallel observation that, as a people, they don't seem to be very smart. The great American experiment, with its culture and infrastructure, as a combination of various cultures and races, "indicated on the part of its inventors," Tocqueville says, "an exercise of intelligence of which the Indians of today seem little capable"¹². Continuing in this vein, he remarks that the Indians seem to have very little grasp over their own history, drawing again both distinction between the Western tradition and their way of life, in addition to a modern view of a backwards people. Of the great earthworks that litter the Ohio river valley and the various mounds across the continent—known well to the settlers even then—the Indians displayed both a general lack of interest and ignorance toward who made them or when they were constructed. This ambivalence toward the history of their land and themselves, remembered only partially in myth, rightly struck Tocqueville as somewhat absurd.

He concludes the first chapter with another meditation on how remarkable the East Coast of the continent is: it was easily navigated by extensive river routes, its geography was suited perfectly for industrialized ports, and so much rich and fertile area for farmland existed only a short ways inland. This was where, he says, "civilized men had to try to build society on new foundations. Applying, for the first time, theories until then unknowable or considered inapplicable, civilized men were going to present a spectacle for which past history had not prepared the world."¹³ The great American Experiment seemed destined for these shores.

Chapter 2 – Of the Point of Departure and Its Importance for the Future of Anglo-Americans

Chapter two kicks off with a brief rumination on the origin of societies. Tocqueville announces his belief that, were it possible to see into the distant past at the creation of societies, the origin of that societies' held beliefs and prejudices would be made apparent. He uses the metaphor of a babe in the

11 40.

12 Ibid.

13 44.

crib, and how the entirety of the man that babe will grow up to be remains present in the crib, even if he is not fully realized yet. “People always feel the effects of their origin,” he exclaims, “[t]he circumstances that accompanied their birth and were useful to their development influence all the rest of their course”¹⁴. This proclamation illuminates further his musings on the natives from the previous chapter; man is born as an effectively blank slate, Tocqueville believes. The sufferings he endures, coupled with the society he is born into, shape the entirety of his psychological and physical being. Likewise, Tocqueville expands, the society must be shaped in much the same way, as societies are precisely the collections of the people within them.

Using this as his starting point, he then restates the purpose for writing this book in the first place. America’s establishment and its fight for independence from Britain gave the modern people of Europe an opportunity to watch a country come into existence. It would be an experience that Western people had been able to observe as an uninvolved party, allowing them to “discern the first causes of the destiny of nations that the obscurity of the past hid from them”, in Tocqueville’s own words¹⁵. He continues:

*When, after attentively studying the history of America, you carefully 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.*¹⁶

The point of departure that he mentions is, of course, the formulation of the country. It should be possible to explain all aspects of the American nation and its character by analyzing its origin, he believes, so naturally, he begins with some brief analysis of America’s colonial period.

“It is hardly the happy or the powerful who go into exile, and poverty as well as misfortune are the best guarantees of equality that are known among men,” Tocqueville writes, emphasizing how a general sense of egalitarianism was present in the early colonial period because of how forging new settlements necessitates a communal sense of shared hardship¹⁷. Organizations of men were naturally ordered into rudimentary hierarchies merely to facilitate proper leadership and expedite certain goals, and yet—even in spite of the periodic immigration of powerful families to the colonial shores—Tocqueville notes that the formulation of the colonies rejected, as a system, the existence of an aristocratic class. Things were too sparse to begin with, the work too difficult, and the wealth too hard to make, to allow any denizen significant enough leisure to be of aristocratic categorization. This was an altogether new phenomenon, he adds, unseen in the world in recent memory.

He then proceeds into a brief analysis of the North and the South, carefully explaining the crucial differences between both, despite their shared Anglo-Saxon heritage. Of the South, its origin as an attempted gold prospect colony in Virginia, quickly-turned-farming colony, meant the colony was

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16 48-49.

17 50.

established predominantly by the underclasses of British working and agrarian peoples. This note is important only in that they distinctly lacked “noble thought” and “plans that were not material,” which Tocqueville connects with the quick imposition of slavery there for economic purposes¹⁸.

By contrast, the North was first settled by a rather learned class of English pseudo-elite. While hardly aristocratic in origin, the Puritans of New England were among the most educated groups to ever become colonists, and as Tocqueville notes, “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”¹⁹. These first Northern settlers, in other words, staked much more on the success of their colonies than their Southern compatriots did. Had New England failed, it would have been the loss of an entire way of life, complete with the families, doctrines, and morals that supported it. Had the first Southern colonies failed, it meant the loss of a few personal fortunes.

Tocqueville then begins to quote at length Nathaniel Morton, a noted historian of New England’s first colonial years. He emphasizes the sense of providence that led the Pilgrims to the New World, and specifically to the banks of Massachusetts and Plymouth Rock, their spectacular survival in the wilderness, and their hardship getting there. While New England established itself, Britain meanwhile was jilted by the social and religious upheavals that took place during the reign of Charles I. The succeeding, albeit difficult colony in the North America turned out to be an attractive settlement for scores of immigrants fleeing the sectarian persecution of the mother country. In a unique circumstance, most of these immigrants, due to their religious affiliations, came largely from the middle classes. Thus a backwater colony in the middle of nowhere half a world away became a haven for educated, moral, familistic peoples from very similar social backgrounds and built upon survivable prejudices. This, Tocqueville believed, coupled with the comparatively homogenous and egalitarian society that rejected the increasingly unstable and mis-ordered hierarchies of the old world, allowed New England to thrive. “Democracy, such as antiquity had not dared dream it,” Tocqueville writes, “burst forth fully grown and fully armed from the midst of the old feudal society”²⁰.

The organization of the early colonies is worthy of attention, as well. England’s method of granting charters in North America followed a few general methods: sometimes, as with New York, a governor was appointed by the crown and run essentially as an extension of the English bureaucracy; in other cases, legal ownership was granted to a person, a group, or a company, to use at more or less their own discretion, although under the oversight of the crown. In the latter’s case, land was usually sold to the constituency of that colony and the owner of the charter became effectively governor of the region, as was the case in Maryland, Pennsylvania, the Carolinas, and New Jersey. New England’s case, however, was different from both of these: the inhabitants of the colony, already present, were granted formal recognition as a political society and given the rights to “govern themselves in everything not contrary to [England’s] laws”²¹. What is fascinating about this is how quickly New England spread

18 52.

19 54.

20 59.

21 60.

from the banks of Massachusetts all the way to the Hudson and North to Erie, and how long some of these townships and polities had to wait in order to gain recognition from the crown.

Tocqueville takes some time to note the legislative intensity in some of New England's colonial penal code, including a puritanical enforcement of various Old Testament regulations with excessive citations to scripture. Amusingly enough, Tocqueville makes it clear 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"²². Examples of some of these "bizarre or tyrannical" laws included various prohibitions on tobacco, on worship of alternate gods, improper or alternative worship of the Christian God, witchcraft, and improper conduct between unmarried couples (including mere flirtation).

And yet, despite the absurdity of some of these laws, Tocqueville mentions how beneath the more theocratic aspects of the puritan's legal code, there rested a bedrock of law and order that later constitutions would imitate. He cites free votes of taxes, election of governors and legislators, and trials by jury as things codified by these same early colonial codes of law. "In most European nations," he says, "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," but in America, "you can say that the town was organized before the county; the county, before the state; the state, before the Union"²³. The colonialism of the American experiment grew upwards as a movement toward union, rather than outwards as a metropolitan enforcement of centralized authority. Authority, Tocqueville essentially says, was built from the bottom up: a tribute to the Enlightenment spirit that Tocqueville increasingly attributes the United States' inception to.

He continues:

*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.*²⁴

With this aside serving as a preamble, Tocqueville then explains how centralized the local township authority was in the New England sphere back in the 17th century colonial period. Education was a foremost interest of the state, to such a degree that municipal magistrates could remove from the parents any rights of custody over their children. The theocratic infusion into law, alongside the democratic values more identifiable with today's culture, leads to a grim conception of a fairly totalitarian local politic, yet Tocqueville writes that "it is religion that leads to enlightenment; it is the observance of divine laws that brings men to liberty", casting aside the tempered distinction between secular and religious authorities, and their complex interrelation, that the Middle Ages had brought to Europe²⁵. What Tocqueville perceives as progress toward a democratic and liberalized freedom of

22 64.

23 65.

24 66.

25 67.

peoples instead comes across as a backward reversion to a confused application of religious spiritualism applied directly to the civic order.

Tocqueville concludes the second chapter with a brief observation that aristocracy remains beneath the democratic fabric of the American quilt, citing as one example the unfairness that bail demands in relation to poor suspects versus the rich. The poor, often unable to meet bail, are forced to serve harsher penalties than rich suspects who can often use their fortune to escape punishment beyond a handful of additional fines. Yet, Tocqueville adds, it is often the poor who write and legislate much of the law in the American system. This holdover that values the rich, he claims, is a remnant of English law rather than the Puritan law that he considers a striking American invention. But such a simplification of the early American justice seems to contort what truth he attempts to get at, even though he does claim to be capable of citing many other such examples.

Chapter 3 – Social State of Anglo-Americans

*In my view, the social state is the material and intellectual condition in which a people finds itself in a given period.*²⁶

Tocqueville begins his third chapter with this definition of a social state, declaring it the “first cause of most of the laws, customs and ideas that regulate the conduct of nations;” adding that still affects and changes anything it doesn’t create²⁷. Having described the geographical territory of America in the first chapter, and the general demographic heritages of its people in the second, Tocqueville now approaches America in detail.

He briefly reiterates the democratic essence of the American social state presented in the previous chapter, explaining that democracy is best conceived as a social mode, while the people’s individual sovereignty is the political analogue. He acknowledges briefly that that these two aspects of life are entirely “inseparable, because democracy is even more compatible with despotism than liberty”²⁸. Personal sovereignty, he goes on to state, is “always more or less a fiction wherever democracy is not established”²⁹. The fundamental equality among men remained a staple of life in New England, making it, as he effectively stated in chapter two, the most democratic experiment of a social state known to man. But that state did not exist beyond the banks of the Hudson to the west and south.

After the initial settlement period of the first colonial waves to the New World, English aristocracy began small migrations here and there among the rest of the thirteen colonies. Tocqueville refers here to the granting of charters to people like George Calvert, the first Lord Baltimore, and William Penn, the man who received the charter for Pennsylvania, among some others.

Aristocracy, he still insists, did not really arise in America—at least not in a form recognizable to European sensibilities. The southern landowning classes, he notes, was built upon the labor of slaves.

26 74.

27 Ibid.

28 76.

29 Ibid.

What we would know as the Antebellum Southern Gentlemen, for instance, lacked tenants and therefore the patronage that the lords of the Old World had—their slaves were bartered and sold at market and lived in a mode distinctly different from the serfs even of the feudal times. Inheritance even among these landholding classes was not as sophisticated a tradition as it remained across the Atlantic, either. Tocqueville concludes that “[i]t 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; in sum, weak and not very hardy”³⁰. Even democracy’s aristocratic outgrowths tend to equalize the human will, as Tocqueville noted in his introduction’s musings.

“But it was the law of inheritance,” Tocqueville says, “that pushed equality to its last stage”³¹. Inheritance, though a matter of civil law, is so fundamental to the social organization of a society that its importance cannot be overstated. It is through the mechanism of inheritance that generations maintain their bonds from past to present and into the future. It is the law of inheritance, Tocqueville explains, that “reunites, concentrates, gathers property and, soon after, power, around some head; in a way it makes aristocracy spring from the soil”, and as this process accelerates through the generations, some of the less-fortunate have-nots frequently attempt to block inheritance³². In modern parlance, death and estate taxes are typical means of doing this, though the modern income tax essentially blocks the same thing.

But Tocqueville goes in a different direction: when inheritance laws mandate the division of a father’s property amongst his children. The impact of such divisions is felt only over the span of generations, but it is not difficult to see how this is a leveling force against individual prosperity. No matter how wealthy a man may get within his lifetime, such legislation demands that this fortune be reduced as it passes onto his children. It serves as a check against the formation of new aristocratic units—and, as the history of America has born witness—the alternative to this is simply to have fewer children for the wealth to be divided between. “[T]he law of equal division exerts its influence not on the fate of property alone;” Tocqueville adds, “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”³³.

This observation on the division of inheritance brings Tocqueville to a brief statement on the relationship between family estates and land ownership in the old societies where primogeniture reigned. In older societies, the land remained in the holding of one family and specifically one person at a time, cementing the status of the firstborn (in most cases). Values, nobility, custom, and culture remained tied up in the land, equal and indistinct from the family who owned it. However, where estates are divided up between children, they shrink in size, and whatever social meaning was instilled in the land is severed from the family and its conception of wealth. This leads, eventually, to the diminishing of land ownership altogether. And Tocqueville notes that a democratic society is significantly less interested in the tradition-bearing aristocracies of the Old World. There is a distinct “pecuniary interest in selling [the land], since movable assets produce more income than other assets”

30 78.

31 Ibid.

32 79-80.

33 81.

and, in particular, because such movable assets “lend themselves much more easily to satisfying the passions of the moment”³⁴. In his observations purely on the nature of inheritance, Tocqueville at once acknowledges the impulsiveness of a democratic society while also predicting the gradual movement into urban subletting and the rent society that dominates modern America today. As landownership decreases in pursuit of more immediate, less abstract long-term and intergenerational goals, renting and—in the postmodern world, suburban subdevelopments—become the norm. Society itself ceases to see the passage of wealth between generations as necessary to a thriving culture. As Tocqueville notes, “[w]hat is called the family spirit is often based on an illusion of individual egoism”³⁵.

He continues in similar vein:

*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. But wealth circulates there with incredible rapidity, and experience teaches that it is rare to see two generations reap the rewards of wealth. The people are like the divinity of this new world; everything emanates from and returns to them.*³⁶

As the wealth of families atomizes according to more distinct and distant family relations, and as the bonds therein decline in prominence, the pursuit of wealth accelerates class mobility. Although liberalism conceives this class mobility as a fundamentally positive good, the effects on society’s stability, in addition to the individualistic impulsiveness that it implies about that society’s outlook, beg to differ. Class mobility, although not altogether a bad thing, tends to accelerate, rather than stabilize, the self-destructive patterns in human weakness.

Tocqueville moves on to address the settlers to the West of the Mississippi in brief, detailing the new struggle of the cohesive American social state to integrate new states into an ever growing and expanding union. Additionally, he addresses the distinct lack of sophisticated education among the American population. Even the rich, the presumed elite, generally lack the higher education that European sensibilities have come to expect among the upper classes. “There primary education is available to every one;” he says, “higher education is hardly available to anyone. This is easily understood and is, so to speak, the necessary result of what we advanced above”³⁷.

Curiously, he continues, the richer families and individuals do not form a cohesive class apart from other Americans. Nearly all Americans work, as he discussed previously; as such, apprenticeships and the need for specializing in professions typically begins in an average American’s mid-teenage years—concluding the “cultivation of the mind” right about the time “when ours begins”³⁸. This results in a society in which leisure ceases to exist; nearly all men who are rich began their lives poor, and all who could afford leisure later in life labored strenuously as young men. Study was accounted for only in

34 82.

35 82-83.

36 85.

37 87.

38 Ibid.

relation to their chosen professions, as anything extraneous to that remained too much to handle while holding down a job.

Tocqueville concludes chapter three with the observation that this equalization of land, wealth, and education—the inadvertent and de-centralized propagation of such leveling—has resulted in a society quite unlike most others in history. And this equalization must also extend to the body politic. Americans are not likely to find “a middle course between the sovereignty of all: of the people, and the absolute power of one man: a king”³⁹. Tocqueville acknowledges again the dangerous impulses that this sort of unbridled equality brings about:

*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.*⁴⁰

Again, Tocqueville seems to predict the future. The germ of free market capitalism, the radical individualistic pursuit of greatness, finds its antithesis—extreme collectivism and totalitarian socialism—in the same shadow marked by Adam’s Fall. Liberty and equality can exist side by side only for so long as morals are capable of controlling impulsiveness and vice.

He ends with a somewhat dark observation that the pursuit of both of these values, even insofar as they do not cancel each other out, hamstring the populace from adequately defending themselves against authoritarian aggression. “Since none among them is then strong enough to struggle alone with any advantage,” their individual senses of greatness being held firmly in check, “it is only the combination of the strength of all that can guarantee liberty. Now, such a combination is not always found”⁴¹.

Chapter 4 – Of the Principle of Sovereignty of the People in America

Ever a child of the Enlightenment, Tocqueville begins his exegesis on the American people’s sovereignty by reiterating the consent of the governed. The people’s sovereignty, he begins, “which is more or less always found at the base of nearly all human institutions, remains there as if buried. It is obeyed without being recognized”⁴². America’s popular sovereignty, however, is not masked beneath a vague unwillingness to revolt or the haphazard brokerage of power among sectarian parliamentary groups. Instead, it is omnipresent and in every facet of the society at large.

He briefly details how colonial self-rule was restricted in its democratic aims due to its allegiance to the homeland. “[I]t was reduced to hiding in the provincial assemblies and especially the town”, he says,

39 89.

40 89.

41 90.

42 91.

continuing that “American society at that time was not yet ready to adopt it in all its consequences”⁴³. Suffrage—for Tocqueville, something of a *right* rather than a privilege—remained in the hands of landowners; he notes that Northern requirements of property ownership were much smaller than those required of many Southern jurisdictions. In all likelihood, this was a result both of the distinct cultural differences between the two, in addition to the much smaller areas Northerners tended to congregate toward versus the vast expanses of Southern geographical territory.

Tocqueville writes next of how the American Revolution was spurred on by the individualistic strains among the local townships and congregations, and how, upon victory over their old motherland, the upper classes “came to think only of winning [the people’s] will at any cost”, since they knew they could not fight them⁴⁴. He observes:

*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.*⁴⁵

He goes on to cite Maryland as an example, being founded as a colony by English aristocracy and yet, perhaps counter-intuitively, being the first to enact what in the nineteenth century constituted universal suffrage. Suffrage, with relation to its legislation on account of the government, is a force that cannot be held back once introduced, Tocqueville claims. The more the limits upon it are reduced, the more those who do not meet the qualifications call out indignantly until finally the vote is extended to everyone. Or, so he claims, following neatly in line with his more liberal temperament. The history of Maryland in particular, its relationship with aristocracy and the motives behind extending suffrage at the time, are left completely unacknowledged.

Tocqueville looks upon this without any particular reverence or melancholy; rather, he drifts quickly into addressing that the political class of America is indistinguishable from its ‘people’; the local jurisdictions are run and operated by the same people who tend to the shops, run businesses at the ports, or work the field hands on the farms. “There are countries were a power, in a way external to the social body, acts on it and forces it to follow a certain path”, he writes; “[n]othing of the sort is seen in the United States; there society acts by itself and on itself”⁴⁶.

It’s striking how different the statement is compared to how the government and the people are construed today, despite Tocquevillian odes to popular sovereignty among the political class. Much of the same could be said about many of the things we’ve seen in Tocqueville’s writings so far on America. The changes in wealth, the various stratifications of society, the rupture in the political classes between the federal levels and the local politics—all of it paints the America of the early nineteenth century as almost an entirely different country. The tales of American hardship, the folk-

43 92.

44 94.

45 95

46 96.

stamina of the agrarian communities, the raw individualism of the frontiersmen, and the diligent work ethic of the business people near the coasts: these are all alive still, to varying degrees, in the American experiment. But they have been fundamentally altered beyond what Tocqueville writes of, and often in ways that the mere passage of time is unable to account for.

As we continue to dive into *Democracy in America*, more divergences between the America of Tocqueville's travels and the America of today will likely become evident. And yet, similarities—perhaps more than we can expect—float to the surface, as well.

Organization of the Political Structure and the Courts

Part I:

Chapter 5

Chapter 6

Chapter 7

Chapters five, six, and seven are concerned more with the details of the law and organization of the American political structure than with general theories of its governance. Chapter five concerns the ground-up formulation of the American government, emphasizing the regional autonomy of townships and counties, but stopping short of analyzing the federal government. Chapter six looks at the judicial system as it is practiced in both general principle and specific case. Chapter seven is a look at the American political jurisdiction and how it compares to France.

Chapter 5 – Necessity of Studying What Happens in the Individual States before Speaking of the Government of the Union

It is important to remember the time in which Tocqueville's travels around the United States took place. This was only a little under fifty years since the American Revolution, in which the union of states truly was a *union* of separate states, and about forty years prior to the Civil War, in which the federal government demonstrated its willingness and ability to transform that union into a centralized federalism by the blood of its young men, if need be. The federal authority present at the time of the early nineteenth century would be nearly unrecognizable to today's audience; very few government administrations existed, the President's power largely had to do with foreign policy and very general domestic interstate affairs, as well as using his influence to get congress to work together. Additionally, Congress was smaller and few career politicians could be found. The United States' government, as such, was a tightly-organized but loosely-run group of people, and most of them had real careers outside of politics.

This is why, as Tocqueville begins chapter five, he mentions how the United States government seems to comprise “[t]wo completely separate and nearly independent governments”: one which includes the day to day operations of federal power, and the other to address more generalized principles of governance⁴⁷. But the states themselves, he says, remain “twenty-four small sovereign nations, that together form the great body of the Union”⁴⁸. How the times have changed.

Tocqueville goes on to briefly reiterate how the political structure of the American union grew from the grassroots of the colonial infrastructure and culture upwards. The federal government appeared last, not simply because it was necessitated by the revolution, but because the polity of the individual units did not have a need for a union. Indeed, though Tocqueville doesn’t mention this, the failure of the first attempt at federal governance, the Articles of Confederation, stands testament to the desire of the post-colonial powers to remain as individual from one another as possible. In maintaining this theme, Tocqueville begins his analysis of the political organization of America with addressing the three vessels of political organization: the town, the county, and the state.

The Town

“Town society,” Tocqueville says, “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”⁴⁹. While men establish fiefdoms on Earth, they can do so only after conglomerations of people have already come together and incorporated into townships and small municipalities. Tocqueville notes how the liberty of the town is quite often and easily overridden by larger established governing bodies, as the failures of justice that take place on the most local of political levels makes it easy for people to point fingers. Blame, and thus intervention by other jurisdictions, is more readily accepted by the town body.

However, in spite of this, the town is never really eradicated as a fundamental structure of political organization. Town institutions, even if usurped, remain present, and either the culture adapts or the people reassert their authority upon them. However, towns which lose the institutions’ sense of independence and freedom, he explains, indicate the failure of the society at large. “Without town institutions”, Tocqueville says, “a nation can pretend to have a fee government, but it does not possess the spirit of liberty. Temporary passions, momentary interests, the chance of circumstances can give it the external forms of independence; but despotism, driven back into the interior of the social body, reappears sooner or later”⁵⁰.

In order to better explain the structures of states and the local jurisdictions involved, Tocqueville mentions that he used a particular New England state as a model. The reason is several-fold: firstly, the towns in New England are, in general, of considerable age at the time of his writing; as such, they were among the first in the colonies to reach maturity. Likewise, they served as models for development and settlement in much of the rest of the United States as it expanded and filled out its geographic

47 98.

48 Ibid.

49 101.

50 102-103.

boundaries. And, as a foreigner, Tocqueville found that the maturity of the structures involved made them more easily recognizable and identifiable, and thus easier to study.

Over the next several pages, Tocqueville impartially explains the general organization of any given New England town's administration. Selectmen, officials who hold most of the public administrative power, are elected once a year to preside over the general will of the people not unlike a mayor would. Other magistrates are also elected to serve, in a general way, the will of the selectmen—tax assessors and collectors, constables, clerks, and treasurers, among others. These offices number in total nineteen. Interestingly, Tocqueville mentions how “[t]he 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”⁵¹. Whether this still holds true today, I can't say.

Whatever the present circumstances, Tocqueville moves on to examine town life, beginning with the manner in which political power is imbued to each citizen of the township:

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.*⁵²

In sum: the subjects of the polity do not worry themselves much with the behavior of their peers, expecting of their peers the same standards that they individually impose upon themselves. The fires of the Enlightenment burn strongest in passages like these. Exactly what Tocqueville is referring to here is difficult to ascertain, as is typical of most Enlightenment posturing. He does, however, find his way back to making sense when he addresses the importance of the democratic aim:

*In all that concerns only himself, he has remained the master; his 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.*⁵³

To each his own, he says, in recognizably American spirit. He ties this into his analysis of the town polity by explaining that just as this maxim is the foundation of behavior between the individuals of America, so too is it the foundation of behavior between the townships. The towns, born in the wilderness by settlers from either other towns or, originally, from across the ocean, were made by rugged individuals and developed into the centers of culture he witnessed in his time. That ruggedness was the seed of their prosperity. As mentioned in earlier chapters, the charters to secure the land for settlement were, in large part, bureaucratic formalities to settle the legal ownership of colonial endeavors. The actual settlement, however, was not legislated or overseen by any authority except

51 107.

52 108.

53 Ibid.

those who settled it. As Tocqueville mentions, “[t]hey 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”⁵⁴. “No one among the inhabitants of New England,” he continues, “recognizes the right of the state government to intervene in the direction of purely town interests”⁵⁵. Again, how the times have changed.

“You must realize that in general the affections of men go only where strength is found”, Tocqueville writes, in relation to the spirit of the New England town⁵⁶. New Englanders, he says, are attached to their townships not simply by coincidence of their birth, but because the towns incorporate their individual desires and augment their needs, forming a true community. Europeans seem to lament the loss of a town spirit due to the fear that too much individual autonomy would lead to anarchy, yet in New England, it is precisely that liberty which keeps the town together and functioning. He briefly notes how the county, state, and far-off federal governmental positions are of comparatively limited power and scope in comparison to town magisterial positions—in part because there are so few of them, in addition to the distinctly temporary term of service that, say, the presidency holds. As a result, the town holds a more significant place in the ambitious pursuits of individual power. It remains the home, workplace, and common forum of New Englanders in a way that the old world had lost.

He concludes his analysis of the town with these thoughts:

“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 his 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.”⁵⁷

The politicization of the commoner, a distinct—if unstated—goal of the Enlightenment political discourse, finds its culmination in the American townsperson. Tocqueville identifies and celebrates the need for the common citizen to participate not merely in his own commerce, but in the town polity in order to maintain order and the somewhat ambiguous foundation of liberty that the Enlightenment thinkers so valued. And yet, how difficult has it turned out to be for the common citizen to juggle his work, his family, his desires, and the politics of his local municipality all at once? Two hundred years later, it should be of little surprise that this system has become a cumbersome and unruly bureaucracy in which the individualist ethos so touted by Tocqueville has been rendered unrecognizable.

54 109.

55 Ibid.

56 111.

57 114.

The County and Administration of New England

Tocqueville moves on to discuss the county and broader administrative capacities of the New England region. The county, he says, exists predominantly as a “judicial center” because the townships were “too limited in area ever to contain the administration of justice”⁵⁸. All county seats exist either to oversee and to guide, in a loose way, town politics, or are otherwise mere vessels to implement the regulations passed by state legislature. Strictly speaking, Tocqueville says, “the county has no political existence”⁵⁹.

With very little to say about the county’s structure, Tocqueville continues on to the general administrative aspects of the state itself. Most strikingly, he says, 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, and the motor is nowhere to be seen”⁶⁰. Some level of authority is necessary to prevent a society’s collapse into anarchy, he acknowledges, so at first glance, maintaining solid authority of governance with liberty seems incongruous. But it isn’t. He goes on to explain that there are two ways in which authority in a society can be diminished, only one of which leads to, he believes, a more utopic balance of freedom and order as represented by the United States.

The first method concerns removing from the society “the right or the capacity to defend itself in certain cases”, although aside from commenting that this was Europe’s method of establishing liberty, and that Tocqueville himself considered it “barbaric and antisocial”, he doesn’t explain exactly what he means here⁶¹. The second method is of greater concern: the division of executive power within a society. He writes:

*“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.”*⁶²

The extreme degree of autonomy which rests in the township in comparison to the county or state levels, coupled with the general democratic ethos of the American social state, Tocqueville argues, is what preserves the rule of law. The power to maintain the social order is vested in not one individual office, such as a mayor, but in—as we saw earlier in the chapter—some nineteen public officials. At the town level, the variety and dissolution of executive powers—even independent of their offices being elected rather than appointed—ensures that no significant transgression of liberty is feasible. The strict limits on each office’s powers, in addition to the delegation of those powers across multiple offices, means that each office effectively abuts one another. In extreme cases, county officials exist to

58 Ibid.

59 115.

60 116.

61 116-117.

62 117.

step in to mitigate grievances, but only in cases where the grievances are of county concern. The power of the locality, the township, is nearly absolute.

Tocqueville continues on to explain how officials are directed by those they govern. Elected officials cannot be forcibly removed from office until the end of their term, in which case elections will do the work of maintaining the people's sovereignty. As a result, elected officials have no particular hierarchy, and cannot be promoted or, in a word, fired—just replaced. Tocqueville mentions, however, “both the right to command and the right to quell disobedience effectively cannot be given to the same man”, referring to the tendency of developing tyrants that both powers vested in one office leads to⁶³. A judicial intermediary is necessary to settle disputes between these various smaller sections of government. In America, Tocqueville notes, an English position—foreign to the governments of Continental Europe—was implemented in order to ensure that the ends of both law and social well-being were served: the justice of the peace. An “enlightened citizen” served this role, though “not necessarily one who is versed in knowledge of laws”⁶⁴.

The justices of the peace are appointed by the governor of the state and serve seven year terms. In each county, courts of sessions are organized, consisting of three of these justices of the peace. These courts meet twice a year to review and hold accountable the magistrates of the town polity. Tocqueville notes how “[c]areful 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”, emphasizing how these positions mediate between the civil and the political realms⁶⁵.

Tocqueville mentioned earlier in this chapter the difficulty in maintaining a state-wide cohesive order when faced with the distinct individualism and autonomy of town politics. The courts of sessions are, generally, the mechanism in place to ensure that county-wide administrative policies are enforced. Fines and fees are levied against the people of the town should, say, taxes neglect to be collected due to the town's unwillingness to elect a collector. The courts of sessions act as a check on this autonomy without necessarily overriding it.

He continues, however, to note the difficulty that arises in maintaining the cohesive order on the part of the officers themselves, rather than merely the offices they entertain. Courts can intervene to dispense justice upon officials found in direct error by either having neglected the duties of their positions or by having trespassed the boundaries of their offices. Courts cannot, however, intervene in cases where the letter of the law is carried out at the expense of its spirit. Courts of sessions cannot force selectmen, for instance, to be either intelligent or enthusiastic about their jobs, only dutiful in them.

General Administration of the United States

Having detailed New England organization, Tocqueville goes on now to address the general structures of towns in the rest of the union. He acknowledges the uniqueness of New England polity, and writes

63 121.

64 122.

65 124.

“[a]s you move toward the south, you notice that town life becomes less active”⁶⁶. As town involvement in politics becomes less noticeable, the magistrates exert a greater influence and power over their electorate. The northwestern regions, however, do not suffer this relative decline in political activity, as most of the northwestern regions were settled by New Englanders who brought with them their own flavor of democracy.

In most states where the town ceases to be the primary locus the polity, the county instead takes its place both administratively and legislatively. Tocqueville does not dwell on the distinctions for long, allowing instead the brief connection between the right of the county legislatures to tax and their authority as legislative bodies to parallel the electoral positions of New England townships. “The town and county are not constituted in the same way everywhere;” he writes, “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”⁶⁷. In such a way are the town and county responsible for pursuing and resolving the special and individual interests of their polities. The state, broader in scope and larger in jurisdiction, governs broadly according to principles rather than settling specific disputes.

The State

Tocqueville kicks off his section on the state by describing the organization of the state legislatures. In each state, the legislature is divided between two houses—the all-familiar representative and senatorial houses. In this division, Tocqueville points out that the states avoided the creation of one purely elective house and one purely hereditary house that their old template, England, had used for centuries. Power, however, remained decentralized and the houses each acted as appropriate checks against one another.

The governor, who represents the administrative and executive powers of the state, is an executor in a very limited fashion. Given that the prevailing means of authority remain either in the townships or county jurisdictions, the governor’s executive powers extend purely to managing the relations between these bodies. He is “armed with a qualified veto”, Tocqueville writes, “that allows him to stop or at least slow the legislature’s movements as he wishes”⁶⁸. He is also the commander of the state’s militia—today more fully incorporated under state rule as the National Guard, an official branch of the military distinct from the traditional meaning of ‘militia’ (we can thank Wilson and then W. Bush for that). Generally, Tocqueville notes, the governor’s term is only for a year.

Administrative Decentralization in America

For Tocqueville, centralization exists in two forms:

Certain interests are common to all parts of the nation, such as the formation of general laws and their relationships of the people with foreigners. Other interests are special to

66 130.

67 132.

68 140.

*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 government centralization. To concentrate in the same way the power to direct the second is to establish what I will name administrative centralization.*⁶⁹

In France, these two forms of centralization become clear when distinguishing between the reign of Louis XIV and the post-Napoleonic bureaucratic governments. Under King Louis XIV, Tocqueville writes, the former sense of centralization was immediately evident and, in fact, supreme; this was the man, after all, who declared “*I am the State!*” However, the administrative sense of centralization was barely present during his so-called absolutist rule, in part because despite wielding supreme power—or, perhaps, because of it—monarchical France had a relatively small government in comparison to what would come a few generations later. Post-revolutionary France, with its innumerable bureaucracies and administrations, would penetrate far deeper into the local lives of its citizens than any government that had come before. Tocqueville draws such a connection between administrative centralization and tyranny: “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”⁷⁰.

He goes on to add that, once established, administrative centralization is nearly impossible to dismantle without destroying the entire society in the process. “When the law-maker undertakes to scatter this administrative power”, Tocqueville writes, “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?”⁷¹. So clearly does this illustrate the present state of the American federal apparatus that it’s almost as if this had been written specifically as a warning to us. Unfortunately, the present administrative state is well beyond what Tocqueville would probably have thought imaginable at the time. He continues, this time on the subject of despotism, in a passage that must be quoted at length:

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 tranquility and obedience, a sort of self-contempt, that ends by making them 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.

69 143-144.

70 147.

71 148.

*In order to gain and keep it, nations can count only on their own efforts, and if they themselves do not have a taste of it, the evil is without remedy.*⁷²

Inevitably, perhaps, the complete lack of administrative centralization that was found in the United States at the time of Tocqueville gradually faded in distinct phases, beginning with the Civil War. As we got more comfortable, Americans simply lost the taste for the liberty that Tocqueville spoke of. Tocqueville notes some of this, though more from the governmental rather than administrative perspective. There is no limit to the action of state legislatures other than their own will, he says, with the executive enforcement readily available in the form of the militia. The militia, however, is not a standing military force, and the organization of the town polities ensures that the will of the state is limited at least logistically, if not explicitly in theory.

Tocqueville spends the next several pages comparing the nature of administrative centralization in the states—or lack thereof—with the methods of its organization back in France. It becomes, he effectively writes, a mechanism that exists purely to serve itself, even as it administers to the people of its polity. This ensures a certain level of long-term stability in the social system, but at the expense of the liberty and enthusiasm of its people. His words on the differences between the American rejection of centralized administrative control and the European expectation of “an official constantly at hand who gets involved in nearly everything”⁷³ are striking, underlining how deeply the differences between Continental European governance and the American ethos run. The tendency toward a so-called enlightened bureaucratic regime is much older than the mere post-war European Union infrastructure. The European may find the American order less comprehensible, but, perhaps *because* it is less comprehensible in its whole, it has at its core a guaranteed seed of self-preservation that every citizen must foster for himself. “What is found there”, Tocqueville writes, “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”⁷⁴. How different things are today should be striking.

He goes on to wax rhetorically about the nature of the all-consuming administrative state, but behind his rhetoric lurks the evil of the leftist paradigm as it manifested in both the Soviet Union and, in somewhat altered hue, the present American social state. He describes the totalitarian villainy that dominates and defines all states in which administrative centralization became entrenched, and succinctly addresses the mindset that both gives rise to it and that it fosters:

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. At each moment, you think you hear

72 148-149.

73 155.

74 156.

*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.*⁷⁵

Tocqueville's adroitness with which he both identifies and addresses this subject is startling in its accuracy, particularly when the realities of the Soviet state and post-capitalist West. It is not hard to see the parallels between this cowardly subject and the protagonists of too many so-called serious literary works published today. These are men who do not consider nations to be comprised of people but rather governments, who expect help from faceless bureaucracies while they do little or nothing as fellow countrymen. Tocqueville continues: when the social state of any nation has reached this point of depravity, "the source of public virtues has dried up; subjects are still found there, but citizens are seen no more"⁷⁶.

As a child of the post-revolutionary and Napoleonic mess that France plunged itself into, Tocqueville's contempt for despotism and secularism is as understandable and relevant as it is vivid. He writes that the staying power of nations and cultures relies more on the religion of a given people than the will of their given leader or tyrant. "Despotism," he believes, "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"⁷⁷. The shared belief in the same metaphysical reality is what sustains and undergirds the cultures and customs of a society. The rule of a despot dwells at the tail end of that causal chain.

Likewise, Tocqueville notes that the religion of a given people is what will both stir them to action and maintain the social order, but the laws of a given nation ensure that the maintenance of that order is not left by the wayside. "And do not say that it is too late to try;" Tocqueville insists, since "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"⁷⁸. In typical Enlightenment fashion, it remains to the hand of the lawmaker that generations of men are to be primarily of service. Despite his odes and rallies against the despotism of the administrative state, his distinction between the political and administrative forms of centralization manages still to ring somewhat hollow.

And yet, when Tocqueville puts that distinction in context with life back in France, his words become a little clearer. On the continent, the public official is seen merely as a vessel of force, rather than a vessel of justice. In America, due to the decentralized administrative state of its organization, "a man

75 157.

76 Ibid.

77 159.

78 160.

never obeys a man, but obeys justice or the law”⁷⁹. The fragmentation of administrative bureaucracy allows for the political centralization of America’s democratic system to remain functioning, pure, and distinct from the despotic tendencies that coincide with democratic government. This makes enterprising and organization among fellows much easier, even if it comes at the expense of the more stable and guaranteed methods of business starting in the old world, where agreement with public officials was necessary before businesses could be launched. Tocqueville considers the American alternative somewhat preferable, as it guarantees that the people who are organizing are organizing within their best interests, streamlining the administration of their needs rather than waiting for a governmental authority to get around to servicing them.

However, Tocqueville again warns, “there are no nations more at risk of falling under the yoke of administrative centralization than those whose social state is democratic”⁸⁰. Democracy’s tendency to be eroded toward the election of tyrants, in addition to the tyrant’s tendency to centralize as much administrative power as he can get his hands on, ensures that sooner or later, the liberty of a decentralized administrative authority will erode away. Like dominoes, once the fabric and culture of a self-established democratic society has worn thin enough to prefer tyrants to self-rule, the next in line to fall is the freedom to self-administer.

Tocqueville ends this chapter noting that liberty, when imperiled, is almost universally threatened by the very people who claim to be its defenders and proponents. Often, these people may not even realize that their aims and goals are in service to an administrative state that ends up being antithetical to the so-called freedom of a democratic society they so revere. Others, fewer, are mere tyrants who cynically pursue power in secret while paying lip service to the values of the society at large. In any case, Tocqueville’s insight to the tendencies of democratic societies, the distinction between administrative and political centralization, and the state of American culture and politics in the early nineteenth century are all, in their own ways, stunning when compared to the state of the same region today. It can be difficult to conceive of this nation, as the differences that Tocqueville paints between the Europe of his time and the America of his tours make his Europe sound more like the America of today: largely centralized both politically and administratively, dependent upon the implementation of force, and with declining respect for the rule of law. Granted, this pessimistic take on the present American society is largely limited to the urbanized centers near the American coasts; rural country, the Midwest, and the mountainous regions still resemble, to some small degree, the portrait supplied by Tocqueville of the old system. And yet, on the whole, still the system remains irredeemably lost.

Chapter 6 – Of the Judicial Power in the United States and Its Action on Political Society

Tocqueville begins his look at the judicial system of the American government with a brief aside: the European court system, he claims, is politicized seemingly beyond hope of redemption. The Americans, however, have maintained the separation of judicial polity, without losing what judicial

79 Ibid.

80 162.

powers are intended to maintain. They 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”⁸¹. Times, again, have changed.

Due to how cases are brought before the courts, judges are unable to extend their arbitral powers to the realm of politics and the substance of law unless the case directly requires it. Judicial review is impossible unless a case directly brings into question any given law. This general purview of judiciary power constitutes the first characteristic, in Tocqueville’s view, of judicial power.

The second concerns the arbitration of specific cases and the passing of verdicts in relation to those cases, even if they end up transgressing the general principles of the law. As Tocqueville points out, exceptions, more or less, can be made on a case by case basis, 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” and becomes essentially a renegade, “something more important, perhaps more useful than a magistrate, but he ceases to represent judicial power”⁸².

The third and last characteristic Tocqueville mentions is that judicial power is fundamentally a passive force, in the sense that it does not act of its own volition on its own agenda. Cases must be brought before the courts, the courts cannot investigate where there is no person or group bringing forward an investigation.

Tocqueville draws a categorical distinction between the American constitution and the American laws. The latter is defined specifically as having been derived by the principles of the former, and it is by the former which the judiciary is intended to act. In the American system, courts of law exist to review laws as they are enacted upon the people, but they can only be reviewed within the context of the American principles that maintain the nation as a singularly distinct polity. Tocqueville explains:

*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 in a way the natural right of the magistrate.*⁸³

Tocqueville is quick to note the general similarity to what was at the time the contemporary French system of judicial power, as France had an unchanging constitution at the time that he wrote. However, French courts lacked the mobility to avoid infringing on other declared rights if they dared rule such that they ignored an existing law. The lack of elasticity in the French system distinguishes it as particularly centralized in the administrative sense, which was covered in the previous chapter. He

81 169.

82 Ibid.

83 173.

adds, in line with this theme of elasticity, that when the courts ignore or rule against a particular law often enough, in the American system, it becomes clear that the populace does not wish or value the law that is being contested. In such cases, either the constitution is changed in order to diminish the role of judicial power, or the law in question is removed from the books by the legislature.

That courts require specific cases by which to judge the laws keeps the judiciary from becoming too heavily politicized. Tocqueville notes how if a judge could simply attack the laws independent of trials and cases, then “there are times he would be afraid to do so; there are other times when the partisan spirit would push him daily to do so”, which, he adds, means 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”⁸⁴.

Tocqueville concludes his brief look at the judicial powers by mentioning the manner in which citizens can denounce or attribute grievances to magistrates and elected officials within the court of law. As denouncements in the papers are easy but lacking in substance or merit, the sheer logistics of mounting a lawsuit ensure that grievances are well-founded enough to be worthy of a judge’s time. Naturally, the judge is beyond the power of the legislative or administrative bodies to be politically influenced in cases where political leaders are concerned.

Chapter 7 – Of the Political Jurisdiction in the United States

Continuing with the matter of judicial review, Tocqueville’s seventh chapter deals with cases in which the separation of powers—political jurisdiction—must sometimes be suspended in times of crisis. Less-free countries have no such worry, since, as he notes, “the prince, in whose name the accused is prosecuted, is master of the courts as of everything else”; absolute power over the political arena includes the judicial arena as well (179). What Tocqueville is referring to specifically are cases in which the legislative bodies bring charges against public officials. “The representatives denounce the guilty party”, he writes, while “the Senate punishes him” (180). However, the extent of such punishments goes only to the point of the guilty party’s public office; criminal and civil offenses are tried in the courts of law. He explains:

*The principle 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.*⁸⁵

In Europe, the difference is striking: the free governments of Europe seek above all to punish the wrongdoers, rather than to maintain the rule of law. As such, Tocqueville notes, the organization of such political jurisdiction takes on a more judicial flavor; the legislators become magistrates given temporarily the powers of a judge, and the trial is commenced as a fundamentally judicial ruling rather

84 174-175.

85 181.

than an administrative one under the dignity of judicial fiat. The difference is where the priorities lay; in Europe, the priority is punishment, while in America, the priority is the stability of the government.

He notes that Europeans, due to the extent to which political trials can be judged, are generally not as quick to use the political courts as their American counterparts. “In Europe,” Tocqueville states, “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” whereas Americans typically “do not back away from a penalty that humanity does not bemoan” (184). Tocqueville notes that this distinction between the European and American methods of pursuing political injustice is somewhat unprecedented, as they have “avoided the most horrible consequences of a legislative tyranny, rather than tyranny itself” (185). He concludes this brief chapter with a somewhat ominous statement:

*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.*⁸⁶

86 185.

American Federal System

Part I: Chapter 8

Due to the length of chapter eight, summary and discourse on its contents has been given its own chapter in this guide. It concerns the federal constitution and the general composition of the American federal system.

Chapter 8 – Of the Federal Constitution

Finally, at about page 186, Tocqueville gets to what we modern Americans probably thought the book was going to be about on page one: the democratic order of the American federal government. He reiterates that, until this chapter, he has been concerned with explaining and detailing the structure of the social and governmental apparatuses that keep the government and people stable.

In following with his previous pattern of explanations, Tocqueville begins his analysis of the government with a look at how it developed and where it came from.

Historical Background and General Organization

Tocqueville reiterates his earlier statement that “[l]aws 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 a people”⁸⁷. With this, he sets up the first section of his work on the structure of the government, being key to note—at least in the margins—of the United States administrative and legislative body as a *national*—albeit limited—rather than specifically *federal* government. The key difference being the degree to which it was sovereign over the people it presided.

He continues by elaborating on that point. The revolution necessitated the colonies banding together and seceding as a single force under which sovereignty was united; they had one flag and fought with one unifying military power. However, as the flawed Articles of Confederation made clear, when the war ended, these individual states claimed direct and total sovereignty of the people for the mutual benefit of all involved. This dismantled much if not all of the wartime unity, and it threw the early

87 187.

government into chaos. “If ever America was capable of rising for a few moments to the high level of glory that the proud imagination of its inhabitants would like constantly to show us,” Tocqueville wryly comments, “it was at this supreme moment when the national power had, in a way, just abdicated authority”⁸⁸.

Amusingly, Tocqueville expands on the tone of his comment by comparing the American revolutionary spirit with the Frenchman’s of a few years before. On a somewhat indignant note, he reminds his readers of the thirteen hundred leagues of ocean that separate England from America, the lack of commitment shown on the part of the English to keep their colonies, and the ease with which America found allies in the struggle compared with France’s revolutionary hardship. The Americans, he claims, had it easy.

He goes on to briefly address the uniqueness of the combination of minds at the beginning of the American experiment, referring to the Founding Fathers and the drafting of the second American Constitution—the one we know of today. From there, Tocqueville addresses the Constitution itself, stating that it answered “a question of sharing sovereignty in such a way that different states that formed the Union continued to govern themselves in everything that related only to their internal prosperity,” while at the same time, “the whole nation, represented by the Union, did not cease to be a body and to provide for all its general needs”⁸⁹. The basic gist being what all Americans should have learned in their High School American Government courses: Amendment X of the Bill of Rights—*The powers not delegated to the United States by the Constitution, nor prohibited by the states, are reserved to the states respectively, or to the people*. It’s arguably the second most important amendment of the Constitution, and the basis upon which the principle of popular sovereignty was based. And, as a result, Tocqueville points out that this establishes and defines what was once the conflict at the heart of the American order: the national government of the Union and the local government of any given state. The efficacy of this amendment in current day is something very much up for debate.

Beginning with the obvious points, Tocqueville lays out the important parts of what such a national government would need to encompass—the ability to field an army, to present a single face and representative to foreign governments, to determine the value of money, deliver mail, establish communication within its own territory, and to expand that territory. It was given, originally, little to no ability to peer into the internal workings of the state governments and domestic affairs therein, as it was tasked, much like the state governments were tasked at their own levels, with managing the affairs of interstate communication and, to a lesser degree, commerce. “When you pay attention to the division of powers as the federal constitution has established it;” Tocqueville begins,

*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 centralization.*⁹⁰

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He notes that although the national body is organized as a republic and confederacy, the national authority is still even more centralized in certain respects than the absolute monarchies of old. He mentions how France had thirteen different sovereign courts which held the power to interpret the law as they saw fit, in addition to certain provinces that could refuse authoritative fiat on tax hikes by the King. By contrast, the United States has only one judicial body and a single legislature to make laws and tax hikes. Changes are voted upon by representatives but are binding to all of their jurisdictions. While this vests a greater amount of legal and financial power in the United States government than it does in the French government, the United States remains—at the time—a collection of confederated republics.

Tocqueville lists Spain as a second example, inasmuch as individual Spanish provinces had the ability to regulate their own customs system, which in effect undermines the national sovereignty of Spanish borders. In the United States, however, only congress can regulate the commerce between the individual states; states themselves do not have the freedom to regulate interstate commerce themselves.

Legislative and Administrative Powers

In the creation of the legislative bodies, Tocqueville outlines the difficulty in balancing the formation of a single nation and the formation of a league of independent states. The two seemingly irreconcilable systems were simply a matter of sovereignty: does the national government represent the will of an entire people—as in a nation—or the will of its confederated states? A compromise was reached, he says, in which “[t]he principle of the independence of the states triumphed in the formation of the Senate;” while the “dogma of national sovereignty, in the composition of the House of Representatives”⁹¹.

Tocqueville makes clear that the states did not form obvious coalitions within the government; they did not band together to attempt overturning any sort of will present in the larger states. He writes,

*All the states are young; 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.*⁹²

At the time of Tocqueville’s writing, this general unity of the American people is as believable as it probably was self-evident. As the country has grown in size, in population, and in ethnic diversity, however, this general observation about the interests of the states being more or less similar to each other doesn’t hold as much water. Additionally, the break-up of the Union and the subsequent

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destruction of various aspects of the ground-up democratic social state of the country in the 1860s seems to have done irreparable damage to the general consensus of the states' shared interests. Only a sort of pseudo-consensus lives on, in large part from the national level downwards, and the cracks in its veneer are becoming more and more obvious by the decade.

Tocqueville makes a couple final notes on the nature of the legislative bodies, but refers here only to their powers. As most civics and government classes should still teach in high school, the House and Senate differ as positions by the length of their durations, but additionally, at the time of Tocqueville's writing, by who elected them. Representatives to the House were always elected by the constituents of the state, and in numbers proportional to the state's population. Senators, however, were elected by the state's legislators. [This was changed in 1913](#), after nearly a century of somewhat contentious senatorial dramas and rulings.

From here, Tocqueville goes on to address the executive and administrative seat: presidency. He does note that "[c]are was taken not to subordinate his will to those of a council" explaining how such an act would be a "dangerous measure" which "weakens the accountability of those who govern"⁹³. Additionally, he says, the Senate has the ability to strike down actions of the President, but never to force him into action. As a countermeasure, the President has veto powers over all legislative action, even while legislative bodies can override the veto. Veto powers force the legislature to "retrace its steps," he writes; it 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 opposed in secret"⁹⁴.

This leads into his next section, which is a look at the differences between the President of the American system and the Kingship of France. Of foremost difference, Tocqueville defines the presidency as chiefly an executor of the country's sovereign power, echoing the definition found in the founding American documents, whereas the King is himself a part of the sovereign power and not merely its executor. Tocqueville explains:

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 in 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.⁹⁵

The French King, although technically a constitutional monarch by Tocqueville's writing, remained more or less absolute in his ability to define the legislative body, legislate laws of his own making, and execute those laws. The American President, by contrast, was originally defined as being nearly

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powerless; his authority extended to being a check on legislative power, and a vessel into which leadership traits could be poured—primarily for military and foreign affairs.

Tocqueville explains then that, at the time of his writing, the aspects of the military and foreign affairs are quite minimal with relation to America’s overall situation. The country’s standing army numbered only around six thousand men, and its navy comprised only a few vessels. Meanwhile, it had no immediate neighbors of note, and due to the oceans it bordered, it was rare for its interests abroad to come into contact with other foreign bodies. “The laws allow him to be strong;” Tocqueville says of the President’s authority over these spheres, but “circumstances keep him weak”⁹⁶.

On this note, he also mentions the distinction between the King’s relationship with his legislature in Europe versus the President’s in America. In Europe, the King requires the support of his legislature in order to act: “the care of [the law’s] 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 President, however, “cannot stop the making of laws; he cannot escape the obligation to execute them”. Tocqueville explains how it is his “weakness, and not his strength, that allows him to live in opposition to the legislative power”.⁹⁷

Election and Reelection of the President

Fittingly, Tocqueville follows his explications of the governmental structure with the election of the President. He begins with a quote that, in modern times, seems quaint:

*It is clear that the greater the prerogatives of the executive power, the greater the lure; also, the more 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.*⁹⁸

The seemingly unending election of presidents with more and more authority at their disposal renders such an observation self-evident today. Although in the past, presidential powers were, as Tocqueville mentioned earlier, somewhat limited due to the logistics and scope of the entire American experiment at the time, today’s worldwide American empire has not suffered such limitations for a few generations. The growth of executive power, coupled with the growth of the administrative state, may be directly attributed to the nature of the Constitution. But he continues: “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”⁹⁹.

And Tocqueville’s warning has been made a reality. Notice how he speaks of the Presidential office’s ability to dispense favor and fortune in the early nineteenth century:

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*No candidate, until now, has been able to raise ardent sympathies and dangerous popular passions in his favor. The reason is simple. Once at the head of the government, he can distribute to his friends neither much power, nor much wealth, nor much glory; and his influence in the State is too weak for factions to see their success or their ruin in his elevation to power.*¹⁰⁰

He contrasts this with hereditary monarchies, in which the interests of the ruling family are tied directly to the interests of the State, and although public interest may not be as well represented, there is still a stabilizing element to be found in the monarchy's mere existence, and the public interest can usually be expressed in a parliamentary setting. Purely elective States, however, end up going into disarray upon election season. Tocqueville references a letter from Thomas Jefferson during his last weeks in office, in which Jefferson states his general disinclination to participate in public affairs in the interest of letting his successor inherit the responsibilities of the office.

Essentially, as the executive authority becomes greater, the results of any given election become more profoundly disturbing to the order established by the previous administration. The men who end up seeking that highest office are cut from the cloth that is woven by the very natures of the people invested with the authority of the land. As the office is corrupted, so too will the candidates be who seek to wield that power.

That said, what concerns Tocqueville here even more is the instability built into non-hereditary governmental systems. Rome, he explains, maintained a fair degree of political stability because, although the consuls changed regularly, the Senate remained both the primary legislative source as well as a hereditary body. The United States has no such stability. Although the formation of career politicians was certainly conceivable in Tocqueville's time, even such politicians would only be serving for forty or fifty years—hardly the centuries of political cohesiveness and vision that older systems stood testament to. And even in cases of career politicians serving for the entirety of their lives, the positions they serve frequently change; no administration lasts longer than eight years, and every administration features a turnover of the previous executive's staff. In effect, Tocqueville says, America faces a soft regime change every time there's a Presidential election.

And yet, "the role of executive power is as limited by circumstances as by laws", Tocqueville repeats, explaining that "[t]he President can frequently change his views without having the State suffer or perish"¹⁰¹. This is because, he is quick to mention, the threat of foreign invaders to American soil is so low. Although elections and their immediate aftermath should rightly be considered "period[s] of national crisis", the truth of the matter is that in Tocqueville's time, America's relationship with the rest of the world remained, for the most part, isolationist: "you would almost be able to say that no one needs them, and that they need no one. Their independence is never threatened"¹⁰². When the independence of a country is not sufficiently threatened, then throwing the political strata into the grinder for a few months while it sorts out a regime change is no particularly big deal.

100 212-213.

101 218.

102 Ibid.

Again, how times have changed. Compare this with any recent election and you'll find just how much the administrative state's size and utility has shielded the country from the sort of foreign crises Tocqueville fears during election seasons. While our elections may seem like crises in and of themselves—and their immediate aftermaths are often plagued with the distrust and purging of the previous administration's people—they have never been such crises that a foreign power has been able to leverage their threats against the American people directly.

In explaining the election process, Tocqueville mentions the difficulties in the democratic process with regard to reaching a majority vote. The simple majority would not represent the will of the people to a degree feasible enough for executive power to be legitimate, so the American system slimmed down the number of people involved in forming that consensus. This is the basis for the Electoral College, and it is important to note that this college of persons is distinct from the elected body of legislative officials in the congress and senate. The relative anonymity of electors, coupled with the term lengths of the legislative bodies, made for a stronger guarantee of preserving the will of the people who were represented by that elector. He writes:

*[Americans] 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 the 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.*¹⁰³

Obviously, the possibility of corruption weighed heavily on the minds of the early American founders, as did the recognition that representatives are still men prone to servicing their immediate needs. There is a very distinct difference between the legislator elected to ensure the will of the people is maintained in the creation of laws and the elector sent merely to cast a ballot in the name of his jurisdiction. Since that ballot decides who the executor of those laws is going to be, there's a certain sensibility found in keeping the legislative authority at arm's length from that process.

He goes on to outline the election backup plans should elections get too dicey to proceed along the normal path. In elections too close to call, replacements for electors can be requested, the Senatorial president may be involved in counting the votes, and in extreme cases, where even the replaced electors are unable to fulfill a majority for any candidate, the House of Representatives is used as a fall back to vote on any one of the three candidates who receives the most votes. Tocqueville notes that twice has that occurred within the first twelve presidential elections: first in 1801 and then again in 1825. That one out of every six elections came down to the wire in the early American republic should temper our understanding of the modern electoral process.

Tocqueville continues on to look at the reelection of the Presidential office, making specific note of both the strengths and the weaknesses in the system that reelection poses. Denying reelection of magistrates who have held the position once already means denying the very people who are the most knowledgeable of the responsibility that position entails. And yet, the very nature of reelecting

103 220.

politicians means putting an undue partisan burden on those who hold the offices and are seeking to maintain power. In any case where “reprehensible maneuverings” are used to gain more political power by the executive in office, “concern for the government becomes, for him, something of a secondary interest”¹⁰⁴. The filling of advisory positions, governmental favors, and the twisting of the administration of law end up being used as negotiating tactics for his reelection rather than in service to the common prosperity of the country.

He continues in similar vein, explaining how the road to destruction in absolute monarchies was the tendency of authority to hoard and expand as much power as is logistically feasible. Likewise, democratic regimes suffer the same fundamental problem, but on a much larger scale due to the inclusivity of political action granted by the elective process. Americans, Tocqueville writes, saw these faults and navigated a pathway through those tendencies with the complex system of checks across the local, state, and federal levels, but the admittance of an executive reelection process undermines much of that work. Tocqueville notes how, in the pursuit of reelection, and being subject to the partisan will of the parties who make him into an ideologue, the independence of the executor to act according to the just application of laws gets very easily hamstrung.

He concludes his section on the election process with a note that, with seemingly typical Tocquevillean prescience, touches upon the state of modern American politics:

Not re-eligible, the President is 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.*¹⁰⁵

Federal Courts

And so we get to the judicial system at the federal level. The courts, he believes, are one of only two manners in which a government can maintain control over the people it governs; the other is through the sheer force of its military. However, the legitimacy of the courts relies upon the “moral force that the decisions of the courts bestow”¹⁰⁶. “The great object of justice”, Tocqueville writes, “is to substitute the idea of law for that of violence; to place intermediaries between the government and the use of physical force”¹⁰⁷. Such a distinction between the law and force is an important distinction that defines much of Tocqueville’s thought, and, in fact, makes coherent any definition of justice that can be

104 227.

105 229.

106 230.

107 231.

considered valid. It's important to pause and reflect on how far modern systems of political thought have strayed from such a simple distinction—though Tocqueville, already having inflicted a mild divorce between justice and the natural law, had started down that road himself.

Tocqueville notes that at its genesis, both the first and the second Constitutions already had in place the court systems of the individual states, and specifically the supreme courts of those states. However, at the time of Tocqueville's writings, he mentions twenty four individual supreme courts—"How to accept that a State can endure when its fundamental laws can be interpreted and applied in twenty-four different ways at once!" he remarks¹⁰⁸. Naturally, a federal solution was required for federal laws.

This solution—the United States Supreme Court—created a greater check of federal authority against the sovereignty of the individual states. Any given state "thus found itself limited not only by the laws" of the federal legislature, "but also by the interpretation of the laws; by a known limit and by another that was unknown; by a fixed rule and an arbitrary one"¹⁰⁹. The impact of this has made itself known again and again throughout American history and politics; most recently, court decisions on same-sex marriage, infanticide, and donations to political campaigns by corporations have impacted the sovereignty of a state's people by overturning state-level laws according to the decisions of nine justices.

Yet, Tocqueville remains optimistic. He writes immediately afterward that "in America, real strength resides more in the provincial governments than in the federal government", and that "[f]ederal 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"¹¹⁰. But as we have seen already, the United States political framework was recognizably different than the one that exists today.

He continues by mentioning several examples of cases that federal courts would typically preside over: cases involving two state governments as litigants, cases in which maritime law was involved, cases in which federal laws were involved, and cases involving international commerce such as tariff disputes. Tocqueville is key to point out that, although the states represented distinct sovereign polities, the United States' Constitution was written with the intention that the union of these states represented a single people of a single American culture. This is important to note within the context of the federal court system because the conflicts between states do not imply a conflict between different peoples, only different polities. The principle of inter-county jurisdiction placed in the hands of state courts remains the same with regard to inter-state jurisdiction and the federal courts.

Tocqueville uses this to help explain the exact relationship between the federal court system and state governments. The federal judicial system, he writes, in countries organized politically as the United States is, "often finds itself facing, not an isolated individual, but a fraction of the nation. Its moral power and physical power are diminished as a result"¹¹¹. He continues by explaining how the judicial

108 233.

109 236.

110 Ibid.

111 241-242.

system would rather face off against individuals than collections of peoples, since individuals are much easier to subdue in the court of law than a group of them—much less an entire state. However, in the American system, the federal courts do not have the power to directly attack individuals. Instead, individuals can appeal to the federal court system in cases where states have transgressed federal regulations. The federal court can find state governments in the wrong by attacking specific instances and relying on precedents rather than attacking the fundamental principles of whatever law has been brought into question before the court. The reason for such distinction is that any body which attacks the fundamental principle thus undermines the governing ability of the state involved, as it calls into question the state's competency—additionally, due to the organization of the entire American polity from the ground up, the federal court's willingness to attack the state government on such broad grounds implies a failure of political and jurisdictional cohesiveness in the Union.

Tocqueville concludes his analysis of the federal court system with a brief look at the Supreme Court itself. Comprised of, at the time, seven justices instead of nine, the Supreme Court remains the highest in the land and at the top of the judicial order. As such, Tocqueville makes note of the scope of the responsibility that the litigants of any given case brought before the Supreme Court must bear. Additionally, and more importantly, he wisely notes the extent to which the justices are important vessels of governance themselves. He writes:

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 come to compose the Supreme Court, the confederation would have to fear anarchy or civil war.¹¹²

The constitution of a federated polity operates according to an administratively decentralized principle. As such, the judicial power that regulates this polity must be imbued with significant power in order to keep the polity together as a single and distinct union, lest either the union be ripped apart by individual differences or the union be homogenized beyond recognition and quashed beneath totalitarian administration. It is for this such reason that Tocqueville places such an emphasis on the importance of both the Supreme Court justices and, in fact, upon all judges at all levels of the federal court system. It is not due to the structure of the American Constitution per se that has made the courts so powerful; it is because of the very nature of confederated republics. Tocqueville effectively concedes that the supremacy of the judge was front-and-center of American politics even at its conception.

The American Constitution and Federalism in General

The federal Constitution, Tocqueville remarks, differs from the state constitutions by its purpose, but remains generally similar to those constitutions by the means with which it governs. It is, however, superior to them not only in substance and scope but in form. He elaborates by reminding the reader that the formulation of the US Constitution came as a result of the disintegration of national order

112 245-246

under the Articles of Confederation, and that the chaos of that time necessitated the formulation of a stronger union.

The conflicting natures of various institutions at state and national levels concern Tocqueville the most. He compares the powerlessness of governors over the electorate and legislature with the President's, in addition to the somewhat muddled handling of imposing term limits and salary qualifications on judges at the state level versus the mechanisms for judicial objectivity at the federal level. In both instances, the state level is more tied to the legislature and to the democratic polity, whereas the federal level tends to be more balanced.

“Two principle dangers menace the existing democracies”, he writes:

The complete subservience of the legislative power to the will of the electoral body.

The concentration, in the legislative power, of all 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.*¹¹³

Next, Tocqueville explains the key differences between the American Constitution and those of previous and previously existing constitutions around the West. In essence, it draws from other republics the same fundamental rights to rule and govern and is imposed by the same responsibilities as those other constitutions—he cites Switzerland, Germany, and the Netherlands as examples—but how this governance is carried out is of radically different method. The people of those republics “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”, he writes, whereas Americans “agreed not only that the federal government could dictate laws to them, but also that the federal government itself would execute those laws”¹¹⁴. The acknowledgment of a federal legislative power remained the same; it was execution that varied.

Because the federal government of the United States can impose directly upon the citizens the laws of the country, it bypasses the mode in which previous confederations usually had contentions. As discussed earlier with regard to the judicial systems, states are checks against federal incursion inasmuch as their power over the citizens is generally stronger than the federal government's is, but the federal government's reach is only questioned when a specific conflict between the individual and the law—state or federal—is brought before the courts.

Tocqueville is quick to note how the size of the nation plays into its self-governance. Smaller nations tend to be better focused on internal affairs and “are not likely to be wasted on the empty illusion of glory”; he writes that “[t]he mediocrity of wealth makes conditions nearly equal” which, in combination with the shared mores and values of the people, mean that “more comfort, population and

113 250.

114 252.

tranquility are usually found in smaller nations than in large ones”¹¹⁵. However, for the same reason, tyranny in small nations quickly turns into totalitarianism. He goes on to remark that “[a]ll passions fatal to republics grow with the extent of their territory, while the virtues that serve to support them do not increase in the same measure”¹¹⁶. His following statements deserve to be quoted at length:

*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.*¹¹⁷

Republics, as they grow in size, grow too in population diversity, which adds again to the difficulty in coming to compact political majority even though by proportion relative to the legislature, very little may have changed. Meanwhile, the pull of so large a political class required to maintain a large republic enables the politicization of normal life: “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”¹¹⁸. Tocqueville uses mob mentality as an example of such passions, extrapolating it upwards several-fold into the political sphere.

But he continues to note that large States do have distinct advantages. Passions, ambitions, and drives for power, glory, and praise among men is more pronounced, and as a result, various institutions find greater development in larger nations than in smaller ones. Larger cities generally become centers not just of commerce and trade, but of intellectualism and culture. Large countries are more often than not the drivers of history and the producers of great men, whereas smaller countries typically are of little importance to the world at large.

War, too, poses different issues for smaller and larger nations. It is a cause usually for ruin of smaller States, while large countries can afford the cost of war both in men, equipment, and commerce. As the nation grows in size, the detriment of war shrinks from ruinous to inconvenient.

For these various reasons, Tocqueville concludes that the strength of any given nation correlates to the stability and happiness of that nation’s people. Security can be guaranteed by strength, and strength is assured by the stability, the size, and the cohesiveness of the country. “The federal system”, he writes,

115 256.

116 257.

117 Ibid.

118 258.

“has been created to unite the various advantages that result from the large and small sizes of nations”¹¹⁹.

Tocqueville explains how large centralized nations tend to have problems legislating laws that both directly and positively affect the citizens of that country, due to the universality of those laws and the general lack of assemblies beneath the national body to mitigate based on circumstances and locality. Confederacies, such as this early American republic, supplied both, but at the expense of the centralized nature of the national legislature. The Congress of the American Union makes laws based on generalized principles, and then it is up to the state and local governments to apply those laws in ways consistent with the national policy.

He goes on to examine and explain how the nature of American order is, in large part, invisible, elaborating on points he made in the previous chapters with regard to the decentralized administrative state and the somewhat incomprehensible organization of executive powers. This is possible only because of the astuteness of the citizenry to maintain and uphold a few very basic beliefs: liberty and a respect for order. By basing the government on easily-understood premises, Tocqueville believes, the government is made stronger, as it reflects the will of the local polities over which it presides. He writes:

*[W]hen 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.*¹²⁰

The Constitution is made sensible only upon the reflection of its contents, and it is enforced and upheld by the already-ingrained American ethos. With morals guided by the pursuit and maintenance of liberty, the unitary order of the American republic sustains itself without the need for bureaucrats rubber-stamping volumes of regulations or magistrates on every corner approving basic transactions among the people. Common sense and shared values keep the union together, and the Constitution, the federal administration, and the national legislature are all structured so as to work in line with them.

This notion is illustrated by his comparison to Mexico, in which the American Constitution was effectively imported in its entirety, but the nature of the Mexican people—their cultural background and history—made American-style federalism incongruent and cumbersome. The jurisdictions of federal and local powers were unable to stay restrained to their own spheres. “The sovereignty of the states and that of the Union, leaving the circle that the constitution had drawn, penetrate each other daily”, Tocqueville writes of Mexico; “[s]till today, Mexico is constantly dragged from anarchy to military despotism, and from military despotism to anarchy”¹²¹.

119 260.

120 265.

121 266.

The distinction between the federal and state governments, Tocqueville says, is best explained as such: the sovereignty of the states arises naturally from the culture that America was forged in. The sovereignty of the federal union, however, had to be constructed and maintained through the complex system of legal checks and balances. He calls the American federal system a work of art, but warns that the system “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”¹²². One of the conditions is, in addition to a shared general ethos, a homogeneity of peoples. Switzerland, he explains, remains a national polity largely only on paper: “[t]he civilization of a *canton* in Vaud compared with that of a *canton* in Uri is like the XIXth century compared to the XVth; so Switzerland has never truly had a federal government”¹²³. Although peaceful and stable, the ethnically homogeneous individual cantons of Switzerland were never able to form a strong centralized union due to the diversity of ethnicity across the whole nation. This sort of homogeneity is crucial to the stability and maintenance of a politically centralized republic. As he explains:

*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, the government has much more need for the support of the governed in the first than in the second.*¹²⁴

Although he does not specify *ethnic* homogeneity *per se*, the reality of homogeneity of ideas, work ethic, culture, creeds, virtues, and morals all point to that conclusion anyway. When members of a community distinct from the republic seek to join it as citizenry, no matter what their background, they must assimilate fully and thoroughly before homogeneity is secured again. This often takes several generations of active effort on the part of those who seek to assimilate. Anything less results in the eventual breakdown of the republic.

The last subject Tocqueville covers in this chapter concerns war and the mobilization of armies at the federal level. This too plays into the circumstances that allow its confederated republic to thrive. He explains that the general inability of the federal government to mount a standing army, pushed on by the unwillingness of the states to allow the creation of such an army to remain standing outside of wartime, severely hampers the national ability to properly defend itself. He cites the war of 1812 as a good example, in which the state militias were ordered into action both by their governors and by the President—and yet, certain states refused to mobilize their militias beyond the borders of their sovereignty. The war was fought back and American sovereignty was not, ultimately, threatened in any significant way, but the magnitude of the war that was fought on American soil was, as Tocqueville explains, barely significant. “Even that of 1812,” he writes, “which 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”¹²⁵.

122 270.

123 Ibid.

124 271.

125 275.

In other words, American republicanism has been stable through Tocqueville's time because it lacked significant military threats. As Tocqueville points out, the inherent vice of federalized governments is their weakness, not only in maintaining homogeneity of a populous, but also of convincing its populous to field a national defense. America certainly found ways around the latter problem, but at the expense of an almost entirely decentralized administrative state. Now, of course, the nation—with respect to these two issues—is entirely unrecognizable; our military patrols the world and the degree of ethnic and cultural diversity inside our borders threatens to balkanize us.

With this, Tocqueville ends his direct analysis of how the political order's framework within the United States is organized. It is the conclusion of Part I, having looked at the historical roots of the American order, its organization from the local polities up to the national government, and the social state of the people that it governs.

General Administration, the Press, Taxes, and Corruption

Part II:

Chapter 1

Chapter 2

Chapter 3

Chapter 4

Chapter 5

Chapter 6

Part Two of Volume One begins with Tocqueville briefly noting that up until this section, he has only bothered with explaining the theories and structures of the government and the social state of the American union. Part Two, he writes, will be concerned with filling these theories with the substance of the power behind its words. It is the ‘invisible hand’ of democratic function that Tocqueville seeks to explain here.

Chapter 1 – How It Can Be Said That in the United States It Is the People Who Govern

Chapter one is only about three paragraphs and takes up only half a page. He simply reiterates the general idea of democracy, writing that although the will of the people is manifested in their elected officials, it is this same will that can depose, remove, or reelect these officials should the will be violated. Being democratic in nature, this will remains dependent upon majority rule, and as such, they are organized according to political parties—no different from any other parliamentary form of representative government.

Chapter 2 – Of Parties in the United States

Tocqueville mentions that, in some instances, countries can become so large that their boundaries end up encompassing different peoples altogether, which then pluralizes the interests of the country to such

a degree that national sovereignty is compromised and separate nations are formed. Periodically, this is accompanied by civil war, as it is rival and distinct peoples who are fighting, rather than separate factions. A political party is, then, “a gathering of men who, without sharing the bond of common birth, view certain points in a certain way”¹²⁶. The citizenry and political classes can hold distinct opinions on details and notions of the implementation of law while having a generally common consensus as to the principles of government. As such, distinct parties can thrive without serving to the detriment of the federal polity.

Parties come in various forms and in service of various ends, Tocqueville writes. He refers to them as “an evil inherent in free governments” while acknowledging that “they do not have the same character and the same instincts in all periods of time”¹²⁷. He differentiates between small parties and great ones, explaining how small parties tend to dominate the political regime during periods in which “the changes that take place in the political constitution and social state of peoples are so slow and so imperceptible, that men think they have arrived at a final state”¹²⁸. The individuals of such periods grow lax and more impulsive, ceasing to think of the greater inter-generational consequences of their political actions.

Small parties, he says, are typically dominated by the egos of their leaders; they speak boldly or violently but are generally devoid of what he calls political faith. Their actions and course is confused and uncertain. “Great parties,” Tocqueville says, “turn society upside down; small ones trouble it; the ones tear it apart and the others deprave it. Both have a common trait, however: to reach their ends, they hardly ever use means that conscience approves completely”¹²⁹.

Tocqueville continues on by describing the short history of the political parties in the United States up to that time. Upon the adoption of the second government, founded on the principles outlined in the Constitution, two parties became dominant. The first dubbed themselves the Federalists, who wanted to limit popular democracy and remain as close as possible to the founding documents as possible. The second: the Republicans, who, in Tocqueville’s words, “claimed to be the exclusive lover of liberty”¹³⁰. The Federalists remained a minority party even while they held the Presidency under John Adams, and after Jefferson’s election, they were pretty much destroyed. Tocqueville regards this transition—from early Federalism to Jeffersonian Republicanism—to be “one of the most fortunate events that accompanied the birth of the great American union”; he writes:

The Federalists struggled against the irresistible inclination of their century and country. Their theories, however excellent or flawed, had the fault of being inapplicable as a whole to the society that the Federalists wanted to govern; so what happened under Jefferson would have happened sooner or later. But at least their government let the new republic

126 279.

127 280.

128 Ibid.

129 281.

130 282.

*have time to get established and allowed it afterward to bear, without difficulty, the rapid development of the doctrines that they had fought.*¹³¹

While not outright scornful of the Federalist, slightly more centralized system, Tocqueville's allegiance to Enlightenment principles of popular democracy are on full display once again. He goes on to remark how the key principles of the Federalist party were incorporated into the Jeffersonian Republicans fairly quickly; this happened in part because, as the Federalists disintegrated as a party, some of them crossed the aisle and begrudgingly became part of their once-opposition. This also happened because, as Tocqueville noted earlier, a fundamental respect and adherence to general governing principles across parties is necessary in the maintenance of any democratic system. As the principles advocated foremost by the Federalists lost the platform for their defense, the opposition had to incorporate them or risk destabilizing the entire early American experiment.

Amusingly, Tocqueville notes that the general placidity of the entire American polity is such that small parties are the only parties present in their system. He remarks at length:

*the United States swarms with small [parties], and public opinion splinters infinitely on questions of details. The pain that is taken there to create parties cannot be imagined; it is not an easy thing to do in our time. In the United States, there is no religious hatred, because religion is universally respected and no one sect is dominant; no class hatred, because the people are everything and no one still dares to struggle against them; finally there are no public miseries to exploit, because the material state of the country offers such an enormous scope to industry that leaving man to himself is enough for him to work wonders. But particular ambition must indeed succeed in creating parties, because it is difficult to throw someone who holds power out of office for the sole reason that you want to take his place. So all the skill of politicians consists of forming parties.*¹³²

The sheer lack of necessity facilitates the creation of parties whose biggest disagreements come down to the minutiae of laws and legislation, as the people themselves are not so divided amongst one another, not so aggrieved by social stresses, and not so divisively rich or poor as to have significant problems around which large narratives can be written. Epic struggles in the political sphere are only possible when epic struggles either exist already within the social state of the nation or can otherwise be ginned up by rabble-rousers.

Tocqueville mentions that, at the base of the two political parties in the United States—and no matter what name or form those parties will take—there exists either the aristocratic or the democratic motivation. These opposing views will not be their obvious or stated goals, he remarks, nor even necessarily conscious ones. The fact is merely that the polity of the American republic is and will always be divided between “the two great parties that have divided men since free societies have existed”¹³³.

131 283-284.

132 285.

133 286.

He concludes this chapter by briefly mentioning the status of wealthy individuals with relation to the political parties of the time, and in particular, what happens to the wealthy and pseudo-aristocratic class when the democratic party has managed to obtain an effective monopoly across the government. Although all men, and in particular the rich, will espouse and defend the democratic principles upon which the republic is founded, they will in general hold a great disdain for it. That class of person, wealthy and opulent in his pleasures, yet carrying a distinct reverence for the common and the plain, reveals the hollowness of the American pseudo-aristocracy.

Chapter 3 – Of Freedom of the Press in the United States

Tocqueville begins Chapter Three with a short aside: he's not that big a fan of the freedom of the press. The press, he explains, "modifies not only laws, but also mores"¹³⁴, and as such, the impact of such a force is of his chief concern in this chapter. He explains that if a middle ground could be found between the propagandistic state press of totalitarianism and the unlicensed free press of an anarchic group could be found, he'd prefer to stake it out. However, he continues, there is no part in the chain that is both logistically feasible *and* morally defensible between total press freedom and authoritarian control. "You began from the abuses of liberty," he writes, "and I find you under the feet of a despot"¹³⁵.

The press, he writes of the America system, speaks with as much violence as their French contemporaries, yet for seemingly less reason. Despite being a country least likely to spill into bloodshed over political differences, he writes—some forty years before the Civil War, it's worth remembering—the press predominantly "feeds on hate and envy; it speaks more to passions than to reason; it spreads falsehood and truth all jumbled together"; he notes that "liberty cannot live without it and order can hardly be maintained with it"¹³⁶.

And yet, in spite of this the American press is less powerful than that of the French. Tocqueville believes there are several reasons for this. The first is that the American press was founded very early on in its colonial history; Americans, effectively, have grown up with the press and its attacks on established figures for nearly the entirety of the culture's existence. "The freedom to write," he explains "is that much more to be feared, the newer it is"¹³⁷. As it's not that new, it's not much to be feared. In other words, Americans simply aren't so gullible as to believe everything they read in the papers (how times have changed!). Additionally, Tocqueville cites the sheer volume of commercial space given to advertisers in American newspapers in comparison to French ones, and the distinct lack of political discourse and letters in American papers versus their prevalence in the French counterparts.

Another factor that distinguishes the power of the American press is the distinct decentralized nature of it. French media was, at the time of Tocqueville, "concentrated in the same place and, so to speak, in the same hands, for organs of the press are very few in number"¹³⁸. By comparison, American printing

134 289.

135 291.

136 293.

137 294.

138 295.

presses were nearly as common as townships, and predominantly operated independently of one another. Since there are few regulations on the presses themselves, and no restrictions as to licenses or stamps for distribution, anyone can start a paper so long as they can make it affordable. He makes it clear how such a democratic approach to press freedom ensures that the market for journalistic employment is rather high; as a result, “in general journalists in the United States do not have a very high social position; their education is only rudimentary; and the turn of their ideas is often vulgar”¹³⁹. As this is the manner in which press freedom is serviced by the majority, so it becomes the rule:

*The spirit of the journalist, in France, is to discuss in a violent, but elevated and often eloquent way, the great interests of the State; if this is not always so, it is because every rule has its exceptions. The spirit of the journalist, in America, is to attack in a course way, unaffectedly and without art, the passions of those whom he addresses, to leave principles behind in order to grab men, to follow men in their private life, and to lay bare their weaknesses and their vices.*¹⁴⁰

How shameful! In this, at least, America has changed relatively little, even if the dominating forces in the media spheres have centralized, consolidated, and formed conglomerates that would have been undreamed of even in Tocqueville’s France.

He finishes his look at the press by commenting on the relationship that censorship has to the swaying of public opinions. In countries where the regimes are strong and aligned against freedom of the press, it is more common to see martyrs made in the name of fair use of information and the distribution of truth or opinion. However, as the press is granted greater degrees of freedom, clearly, fewer such martyrs are to be found. The public ceases to care as much, and opinions are relegated into the background noise. Social change made manifest through the actions of the free press becomes at once significant yet simultaneously superficial and subject to immediate revision. Lasting impressions and clarity of truth have little place in the pages of a free press.

On that same note, Tocqueville mentions that due to the lack of official censorship, unspoken social guidelines and etiquette act to ban certain subjects from the public discourse to a degree even greater than the means of dictatorial censorship can. Self-censorship, when coupled with the faults mentioned above, lead toward the press becoming a mockery of itself even as it extols its own virtues. Examples of this sort of thing abound even into today’s world.

Chapter 4 – Of Political Association in the United States

Association, Tocqueville writes, is an important aspect of American life in every social stratum, and becomes noticeable even in the way that the children organize themselves for their own games.

Tocqueville writes in the margin:

139 296.

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*Of all the countries in the world, America is where the government is least centralized. It is also the one that has taken greatest advantage of association. There is a correlation between these two things.*¹⁴¹

By association, he means only the coming together of persons within communities to solve various problems without the interjection of government agents. Tocqueville uses the example of patching roads or other public spaces as a crude example, but then explains the tariff concerns that plagued the early nineteenth century's political sphere. In the common people's attempts to make their grievances known to the national polity, several things took place. First, it was publicized in the newspapers, which were distributed across the nation. Next, local groups formed to choose representatives to go to Philadelphia in order to address the tariff problem before a national congregation. Upon the arrival of that congregation, the free association of people then became known as a convention, and the standard congressional model of presentation and legislation was adapted in order to facilitate the proceedings. The result was an address to the people, which stated that Congress had no right to pass a tariff in the first place, and that a lack of free trade was not in the interests of the American people. He neglects to mention what happened after these events, but for the purposes of his example, that really isn't important.

Tocqueville does note that the dangers with free association are generally avoided by the Americans due to how their ability to associate predated their political system—a system which in fact owes its existence to such a structure in the first place. Allowing the formation and protection of associations independent of the recognized town, state, and federal polities ensures the maintenance of the social fabric independent of a government bureaucracy, while the American ethos itself prevents these associations from supplanting the governmental systems.

He also notes how the nature of democracy itself ensures that associations are typically fleeting and lack significant power in comparison to the lasting institutions of government. The strength of European associations is found through their use of universal suffrage, which constitutes a “moral power given to them by the support of the majority that they always claim to represent”¹⁴². He writes:

In countries where universal suffrage is allowed, there is never a doubtful majority, because no party can establish itself as the representative of those who did not vote.

*Thus, in America, associations can never pretend to represent the majority; they only aim to convince it. They do not want to act, but to persuade; in that, above all, they are different from the political associations of Europe.*¹⁴³

As expected of Tocqueville, his insight into the mechanisms of democracy anticipates the future of the American polity. He notes ominously that such freedom to associate pushes society into a state just short of anarchy, as it allows the formulation of groups that act independently of the governmental

141 302.

142 308.

143 Ibid.

structures. And yet, “in countries where associations are free,” he writes, “secret societies are unknown. In America, there are agitators, but not conspirators”¹⁴⁴.

Chapter 5 – Of the Government of Democracy in America

Much of the fifth chapter covers a broad and very wide-ranging variety of topics divided up into numerous small sections. I have organized them here in three parts roughly according to their subjects.

Democratic Instincts and Their Influence

Tocqueville gives the topic of universal suffrage greater attention in this chapter, immediately explaining that the principle, as executed in America, leads to neither the sort of valor nor degeneracy that one could expect in Europe. He remarks that it is “with surprise to find out how common merit was among the governed and how uncommon it was among those governing”, and then he attempts to explain why he believes this is the case:

*It is impossible, no matter what you do, to raise the enlightenment of the people above a certain level. Whatever you do to make human learning more accessible, improve the methods of instruction and make knowledge more affordable, you will never be able to have men learn and develop their intelligence without devoting time to the task.*¹⁴⁵

So the longer one spends studying the arts and humanities, the histories, and the philosophies of politics, the less time one has to actually govern, run his business, and maintain a stable home life. Tocqueville continues by noting how “democratic institutions develop the sentiment of envy in the human heart to a very high degree, not so much because they offer each person the means to become equal to others, but because these means constantly fail those who use them”¹⁴⁶. The manipulation of public opinion has a bigger place in democratic politics than in other forms of government, and the use of such manipulation is easily wielded by various human vices. It is therefore hardly a surprise when those who rise to the top of democratic electorates are those most adept at this manipulation and, presumably, those more susceptible to such vices. Rather than the best, most morally upstanding men for the job, democratic government tends to elevate the worst.

Additionally, Tocqueville mentions how it is a distinctly democratic instinct in societies for the lower classes to be so intensely distrusting of the upper classes. Americans, he notes, while less harsh on this point than the French, still tend to avoid desiring upperclassmen in positions of political power for very long. He comments that Americans “have no hatred” for them, but “they feel little goodwill toward them and carefully keep them out of power; they do not fear great talents, but they appreciate them little”¹⁴⁷. This is all due to the influence of contemporaneously-understood universal suffrage. Such a policy has benefits, Tocqueville writes, but ensuring that good decisions among the polity become matters of policy is not one of them.

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From here, the topic shifts to how these democratic instincts have in-built corrections. He begins with the fact that when the State is endangered, “you often see people happily choose the citizens most appropriate to save them”¹⁴⁸. The cause of individuals to rise to occasions of hardship or to fall before them is repeated in the macroscopic picture of entire societies; the same pattern emerges. That said, of course, times in which societies are imperiled are generally rare. Tocqueville points out that even if “temporary events sometimes succeed in combating the passions of democracy, enlightenment and, above all, mores exercise a no less powerful and more enduring influence on its inclinations” (319). The social state, the culture, always exert the greatest influence on who will hold the offices of power, he explains, and then contrasts the legislatures of New England, the South, and the newly-settled Midwestern states as examples.

“When you enter the House chamber in Washington,” he continues, “you feel struck by the vulgar aspect of the great assembly”¹⁴⁹. Even the nation’s House of Representatives remains populated by the obscene, and yet, Tocqueville mentions, the Senate maintains its hold on decency and the upstanding mean of the society. He writes that the reason for this discrepancy is due to how the Senatorial elections are removed by a degree from the passions of universal suffrage. While Representatives are voted upon by the electorate directly, Senators are chosen from and voted upon by the state legislatures from which their power is derived. As a result, not only do Senatorial positions come with greater prestige, they tend also to attract men of greater status and dignity. “So the men elected in this way always represent exactly the governing majority of the nation;” Tocqueville writes, “but they represent only the elevated thoughts that circulate in its midst, the generous instincts that animated it, and not the small passions that often trouble it and the vices that dishonor it”¹⁵⁰.

Tocqueville shifts gears here to address the influence of democracy upon the electoral laws, officials, and magistrates of the American system. He repeats his earlier sentiment that that frequent elections add instability to the society that doesn’t exist in more authoritarian systems, and as a result, “on one hand, there is a chance of uneasiness for the State; on the other, a chance for revolution; the first system harms the goodness of government, the second threatens its existence”¹⁵¹. America, obviously, has attempted to make use of the former rather than the latter. The possibility of sudden administrative or legislative change during an election remains an obstacle to laying long-term social plans at in the political institutions.

He continues with a very brief examination of public officials. “In the eyes of democracy,” he writes, “government is not a good, but a necessary evil”, and as a result, the cultural garb attached to public officials *as such* is relatively minor¹⁵². The prestige of the office is worn with neither the regality nor high-mindedness as Lordship or aristocracy in the Old World. The office remains the key point on which respect hinges, not necessarily any singular ego who steps into that office.

148 318.
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Tocqueville also stresses here the importance of salaried positions in the public sphere. “I regard the complete absence of unpaid offices as one of the most visible signs of the absolute dominion that democracy exercises in America”, he writes, going on to explain how such offices imply that “each person has, not only the right, but also the possibility of rendering” the services of those offices¹⁵³.

This leads into his comments on the magisterial positions in American democracy. The power that the authorities wield in democratic States is, in Tocqueville’s words, “still greater than in despotic States”¹⁵⁴. Because the authority is held to an elected cycle, the electorate is more willing to let the authority keep degrees of freedom that wouldn’t normally be tolerated without mass dissent in more totalitarian societies. He continues:

*In these [despotic] States, the sovereign can punish in a moment all the misdeeds that he notices, but he cannot flatter himself that he notices all the misdeeds that he should punish. In democracies, on the contrary, the sovereign is simultaneously omnipotent and omnipresent. You see, therefore, that American officials are much freer within the circle of action that the law traces for them than any official in Europe. Often the Americans limit themselves to showing officials the end toward which they must aim, leaving them with the authority to choose the means.*¹⁵⁵

Point the politician in the right direction and let him work, so the case seems to be. This should not sound all that dissimilar from the general American ethos, which is Tocqueville’s whole point. He contrasts this against the State of monarchical regimes, in which princes distrust their own magistrates, the people distrust their princes and the magistrates, and the magistrates, if given over to the electoral process, find ways of abolishing the princes and becoming dictators.

Democratic Administration and Expenses

*Men hold power only for an instant and then are lost in a crowd that, itself, changes face every day; as a result, the actions of society in America often leave less trace than the actions of a simple family.*¹⁵⁶

With this, Tocqueville notes how poorly disposed to historicism the American experiment really is. American life is fueled by its day-to-day operations; Americans have, in general, little respect for the administrative organization that prevails in England or France. As Tocqueville sees it, America as a government sustains itself without much interest in posterity. He is quick to point out, however, that there is a countermeasure to this: democracy presupposes and—if it is to function—“a very civilized and learned society”; Tocqueville explains that “it is better suited to a people whose administrative education is already formed than to a people who are inexperienced novices in public affairs”¹⁵⁷. This explains why democratic systems, although at first glance a most rudimentary system of organization,

153 326.

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often come about only after the reign of kings or tyrants, and also why they frequently don't last very long. The system itself relies upon a social state that it rarely does anything to foster or maintain. Tocqueville even mentions how "democracy, pushed to its extreme limits, harms progress in the art of governing"¹⁵⁸.

From here, Tocqueville gets into the manners in which democracy impacts economics and, in particular, public expenditures. He comments on the fact that free societies will always have greater expenditures than despotic ones, writing that "despotism ruins men more by preventing them from being productive, than by taking the fruits of production away from them"¹⁵⁹, although it's conceivable that despotism does both by equal measure in modern times. With this as a foundation, Tocqueville makes several insightful remarks on the relationship between class, lawmaking, and social welfare.

First he explains that there are generally three distinct classes of wealth in any given free society. There are the rich, the middle-class—whom he explains as having enough to live comfortably but lack considerable fortunes—and the lower class, or those who generally lack properties and "live particularly from the work provided to them by the first two classes"¹⁶⁰. When any one class is given control over the legislation of laws, he says, certain tendencies can be expected. Wealthy law-makers are less inclined to be careful with the public purse, as taxes that affect mildly the fortunes of the populous would little affect those with great wealth. The middle class, however, would restrain the use of the purse for exactly the same reason: the middle class feels taxation the most, and is more likely to restrain itself and live according to the comforts its already afforded. The lower class, however, are likely to legislate monetary policy from which only they can profit from—having no considerable taxable property in the first place, any public services they legislate into being will be paid for only by the classes above them on the wealth scale. "In other words," Tocqueville remarks, "the government of democracy is the only one in which the one who votes the taxes can escape the obligation to pay them"¹⁶¹.

The result of universal suffrage is, by its very nature, the latter form of monetary policy. Tocqueville notes how the "unfortunate influence that popular power" wields "made itself clear in certain democratic republics of antiquity, in which the public treasury was exhausted to help indignant citizens, or to give games and spectacles to the people"¹⁶². The purse, when wielded by those unable or unwilling to contribute to it, is inevitably corrupted into a vessel of democracy's destruction. He does offer some consolation, however: "[t]he profusions of democracy are, moreover, less to be feared the more people become property owners, because then, on the one hand, the people have less need for the money of the rich and, on the other hand, they encounter more difficulties establishing a tax that does not hit them"¹⁶³. In other words, keep the markets strong and lift the poverty level to such a height that even the poorest among the society possess taxable property, and the tax policy in a democratic system eventually sorts itself out.

158 Ibid.
159 333.
160 334.
161 336.
162 337.
163 Ibid.

His last bit on the topic of expenditures concerns the in-built preference to ameliorate the vessels of power in any given institution, and the manner in which money is particularly necessary for this end in democratic societies. This touches on the relationship between political and administrative centralization that was addressed in earlier segments, and the dangerous impulses present in the rampant growth of a bureaucratic State.

Tocqueville briefly addresses the topic of how public salaries are decided upon, which is an extension of the topic on dispensation of public moneys. He explains the general problem of making clear to a democratic people the importance of compensation for public officials and the difference in salary between the civil servant and the farmer from whose property the salary is funded. He makes note that “salaries seem in a way to decrease as the power of the officials grows greater”, referring to the greater responsibility incurred at higher offices offset by the seemingly diminishing return of compensation¹⁶⁴.

On the economic impulses of democracy, Tocqueville spares only a few words, and they tap into the same general ideas he has touched on already: the relationship between the political state and the social state of the nation. Economic policies—what the government has chosen to subsidize and what it has chosen to ignore—are based principally upon the laws, obviously, but they are indicative of that society’s culture. He explains:

If Americans have never happened to spend the people’s money on public festivals, it is not only because, among them, the people vote the tax; it is because the people do not like to enjoy themselves.

*If they reject ornament in their architecture and prize only material and real advantages, it is not only because they are a democratic nation, but also because they are a commercial people.*¹⁶⁵

A free society guarantees the people’s will is made manifest through the government’s use or abuse of the public purse. With this in mind, Tocqueville then gets into some even briefer comments on tax revenue and a short section in which he attempts to compare the tax revenue of France with that of the United States. He concludes his sections on the administration and expenditures of democratic systems with the observation that the American democracy is both fairly uneconomical and expensive to maintain. The presence of such varying classes of officials, the varying backgrounds of magistrates, and the democratic order itself all exacerbates the generally use of money. “[A]nd I am not afraid to predict that,” Tocqueville concludes, “if great difficulties came one day to assail the peoples of the United States, you would see taxes among them rise as high as in most of the aristocracies or monarchies of Europe”¹⁶⁶. Indeed, we have already surpassed them.

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The Capacity of Democracy to Govern

Tocqueville now sets his sights on the nature of corruption. Aristocratic systems naturally have fewer men involved in the direction of governance, and as such, these men can be bought more easily and their power more harmfully put to use. Democracies, however, have power distributed too widely across the government, too many people involved, for the buying out of politicians to be worthwhile. In the former case, “the officials are corrupted,” Tocqueville explains, while in the latter “the people themselves”¹⁶⁷.

The corruption of a democratic government exists at the tail end of the same causal chain which affects all other aspects of democracy; the social state of the people is always reflected in the state of the government and the policies it decides. As such, the more a democratic government falls into a state of corruption, the more it can be said that the corruption originated not from a handful of individuals in that government seeking to gain power, but rather from the very social fabric of the democratic order itself.

Aristocratic systems, Tocqueville believes, have countermeasures in place that prevent this sort of social upheaval. “In the corruption of those who gain power by chance,” he writes, “something crude and vulgar is disclosed that makes it contagious to the crowd; on the contrary, there reigns, even in the depravities of great lords, a certain aristocratic refinement, an air of grandeur that often prevents its spread”¹⁶⁸. The nuance of courtly life and politics elevates the entire affair, often to the point that seems absurd to the common man. However, the basic notions of the public purse, offices of power, and favoritism are easily graspable even by the man who toils in the fields.

This pessimism makes its way into the next section, where Tocqueville addresses a people’s tendency toward short-term goal indulgences rather than long-term ones, and how democracy in particular exacerbates such impulsiveness. He comments on how the laws, “appear favorable to those who, everywhere else, have the greatest interest in violating [them]”, specifically because they are made by the people themselves¹⁶⁹. In areas of the country where ‘enlightenment’ is less-spread out and the dangers of the frontier are more ever-present, law and order are, predictably, more rough-and-tumble. The laws are carried out in service to the immediate need, but with little regard to a lasting future. Especially the Spanish countries of South America, he comments briefly, are susceptible to rash impulsiveness to such a degree that they have been in varying states of revolution up to the time of his writing:

The people who inhabit this beautiful half of a hemisphere seem obstinately bound to eviscerate themselves; nothing can divert them. Exhaustion makes them come to rest for an instant, and rest soon brings them back to new furies. When I consider them in this alternating state of miseries and crimes, I am tempted to believe that for them despotism would be a benefit.

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*But these two words will never be found united in my thought.*¹⁷⁰

Tocqueville concludes chapter five with some statements on the democratic management of foreign policy. Presidents Washington and Jefferson, he believes, had the more influence on American foreign policy than any other two figures of the country's short history. He cites Washington's general sentiments favoring isolationism, or at the very least, detachment from European affairs and skepticism toward European influences foremost. Jefferson, similar, reiterated the Washingtonian spirit. The fundamental issue was this: "The Nation, which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave", Tocqueville quotes the first President, "It is a slave to its animosity or to its affection"¹⁷¹. Such sentiment, put most fully into practice by Jefferson, ensured that America would limit itself primarily to the affairs of its own continent and hemisphere, a strategy that also ensured that it had little to fear from foreign interests. It was simply too small, and its neighbors not powerful enough, to have much to fear.

That said, Tocqueville holds up little respect for democratic management of foreign affairs. Democracy is quite adequately suited to managing the day-to-day operations of a people, he explains, as it is exactly the sort of ground-up organization that makes day-to-day operations streamlined. Foreign policy, however, requires an understanding of logistics and a need for planning beyond the mere day-to-day operation. The impulsiveness, coupled with the administrative decentralized nature, of democratic countries, can obfuscate the interests of the people versus the interests of the nation. Peoples can form groups and majorities, and sometimes those groups will work to service the ends of foreign governments or external interests—and this almost always works to the detriment of the whole nation. Democracy, unorganized as it is, and based on a system of elections as it is, can fall prey to those interests.

Tocqueville goes on to illustrate how easily swayed public opinion can be by citing America's reaction to the French Revolution:

*The inclination that leads democracy in policy matters to obey sentiments rather than reasoning, and to abandon a long developed plan for the satisfaction of a momentary passion, clearly revealed itself in America when the French Revolution broke out. The simplest insights of reason would suffice then, as today, to make the Americans understand that it was not in their interests to get engaged in the struggle that was going to cover Europe in blood, and from which the United States would suffer no harm.*¹⁷²

Aristocracy, by contrast, maintains a much more rigid hold on foreign matters. Plans involving other nations, which naturally take longer to see to fruition than typical domestic policies, are not interrupted by the replacement of officials via the election process. Likewise, aristocracies are more limited in the number of men involved in decision-making as well as the backgrounds that they are from, which provides measure to their consensus. In comparison to the workings of democratic government,

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Tocqueville holds no reservation as to which is more convenient when dealing with the affairs of other sovereignties.

Chapter 6 – What Are the Real Advantages That American Society Gains from the Government of Democracy?

“Every time that the government of a people is the sincere and permanent expression of the will of the greatest number,” Tocqueville begins chapter six, “that government, whatever the forms, is democratic”¹⁷³. He speaks here not specifically of American democracy, but of the entire theory of the system. Defined as such, democracy thus can apply to monarchical systems, republics, confederacies, or most other forms of government that are not intrinsically totalitarian or administratively centralized. Although he does admit that the republican system is most suited to democracy, he writes that he does “not believe that it is a necessary consequence”¹⁷⁴.

That said, however, he also reiterates what he explained in the first part of the book: that American institutions are but one method in which democracy is made political, and that in writing this chapter, he does not intend to espouse such methods as necessarily the best. Because the social state of democracy comes in such various forms, he believes that there can be no one most optimal and measurable method in which democracy is carried out in service of its people.

Tendency of the Laws & Instincts of Executors

Legislation under democracies is, as Tocqueville points out, much less optimized than aristocratic legislation, although it reflects more fully the will of the people under democratic systems. He considers it “more useful to humanity” than the aristocratic alternative, but acknowledges that “its advantages end there”¹⁷⁵. Aristocratic legislation tends to push for laws that push wealth toward higher strata of society and seek to keep the classes distinct; aristocracy necessarily is a form of minority-rule rather than democracy’s alternative of majority-rule.

That said, however, aristocratic legislation generally leads to more stabilized societies; Tocqueville points out how “aristocracy is not subject to passing impulses; it has long-term plans that it knows how to develop until the favorable opportunity presents itself” whereas democracy’s laws “are nearly always defective or ill-timed”¹⁷⁶. The temperance of the aristocratic class is such that its fundamental nature is oriented toward leading the nation and its people.

Democracies, because they are less rigid and stable, are more capable of correcting legislative mistakes quickly and with minimal damage than aristocratic systems are. Similarly, elected officials have the ability to be quickly replaced in cases where the legislators themselves are causes of problems. As a

173 375-376.

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result, Tocqueville notes that “if the democratic magistrate exercises power worse than another, he generally holds it for less time”¹⁷⁷.

In any case, the distinction between the aristocratic and democratic methods is clear not merely in their varying approaches to legislation, but also in the nature of those who hold the public offices.

Democratically elected positions invariably end up predominantly populated by cruder persons for reasons Tocqueville outlined in earlier chapters, whereas the very purpose of an aristocratic class is to produce people indisposed to common vulgarity. As a result of this, in combination with the manner in which aristocratic governance values minority-rule, aristocratic societies can become conceivably greater than democratic ones, though while harboring even greater depths of misery at the same time. Tocqueville uses England as an example: “the greatest extremes of fortune are present together, and the miseries are found there that nearly equal its power and glory”¹⁷⁸. He continues by examining the democratic alternative:

*So there is, at the heart of democratic institutions, a hidden tendency that often makes men work toward the general prosperity, despite their vices or errors, while in aristocratic institutions a secret inclination is sometimes uncovered that, despite talents and virtues, carries them toward contributing to the miseries of their fellows. In this way, in aristocratic governments, public men can do evil without wanting to do so, and in democracies, they can produce good without thinking to do so.*¹⁷⁹

His Enlightenment streak comes to the surface yet again as he elaborates on his assertions. The law, despite intended to bolster the civic well-being, all too often results in bolstering vice. In referring to this tendency, he asks, “is prosperity in the world the reward of error and folly; are miseries the recompense for skill and reason?”¹⁸⁰. The freedom of Man’s will, Tocqueville believes, limited by causes beyond his understanding and factors behind his control, seems too arbitrary to be legislated effectively by any one form of government.

Tocqueville continues from here into the topic of patriotism and public spirit. National passion as such “encourages great episodic efforts rather than continuity of efforts”, he writes; “[a]fter saving the State in time of crisis, it often leaves it to decline amid peace”¹⁸¹. Monarchical regimes tend to foster a sort of natural patriotism, inasmuch as there is a definite leader and that leader’s strength becomes a source of national pride. Patriotism under republican governments, by contrast, Tocqueville considers more thoughtfully; such governments still draw patriotism from strength, but more strength of a whole people rather than the strength of a people as its manifested in the ruling monarch.

Patriotism is prone to its faults, however. Failures arise as the culture fragments, the government becomes weakened by an irregular or incohesive social state, and men revert to purely self-interested egoism. Tocqueville believes that it is only through the union of civic duty with civic pride that

177 380.

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179 Ibid.

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patriotism and functioning democratic government can survive. General public spirit has waned as peoples across the West have gotten more enlightened and sophisticated; as such, a direct object of political action must be tied to national pride. He writes that “the most powerful means, and perhaps the only one remaining to us, to interest men in the fate of their country, is to make them participate in its government”¹⁸². Americans, having effectively accomplished this, seem to operate as though the State was an extension of their own homestead, caring for it as they would care for their own personal property. The American citizen, Tocqueville explains, “values his rights as a citizen as his rights as a proprietor, and he takes an interest in the State as in his cottage or in the field that his labors have made fruitful”¹⁸³. As a result, it is not necessarily the good that Americans value in their country, but rather the pride they have taken in their work for it.

Rights and the Respect for Law

Rights, Tocqueville asserts, are the foundation of any just society, and in fact, are the form that virtue takes when it becomes the object of political discourse. “There are no great men without virtue,” he writes, “without respect for rights, there is no great people”¹⁸⁴.

In order to explain the difference between American and European arguments over rights, Tocqueville uses the analogy of children who play with toys. As the children play together, they learn the importance of understanding their own toys; this understanding matures into an understanding of property rights in adults. In America, where everyone has a stake of property to defend, Tocqueville makes clear that there is no proletariat who has no concept of personal ownership. From the understanding of property rights, the whole spectrum of political rights becomes comprehensible; men of common cloth legislate in accordance with the same understanding of rights out of the mutual self-interest that their rights are respected inasmuch as they respect the rights of others. It’s important to note that, by this logic, as the responsibilities of private property are diminished in any stratum of society, the subsequent respect for the rights of others declines as well.

He caps off his brief mention on the topic of rights in democracies with this:

*The child inflicts death when he is unaware of the value of life; he takes property from others before knowing that someone can rob him of his. The common man, at the moment when he is granted political rights, finds himself, in relation to his rights, in the same position as the child vis-à-vis all of nature. In this case the celebrated phrase of Hobbes applies to him: Homo puer robustus.*¹⁸⁵

The citizenry can enjoy their rights only insomuch as they understand how to use them, according to Tocqueville. Any society that loses sight of their rights and their purpose will be an unjust society no matter how legislated and regulated it tries to be.

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Fittingly, his next topic concerns the respect for law in America. Because democracies guarantee the interests only of the majority, and not of the total polity, the understanding exists that the rule of law must be respected or the entire country collapses into anarchy. Even if a citizen's interests are not one with the majority's at a given time, there is high likelihood that his interests *will* correspond with the majority's in the future. That said, those in a society with the least to lose are often the most powerful voices in a democratic State; the rich, with the interests of their wealth at stake, find themselves less powerful than in aristocratic regimes in Europe for the same reason. As a result, those with more wealth tend to be more inclined to respect the law—even in cases where they break it—than those who have nothing to lose.

The freer a society, Tocqueville writes, the more the interests of the people are oriented toward self-improvement. The betterment of the culture and society are not the yoke of an aristocratic elite alone, and as such, all civic men feel the importance of improving the social and political states. Progress, that Enlightenment demon, seems to haunt Tocqueville's thoughts on the subject, even as he acknowledges the drawbacks of such thinking earlier in this very chapter.

That aside, he acknowledges the bustling social and political climate of the American polity. All citizens are engaged in work, and they are engaged not merely in the work of maintenance but in the work of improvement as well. This echoes downward into their very social habits and mores. "An American does not know how to converse, but he discusses;" he writes, "he does not discourse, but he holds forth. He always speaks to you as to an assembly; and if he happens by chance to get excited, he will say: Gentlemen, while addressing his interlocutor"¹⁸⁶.

Tocqueville ends this chapter by briefly addressing once more the various aspects of human nature that democracy brings out. It is not a system that is necessarily best oriented toward the elevation of Man toward his most virtuous standing, nor toward the creation of high art, glory, or long-term undertakings of massive scale and greatness.

But if it seems useful to you to divert the intellectual and moral activity of man toward the necessities of material life, and to use it to produce well-being; if reason appears to you more profitable to men than genius; if your object is not to create heroic virtues, but peaceful habits; if you like to see vices more than crimes, and prefer to find fewer great actions, on the condition of encountering fewer cases of heinous crimes; if, instead of acting within the bosom of a brilliant society, it is enough for you to live in the midst of a prosperous society; if, finally, in your view, the principal object of a government is not to give the entire body of the nation the most strength or the most glory possible, but to provide for each of the individuals that make up that society the most well-being and to avoid the most misery; then equalize conditions and constitute the government of democracy.¹⁸⁷

186 397.
187 400.

And the times are changing, he writes, repeating his sentiments from his introduction. The democratization of the West was sweeping with furor in the wake of Enlightenment schooling. The future, Tocqueville believed, belonged to the throngs of people looking to improve their material lot in life, where religion had receded and traditional governance offered no consolation. Only in the body of the State would such a polity find meaning, he believed. To some degree, he seems to have been right. At least for so long as a democratic social ethos could distract its citizens from the metaphysical questions that it ultimately was not equipped to answer. Feeling that now, as our democratic institutions have been corrupted and the democratic social ethos of Tocqueville's time has eroded to irresponsibility and vice, it seems that the West needs courage of the sort that only the grandeur of the ancient regimes could muster.

Democratic Pitfalls, Lawyers, and the Majority Rule

Part II:

Chapter 7

Chapter 8

Chapter 9

Chapters seven and eight detail the use of majority rule in the American nation, while chapter nine deals with the causes of stability that maintain America's nationhood. This section concludes a great deal of the thought brought forward in the last several chapters, particularly the relationship between the social state of America versus that of European alternatives, the similarities of political thought between America and its former mother country England, and finding the line between a coherent democratic order and a rule of tyranny. Chapter nine concludes with the harbingers of what is to come in the Twentieth Century: the liberalization of the West and the rise of totalitarian doctrines.

Chapter 7 – Of the Omnipotence of the Majority in the United States

The democratic majority, Tocqueville begins, must be absolute: “nothing outside of the majority can offer resistance”¹⁸⁸. Interestingly, this statement seems to contradict some of Tocqueville's words on the freedom of association and the formulation of political parties. This is only at first glance, however: the majority can manifest in various political parties over time. Parties and associations are merely vessels for the power of the majority itself.

That said, the very nature of the democratic structures means that the majority will always legislate itself more power at the expense of minorities. The power of the majority, Tocqueville writes, is irresistible and, in fact, mostly arbitrary:

The moral dominion of the majority is based in part on the idea that there is more enlightenment and wisdom in many men combined than in one man alone, more in number than in the choice of legislators. It is the theory of equality applied to minds. This

188 403.

*doctrine attacks the pride of man in its last refuge. Consequently the minority admits it with difficulty and gets used to it only with time. Like all powers, and perhaps more than any other, the power of the majority thus needs to last in order to seem legitimate. When it is beginning to be established, it makes itself obeyed by force; only after living under its laws for a long time do you begin to respect it.*¹⁸⁹

The claim to rule arises in democracy purely from the imposition or threat of force. Fundamentally, Tocqueville seems to think that political power is not derived from reason, faith, or heredity, but rather from the threat of the mob and their demands. This rule, Tocqueville writes, is true even in democracies such as the United States; rather than try to nullify this power, the governmental structures have tried to harness and orient this power toward liberty rather than anarchy.

Administration, Tyranny, and Public Officials

“Administrative instability is an evil inherent in democratic government,” Tocqueville writes, “because it is in the nature of democracies to bring new men to power”¹⁹⁰. Administration, a powerful tool of the government, can be centralized only through the use of the political structure. Tocqueville uses the case of France during the 1790s as an example, but explains that such totalitarian impulses are unlikely to arise in America due to a combination of factors: firstly, America is not in a state of revolution, and secondly, America’s familiarity with democratic rule extends much further into its roots than France’s had at the time.

That said, democracies—and in particular America—do not pass long-standing laws or expect their laws to be unalterable. This frequency of legislation is looked upon as progress: Tocqueville believes that changing the laws and even adjusting the constitutions of the various states in America are each acts of improvements to the political sphere. European governments of the time, however, did not take so quickly to legislation; this ensured slower social change but simultaneously granted government the ability to make long-term plans—which democracies find intrinsically difficult to follow through on.

This brings Tocqueville to comment on the tyranny of the majority. He conceives of the majority, “taken as a whole,” to be “an individual who has opinions and, most often, interests contrary to another individual called the minority”¹⁹¹. Although admitting that, as he argued above, this would assume that the majority is indeed omnipotent and prone to running roughshod over its opponents, he refuses to acknowledge that such is actually the case.

He acknowledges that omnipotence in the political sphere, be it under a democratic or aristocratic framework, is never good news. The only one in whom omnipotence can be trusted is of course God; the works of men are as flawed as the hearts of men are, and through those flaws power extorts a heavy toll. There are fail-safes present in the American system, he posits: the executive and judicial branches. Although legislators hold some minimal sway over both in their decisions on salaries, the executive is insulated enough that he remains free to act according to his own will, at least insofar as he is free from

189 404-405.

190 407.

191 411.

campaigning for reelection. Chapter eight of part one had to do with this. The judicial branch, similarly, remains insulated from both campaigning and the electorate, inasmuch as they are appointed by executors.

But it is still possible, however, for the majority's will to encroach upon both of these branches of government. Tocqueville notes how it is in large part due to the nation's relative youth that tyranny had yet to spring up: its "political passions are still not very deep" and "so vast a field for human activity is presented that interests are rarely opposed to each other". "No guarantee against tyranny is found there," he continues, "the causes for the mildness of government must be sought in circumstances and mores, rather than in laws"¹⁹².

"[A]t the same time that it favors the legal despotism of the legislator," Tocqueville continues, on the topic of the majority's omnipotence, it "also favors the arbitrariness of the magistrate"¹⁹³. Tocqueville is keen to note that such arbitrariness, when ordered toward the service of the governed, is not by its nature tyrannical. And the magistrates, beholden either to elected officials or to the electorate itself, hold the capacity to implement the spirit of the laws even if that comes at the expense of their letter.

So although we see that ultimately, a minority of people are exercising power over the nation, Tocqueville's reference to the majority refers to the majority of the electorate. When taken into context with his previous words on the press, it seems that the America of the 1820s remained resilient enough against mass propaganda to make up their own minds. The same certainly can't be said today.

Thought and Character

Thought, in this sense, refers to the various ideals of the people who comprise a given nation. Democracy's leveling instincts ensure that thought is more widely controlled under democratic regimes than under monarchical or even aristocratic. As Tocqueville explains:

*Today, the most absolute sovereigns of Europe cannot prevent certain ideas hostile to their authority from circulating silently within their States and even within their courts. It is not the same in America; as long as the majority is uncertain, people speak; but as soon as the majority has irrevocably decided, everyone is silent, and friends as well as enemies then seem to climb on board together. The reason for this is simple. There is no monarch so absolute that he can gather in his hands all of society's forces and vanquish opposition in the way that a majority vested with the right to make and execute laws can at will, vested with the right and the force.*¹⁹⁴

Tocqueville admits his belief that kings and aristocrats can affect the ideas only of those nearest to them, being singular individuals. Their power extends to the material well-being of the governed, but not necessarily to the moral sphere. Democracy, being a widely-dispersed political ideology in which all citizens take part, affects the moral sphere to a much greater degree. It is, in fact, the means by

192 415.

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194 417.

which the political power is legitimized. As a result, it is the mass of people who determine the scope, mode, and acceptability of thought. “I know of no country where, in general, there reigns less independence of mind and true freedom of discussion than in America”, Tocqueville writes¹⁹⁵.

Tocqueville does warrant that the number of various subjects that can be discussed in America is extremely wide and diverse, but the moment the unsaid borders are transgressed, anyone looking to speak on those subjects suddenly finds himself without a platform and without friends. He writes:

*Princes had, so to speak, materialized violence; the democratic republics of today have made violence as entirely intellectual as the human will that it wants to constrain. Under the absolute government of one man, despotism, to reach the soul, crudely struck the body; and the soul, escaping from these blows, rose gloriously above it; but in democratic republics, tyranny does not proceed in this way; it leaves the body alone and goes right to the soul. The master no longer says: You will think like me or die; he says: You are free not to think as I do; your life, your goods, everything remains with you; but from this day on you are a stranger among us. You will keep your privileges as a citizen, but they will become useless to you.*¹⁹⁶

We have seen this sort of destruction writ large in the scope of the last several decades, in which the collapse of the Soviet regime has yielded a spiritual resurgence—both Catholic and Eastern—in the Eastern Bloc while their Western cousins have accelerated a religious decline. The relationship between law and morality, between the political and social states, is key here, and confusion of one for the other will always end in the destruction of either the polity’s body or of its soul.

Amusingly, these words get to the heart of a problem that is periodically illustrated as a conflict between communism and capitalism in modern discourse. However, given that this was written at a time before communism had been unleashed in all of its horror, and before capitalism had been implemented on a recognizable scale, it serves to reason that such trends are manifestations of something more fundamental than politico-economic ideology. Indeed, as anyone with eyes to see it, the communist/capitalist dichotomy is just a trap that limits those who hold to it from addressing the metaphysical and theological concerns of man. Left to his own devices, and free from the moral fiber that religious background (even erroneous religion, so long as it’s a recognized and overt religion) instills in the social fabric, man will purge his soul of his own volition if his material needs are not attacked from the outside by an aggressor.

That said, Tocqueville’s assertion may have been somewhat premature. “If America has not yet had great writers,” he exclaims, “we do not have to look elsewhere for the reasons: literary genius does not exist without freedom of the mind, and there is no freedom of the mind in America”¹⁹⁷. Granted, Tocqueville’s work was written before the likes of Melville and Hawthorne had been established, yet it is easy to see today the essence of what he was saying.

195 Ibid.

196 418.

197 419.

Tocqueville moves on to address the organizing principle involved with national character. Aristocratic and monarchical regimes tend to limit the influence of great men. They seek the ears of those in power, if they are not already in power themselves; as a result, their own ideas are either ignored, co-opted, or subsumed into the will of the regent. And it is not uncommon to see such men “take a type of pleasure or pride in sacrificing their will to that of the prince and, in this way, give a kind of independence of soul to the very act of obedience”¹⁹⁸. The democratic organization, however, allows great men to be drowned out; a larger market exists for those “who seek to bank on the sovereign’s weaknesses and to live at the expense of the sovereign’s passions”¹⁹⁹. Where monarchies are bolstered by an underlying love of king and country, the same force present in democracies serves to undermine the legislators and executives in a form of *schadenfreude*. “In absolute monarchies, the king often has great virtues; but the courtiers are always vile”, Tocqueville writes; “[w]hat I blame democratic republics for is putting the courtier spirit within reach of such a large number”²⁰⁰.

The chapter concludes with a brief rumination on the fact that it is the legislators, not the executive, from whom tyranny will spring. The majority, manifest in the legislation of the laws, will eclipse the minorities to such a degree that arms will be taken up and violence will become the only appropriate form of political discourse. This is what eventually occurred in 1861. It was not any one executor who tyrannized those in the political minority, even if it was one executor in particular whose election triggered the secession of the Southern states. Executors have only temporary fiat to, within a limited degree, administrate and deliver the laws; but it is through the laws that are legislated that majority omnipotence is measured.

Chapter 8 – Of What Tempers Tyranny of the Majority in the United States

Tocqueville begins chapter eight reiterating his notions of political and administrative centralization and reminding the reader that only the former exists in the United States—at least at the time of his writing. Because only former exists, “the majority, which often has the tastes and instincts of a despot, still lacks the most advanced instruments of tyranny”²⁰¹. Because the social state of the American Union remains democratic, which takes passing interest of but not prerogative over the affairs of fellow citizens, the tyranny of the majority cannot come to full fruition. The majority, Tocqueville explains, is not fully aware of its own power in the United States, and this is precisely because the majority is fundamentally *American*; the people in America mostly want to be left to their own devices.

Much of chapter eight deals with the spirit of the jurist, in Tocqueville’s terms. On that topic, he mentions that any “public official” who is “vested with an office for life... takes a personal interest in society remaining immobile”²⁰². This applies to judges given their life-appointments to their positions. While this implies that they are indisposed to both political “progress” as such, the truth is that such

198 421.

199 Ibid.

200 423.

201 428.

202 431.

lifelong magistrates are every bit as prone to the impulses of the times as the majority is—what the magistrates are keen on preserving is their status within the structure.

As such, Tocqueville points out how jurists and aristocracy are cut from very similar cloth. The jurists of a nation alter in function depending upon the character of the nation. In America, they hold extraordinary power due to the construction of the Constitution, their removal from legislative capacity, and their independence from executive influence. In any aristocratic society in which nobles “have wanted to share some of their privileges with jurists,” Tocqueville remarks, “these two classes have found it very easy to join together and have, so to speak, discovered themselves to be of the same family”²⁰³. Authority, independence of political partisanship, and a love of order unite both classes.

“When the rich man, the nobleman and the prince are excluded from government,” he adds, “the jurists arrive there by right, so to speak; for then they are the only enlightened and skillful men that the people can choose outside of themselves”²⁰⁴. The jurists, in other words, occupy a check against the unwashed masses who control the majority. It is impossible to occupy a position in the courts and not be both a learned man and a man of the law.

Tocqueville spends some time to clarify the differences between the Anglo-American tradition of jurists and the French. In the English world, the jurist “seeks what has been done; the French jurist, what you must have wanted to do; the first, evidence; the second, arguments; the one wants judgments, the other wants reasons”²⁰⁵. Even the nature of the laws themselves varies between these two traditions. French laws, Tocqueville asserts, are “often more difficult to understand, but everyone can read them”, whereas the English laws are “obscure to the common people and less accessible to them”²⁰⁶. He continues, remarking on the nature of English jurist traditions:

*[T]he English jurist esteems the laws, not so much because they are good as because they are old; and, if he sees himself reduced to modifying them on some point in order to adapt to the changes that societies are subjected to by time, he resorts to the most incredible subtleties in order to persuade himself that, by adding something to the work of his fathers, he is only developing their thought and completing their efforts. Do not hope to make him recognize that he is an innovator; he will consent to go to absurd lengths before admitting himself guilty of such a great crime... English legislation is like an ancient tree on which jurists have constantly grafted the strangest shoots, in the hope that, while producing different fruits, they will at least blend their foliage with the venerable stock that supports them.*²⁰⁷

Not one to mince his words on the subject of his countrymen’s national rivals, Tocqueville’s general feelings of Enlightenment-style disdain for tradition also leaks through in passages such as these. But he continues, remarking that America’s system is not altogether different. Since America lacks a

203 435.

204 436.

205 437.

206 438.

207 Ibid.

genuine aristocratic class, and since its polity distrusts the rich, the jurists themselves occupy the highest intellectual class of the polity. “If you asked me where I place American aristocracy,” he remarks, it would be “at the lawyers’ bar and on the judges’ bench”²⁰⁸. It is only here that democracy meets a significant countermeasure. Things have changed some today, particularly in the growth of a super-billionaire and technocratic class, but the position of those involved in law remains entrenched near the top of the American social structure.

In addition to their place in the courts themselves, jurists in fact occupy nearly every level of the American government. Tocqueville explains how they “fill the legislatures and are at the head of administrations” since they are “the only enlightened class that the people do not distrust”²⁰⁹. In doing so, their knowledge of law and their reasoning capacity play integral roles in the legislation and execution of the nation’s laws, even if they do not comprise the sole class through which such legislation or execution is served.

Tocqueville continues from here to discuss the function of the jury in the United States. He makes clear that the jury serves two functions: first as a judicial institution and second as a political one. As a judicial institution, he writes only briefly and explains that it should be no coincidence that the importance of the jury has grown in Anglo-American justice as their enlightenment has grown. Juries embody the very concept of justice, Tocqueville believes, and as such, their importance—greater than merely of jurisdictional policy—lies primarily in the political sphere.

Juries are of “eminently republican character” Tocqueville writes, “in that [they] place the real direction of society in the hands of the governed or of a portion of them, and not in the hands of those governing”²¹⁰. Juries, he believes, therefore have the capacity to hammer out through reason the values of the society greater than an individual autocrat would. He goes on to defend the use of juries in civil matters: “[w]hen the jury is reserved for criminal affairs, the people see it act only from time to time and in particular cases” and thus get used to its absence in the ordinary affairs of life; in other words, juries that are only present for criminal cases are looked upon as exceptional uses of jurisdictional power²¹¹. But when “the jury is extended to civil affairs, its application comes into view at every moment; then it touches all interests; each person comes to contribute to its action; in this way it enters into the customs of life” and its actions become integral to the foundation of social mores from which legislation arises²¹². The jury, in other words, “teaches each man not to retreat from responsibility for his own actions... without which there is no political virtue”²¹³.

It’s important to note that Tocqueville is essentially defending the use of civil proceedings in order to maintain common social order; the politics of lawsuits, in his belief, undergird the social mores of a democratic society. Since he has already acknowledged the cumbersome nature of democratic legislation and the disorganized nature of the democratic social state, the use of juries to regulate the

208 439.
209 440.
210 445.
211 447.
212 Ibid.
213 448.

social order comes across as distinctly Orwellian, to use modern parlance. All it takes is a committed party to break through the veneer of jurisdictional separation, and the civil/criminal proceedings are blurred enough to evoke the stylings of a totalitarian kangaroo court.

Tocqueville's defense of the jury as a political institution reveals how fully he believes in general Enlightenment worldview. It is politics, he believes, which must affect the social order to such a degree as to ensure that all citizens are included within its grasp, even while he acknowledges that the political state exists causally after the social state. He writes:

*The jury serves unbelievably to form the judgment and to augment the natural enlightenment of the people. That, in my opinion, is its greatest advantage. You must consider it as a free school, always open, where each juror comes to be instructed about his rights, where he enters into daily communication with the most learned and most enlightened members of the upper classes, where the laws are taught to him in a practical way, and are put within reach of his intelligence by efforts of the lawyers, the advice of the judge and the very passions of the parties. I think that the practical intelligence and good political sense of the Americans must be attributed principally to the long use that they have made of the jury in civil matters.*²¹⁴

Chapter eight concludes with these remarks on juries and their relationship with the jurist class. Tocqueville believes the jury to be a fundamentally educational force used as a political institution, one in which the people learn the mechanisms of power and thereby understand how to rule with it, even if they lack the prescience of more learned men.

Chapter 9 – Of the Principal Causes That Tend to Maintain the Democratic Republic of the United States

Democracy is maintained in the United States' republic by three causes, Tocqueville writes: the first is Providence, the second is the laws, and the third are their habits and mores.

Providence

“There are a thousand circumstances independent of the will of men that make it easy to have the democratic republic in the United States”, Tocqueville begins, “[s]ome are known, others are easy to make known”²¹⁵. He is referring to, as he clarifies next, the lack of neighbors, which insulates America from major wars and foreign threats to their sovereignty. It also means that they don't have a need to raise and keep a standing army for the purposes of national defense.

Secondly, Tocqueville notes the general lack of capital. He writes, “to subject the provinces to the capital is to put the destiny of the whole empire, not only in the hands of a portion of the people, which is unjust, but also to put it in the hands of the people acting by themselves, which is very dangerous”²¹⁶.

214 Ibid.

215 453.

216 455.

He explains how the accumulation of capital creates classes of consultants, which in today's jargon would approximately correlate to the Wall Street banking, investment, and speculator elite. Additionally, the rapid accumulation of capital leads to urbanization and, as a result, greater administrative centralization.

He notes that the combination of these two factors is somewhat unprecedented in European history. They are so prevalent, in fact, that "[i]n Europe, the culmination of good laws is to produce well-being; in America all the work of bad laws would scarcely succeed in preventing well-being from being produced"²¹⁷. The circumstances of America's existence, according to Tocqueville, make the failure of her experiment a remote possibility.

The civilizations of antiquity, he continues, were founded in such conditions as to require constant defense against the other societies in their area. While the native populations would seem to pose a similar threat to the Americans, Tocqueville remarks that these peoples were little more than "wandering tribes who did not think of using the natural riches of the soil", an observation not so much oriented toward their agricultural abilities so much as their utter lack of complex industrial and architectural abilities²¹⁸. Put simply, the native population of the American east, although varied and of differing levels of sophistication, remained primitive.

Tocqueville spends the next several pages dwelling on the migration of Americans from their coastal origins inward toward the mostly-empty heartlands. He emphasizes the uprooted American lifestyle, led by frontiersmen who are always seeking new land and new wealth. "In Europe, we are used to regarding as a great social danger restlessness of spirit, immoderate desire for wealth, extreme love of independence", he writes; "[t]hese are precisely all the things that will guarantee a long and peaceful future to the American republic"²¹⁹. He continues to remark how it is the excess of materials that allows the American spirit of liberty and plenty to survive without the typical means of democratic excess leading to its demise. He writes: "[y]ou do not have to fear giving birth to too many passions, because all passions find an easy and salutary means of satisfaction. You cannot make men too free, because they are almost never tempted to make bad use of liberty"²²⁰.

This particular cause, as Tocqueville sees it, is specific only to America, and it can be found in particular amongst those European emigres who have fled their countries due to political turmoil. He concludes his section on providence by delivering an anecdote from a man purportedly from the French Revolution, whose views on economics and politics had shifted drastically upon his settlement in the frontier country of Pennsylvania. Tocqueville remarks how it was precisely the material plenty found in America that had led to the man's reversal of his previously-totalitarian views.

217 456.

218 Ibid.

219 462.

220 463.

Laws

Tocqueville reiterates the general framework of the political power in the United States by summarizing it in the form of three main mechanisms: the federal union, the local townships, and the judicial system. The federal system maintains a national character and the means to execute national interests. The local polities ensure democratic freedom. The judicial system, lastly, works as an effective check against the majority while also providing a coherent unity of jurisdictional prudence from the local levels up through the federal level.

The topic of laws as they relate to democracy is indeed what a majority of the book has been about, so Tocqueville decides to spend no more time in this chapter elaborating on them.

Social Mores and Religion

On mores, Tocqueville clarifies that he is speaking generally on the topic of “different notions that men possess, to the diverse opinions that are current among them, and to the ensemble of ideas from which the habits of the mind are formed”²²¹. Mores, therefore, are part of the defining threads of the social tapestry; with this in mind, he continues into the importance of religion and how it has shaped democracy in American life.

The early religious life of America, as Tocqueville noted near the beginning of his work, came in the form of the pilgrims fleeing—as he remarks—first the Pope, and then the English. It was a wholly new form of Christianity that was bottom-up democratic at its root. This is why the New England polity revolved so heavily around the New England parishes. But he switches gears quickly to address the status of Catholicism in the new young nation. More broadly, he writes that “[n]o religion so disdained the use of physical force as the religion of Jesus Christ. Now wherever physical force is not honored, tyranny cannot endure. Therefore you see that despotism has never been able to be established among Christians”²²². Christianity, under his line of reasoning, has always been the religion most disposed to liberty.

Building from this, Tocqueville claims that Catholicism is the most disposed toward the leveling instincts of the democratic order, so much so that he believes Catholicism to be the most compatible sect of Christianity with democracy *in toto*. Catholicism only distinguishes between two classes of people, he explains: the priest and the people who are of equal value to God below him. The same rites, the same observances, and the same demands are placed upon the rich as they are upon the poor. All people of the society come to worship at the same altar. Protestantism, by contrast, leads men into individualism and independence more than it leads them to a state of equal communion.

While there’s a certain truth found in these sentiments, it comes across as a cope from his Enlightenment interests to suggest that Catholicism is best disposed toward liberal-democratic inclinations. On the other hand, the republics of Italy and the rather lenient treatment of liberalism continentally distinctly contrasts with the manner of Protestant authoritarianism we see inflicted under

221 466.

222 468.

the reign of Elizabeth I, for instance, to say nothing of Cromwell. While we can say with the benefit of the last two centuries that Protestantism was a liberalizing force on the whole, the true nature of liberalism—that it is and always has been a mask for authoritarian tendencies antithetical to natural law—were not as obvious to casual observers in the nineteenth century. Despite their accuracy, it was easier to dismiss the writings of the French counterrevolutionaries as paranoid or hyperbolic; the same can't be said today.

With this in mind, Tocqueville's comments are offer a remarkably un-nuanced interpretation of Catholicism as it relates to the social order. That said, they do shed light on the correlation between Catholic statesmen of the American traditions and their general status as support of programs for community well-being. The staunch division between the Church and State in America drove the priest class into occupying a position from which the democratic secularism remains a viable and public alternative.

The diversity of Christian congregations in America is of little consequence, Tocqueville carries on, because while “each sect worships God in its way,” ultimately “all sects preach the same morality in the name of God”²²³. That would change most fiercely in the first half of the twentieth century. Tocqueville sees very little of note between the differences espoused between the varying sects of American Protestantism and even how they are rivaled by the Catholic presence in the country. Of most importance are their outward demeanors and the morals which undergird the social state. Ever a man of the Enlightenment, the preservation of the social contract, in this case through the means of religious dogmas, maintains the presence of a democratic order. America today cannot boast even a resemblance of this.

It is religion, he declares, which “must be considered as the first of [American] political institutions” even if it is not involved directly with the political affairs²²⁴. The reason is simple: although liberty, conceived as such without context or purpose, functions according to the maxim of that “everything is allowed in the interests of society”, it is the religious backbone of the American order, in addition to its general sense of religious homogeneity, which puts *de facto* prohibitions upon the actions of men. The law allows for any gross contortion of the social contract insofar as the action does not break the contract; it is religion, however, which prevents such contortions from becoming the norm of American behavior. Or at least, that's how it was at the time of Tocqueville's writing. “Religion is much more necessary in the republic that they advocate”, he writes, speaking of the secular liberty's fiercest defenders, “than in the monarchy that they attack, and in democratic republics more than all others”²²⁵.

The priestly class in America, Tocqueville mentions, are all of the same agreement: the separation of Church and State are ultimate moral positives. Interestingly, Tocqueville mentions the Enlightenment critique of religion, stating that the “philosophers of the XVIIIth century” believed that “[r]eligious zeal ... must fade as liberty and enlightenment increase”, but he quickly remarks that “the facts do not agree with this theory”²²⁶. In fact, as liberty and enlightenment increased in the Americas, he writes,

223 473.

224 475.

225 478.

226 479.

American Protestantism and Catholicism both seem to have flourished. The Catholic priests that he mentioned before argued for a moral framework in which a nation's political structure was as morally valuable as his house. Tocqueville writes:

When finally I found out what the mind of the clergy itself was, I noticed that most of its members seemed to remove themselves voluntarily from power, and to take a kind of professional pride in remaining apart from it.

I heard them anathematize ambition and bad faith, whatever the political opinions that ambition and bad faith carefully used to cover themselves. I learned, by listening to them, that men cannot be blameworthy in the eyes of God because of these very opinions, when the opinions are sincere, and that there is no more sin in being wrong in matters of government than in being mistaken about the way in which your dwelling must be built or your furrow must be plowed.²²⁷

Tocqueville continues by commenting on the relationship between religion and political regimes in general. By pitching as their goals a sense of immortality commonly longed for by all men, religions position themselves above any single regime. When attached to specific regimes, however, their power may be heightened with the force of the political order working in their favor, but they lose the universality of any religious claims. The people of the nation become their only subjects.

In the American system, which changes over its politicians on a fairly regular basis, religion would have no way of maintaining a grip directly on the polity itself, since its officials would be displaced at some point or another. Thus, religiosity in America had to be reduced to a background noise. Politics the sort described earlier in *Democracy in America* subsumed much of the social state of Americanism even while it was shrouded under religious-infused inspiration. The force Tocqueville refers to in these passages, although he does not name it, is the gradual secularization that came upon the West in the wake of the Enlightenment.

The response to this secularization took two forms, of which, various forms of both were on display in America: utter renouncement of religion entirely and the embrace of atheism, or doubling down on religious belief. Americans are generally split on that issue, but due to the nature of their political system, they are able to hold together a moral framework of Christian virtue even if some of them believe it's a sham. The louder proselytizers drown out the dissenting voices of nihilism. This is different, however, from Europe, whose attempts to rectify secularism usually coincide with the embrace of religion by the political order. "Unbelievers in Europe", Tocqueville explains, "pursue Christians as political enemies, rather than as religious adversaries; they hate faith as the opinion of a party much more than as a mistaken belief; and in the priest they reject the representative of God less than the friend of power"²²⁸.

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Tocqueville continues on from here to comment on the status of enlightenment in America. The country has had very few writers of note up to the time that he was writing, he reminds his readers. Fewer still are to be found public intellectuals of merit who, despite living in a politicized society in which an overabundance of laws are passed, are able to comment and ascertain the spirit of those laws for posterity. Meanwhile, the same can be said with regard to America's relationship with the inventive engineers. "America already carries an immense weight in the destinies of the world;" he writes, "and perhaps it only lacks great writers to overturn violently in a moment all the old societies of Europe"²²⁹.

America is a nation placed directly between the extremes, Tocqueville explains. "If he pays attention only to the learned," he writes, an observer "will be astonished by their small number; and if he counts the ignorant, the American people will seem to him the most enlightened on earth"²³⁰. The same can be said with respect to landownership, to education, to scientific inquiry, and in fact, to almost every field of human endeavor. Americans are a people equalized in opportunity and, as a result, have leveled the stratified social concepts of the Old World.

That said, the astuteness of the American public over their own governance is beyond reproach. "In the United States," Tocqueville explains, "the whole of the education of men is directed toward politics"²³¹. As a result, the average American is capable of speaking on the subject of both the contemporaneous issues as well as the broader political systems of his country freely and easily, even if he makes overgeneralized comments about foreign soil.

Of Physical Causes, Laws, and Mores

The "laws serve more to maintain the democratic republic in the United States than physical causes, and mores more than laws" Tocqueville writes, titling the penultimate section of chapter nine. The American order was founded on foreign shores by Europeans, as were the colonies of South and Central America. And yet, clearly the general circumstances of their founding were not enough to distinguish the South American experiments from the North American Union. "[N]ature had isolated in the same way" these southern nations, "and this isolation did not prevent them from maintaining armies. They made war on each other when foreigners were lacking. Only the Anglo-American democracy, until now, has been able to remain at peace"²³². He continues:

*If, for peoples to be happy, it was sufficient to have been placed in a corner of the universe and to be able to spread at will over uninhabited lands, the Spanish of South America would not have to complain about their lot. And when they would not enjoy the same happiness as the inhabitants of the United States, they would at least make the peoples of Europe envious. There are, however, no nations on earth more miserable than those of South America.*²³³

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It is not enough to suggest that the physical circumstances of nationhood led to the creation of America. He continues by remarking on the distinct character of American citizenry to push further westward—the ability and willingness of established, decently affluent men in places like New England to uproot themselves and their family to establish homesteads in the regions across the Great Lakes. This stands in contrast to the French Canadians who, Tocqueville mentions, congregate in cities and avoid wherever possible the wild frontiers. Such a difference in character between peoples cannot be chocked up to a mere difference in legislative authority or political structure.

Tocqueville then posits the rhetorical question: given that the American order's establishment was founded only minimally on its physical circumstances, could the same sense of Americanism be established someplace else according to the same laws and mores? He acknowledges that “outside of America there are no nations that, derived of the same physical advantages as the Anglo-Americans, have still adopted their mores”²³⁴. And yet, he continues on to posit hypothetical scenarios. The relationship that laws hold with the material circumstances is crucial:

*if the laws of the Americans seem to me defective in many points, and it is easy for me to imagine others, the special nature of the country does not prove to me that democratic institutions cannot succeed among a people where, physical circumstances being less favorable, the laws would be better.*²³⁵

The general deficiency of legislation happens to be exactly what makes Tocqueville convinced that American values can be, if not exported, then certainly imported into other regions with general but varying levels of success.

Abroad

Tocqueville's last comments in this chapter take a more general look at the nature of democracy as it relates to the world and its sweeping movement across the West. He acknowledges the uncertainty and the failings that democracy brings with itself, and that the alternative is, by and large, the absolute rule of a single man. “I know that today there are many honest men hardly frightened by this future,” he writes, “who, fatigued by liberty, would love finally to rest far from its storms”²³⁶. And yet the nature of such authoritarian absolutism, Tocqueville recognizes, has changed shape from the ancient regimes of old to the modern period. “Religion, love of subjects, the goodness of the prince, honor, family spirit, provincial prejudices, custom and public opinion limited the power of kings and enclosed their authority within an invisible circle”, he explains, noting that “the constitution of peoples was despotic and their mores, free”²³⁷. But Modernity, left unnamed at this point in history, has overturned such concepts.

Revolutions have diminished the power of kings in the eyes of Western Man; feeling this, the princes and monarchs that still reign can rule without constituency to virtue or reason. The social order in

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which a virtuous absolutism was possible disintegrated as the Enlightenment spread across the continent, and the guillotines of France severed the last threads that kept it together. “As long as the family lasted, the man who struggled against tyranny was never alone”, Tocqueville comments, “[b]ut when patrimonies are dividing, and when in so few years races are merging, where to locate the family spirit?”²³⁸ The organization of the ancient regime, ordered according to a fraternal love and bearing familial resemblance, has been supplanted with the reign of masters over servants or slaves.

Tocqueville does not believe that the restoration of mores is necessary for such virtuous absolutism to return is possible. For him, Modernity has guaranteed the playing field to honor only one zero-sum game:

*If men must in fact reach the point where they must all be made free or all slaves, all equal in rights or all deprived of rights; if those who govern societies were reduced to the alternative of gradually raising the crowd up to their level or allowing all citizens to fall below the level of humanity, wouldn't this be enough to overcome many doubts, reassure many consciences, and prepare each person to make great sacrifices easily?*²³⁹

He speaks guardedly, however, for he does not advocate for the following of America in its course to pursue enlightened liberal democracy by its own methods. He writes, “I am not unaware of the influence exercised by the nature of the country and antecedent facts on political constitutions, and I would regard it as a great misfortune for humankind if liberty, in all places, had to occur with the same features”²⁴⁰. And yet, America is as of yet the only country to succeed so fully with the experiment. Given that being the fact, Tocqueville explains that it should be with an even hand and a level head that Europe advance slowly down the path out of the Divine Right of Kings toward the democratic society America has pioneered. The alternative, he believes, “will arrive sooner or later at the *unlimited* power of one man”²⁴¹.

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Race and the Future of the Country

Part II: Chapter 10

The final chapter of Volume I concerns itself with two issues that are inextricably linked: the status race holds in the relations between the peoples on the American continent, and the possible ways in which the dissolution of the Union will eventually take place. It also marks the conclusion of Volume One of *Democracy in America*.

Chapter 10 – Some Considerations on the Present State and Probable Future of the Three Races That Inhabit the Territory of the United States

From the beginning of the experiment's conception, Tocqueville believes, there was an in-built tension across the continent which would become America: three distinct races of almost irreconcilable differences. "The European... the Negro, and the Indian", he writes, differ in "[e]ducation, laws, origins, and even the external form of their features" which have "raised an almost insurmountable barrier between them"²⁴². Predictably, this is the chapter that dives headlong into what more enlightened modern sophisticates would call the un-ignorable racism of a nineteenth century Frenchman.

Tocqueville writes first on the topic of the blacks in the American nation. Deprived of their history, they were carted to the New World against their will and were integrated into the system of slavery. Those who gained their freedom were welcomed into American society, but rarely to the same esteem typically reserved for whites. "While thus ceasing to belong to Africa," Tocqueville comments, "he has acquired no right to the good things of Europe; but he has stopped between the two societies"²⁴³. He continues on to dryly comment on the seeming lack of family unity across black social groups and the negative impacts all of that has had on their souls:

Plunged into an abyss of evils, the Negro scarcely feels his misfortune; violence had placed him in slavery; the practice of servitude has given him the thoughts and ambition of a

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*slave; he admires his tyrants even more than he hates them, and finds his joy in his pride in servile imitation of those who oppress him.*²⁴⁴

Blacks are so enslaved, in this period, that even when freedom is granted or won, Tocqueville writes, the freed slave is little equipped to handle the burdens and responsibilities that freedom entails. During “the course of his existence, he has learned to submit to everything, except to reason”, he explains, “and when reason becomes his sole guide, he cannot recognize its voice”²⁴⁵. The state of black society in early America, therefore, isn’t one merely of abject enslavement of the body, but poverty of the soul as well.

The state of Indians in the New World, however, lay on the opposite end of such a spectrum: complete independence. The Indians were not enslaved, nor were they born into enslavement as the blacks were. Instead, European civilization dispersed their cultures “by scattering their families, by obscuring their traditions, by interrupting the chain of memory, by changing all their habits, and by increasing their needs inordinately”, by which “European tyranny has made them more disorderly and less civilized than they already were”²⁴⁶. A people already primitive upon the arrival of the West to their shores were made confused upon the start of American life.

For Tocqueville, the likely outcome of this intermixing of races is this: one will serve, as it has always served, one will rule, as it always has, and one will be exterminated. Two hundred years later, his writing remains, in typical Tocquevillian fashion, recognizably prophetic.

The Indians

Tocqueville then begins his look at the destruction of the Indian tribes, how it took place, and the responses these tribes had to destruction. This begins with a look at their resources and how they distributed their resources prior the European settlement. Although trade between tribes was well-known, in general, “their needs were few and the means to provide for them very numerous”²⁴⁷. Upon European settlement, trade with whites opened Native awareness to Western luxuries and tools that were hitherto unknown, and these were traded for the resources that previously the tribes used for their own purposes. The new luxuries, however, did not fit within the existing framework of their social and geographical settings; this new trade quickly resulted in Indian impoverishment even as they gained more sophisticated weaponry and better clothes.

In addition to the strain that higher demand put on the environment, Tocqueville cites the migrations of wild game and their retreat from large swaths of frontier near civilized areas. Since the Indians of the East Coast were predominantly hunter-gatherer societies, the flight of wild game “is as if you made the fields of our farmers sterile”²⁴⁸. As Tocqueville comments, “it is not, strictly speaking, the Europeans

244 Ibid.

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who chase the natives of America away, it is famine; happy distinction that had escaped the old casuists and that the modern Protestant doctors have discovered”²⁴⁹.

As these people are driven westward, Tocqueville explains how their bonds of fellowship break down. They have already been exhausted by years of subsistence living on the fringes of European society; the West, with its different environments and differing tribes offer little consolation. Nationhood across the tribe, community, and family each succumb to bitter nihilism as the transplant takes its toll.

He does not pretend that the Europeans are without blame. In approaching the legal aspects of land acquirement from the Natives, Tocqueville writes on how the Indians are essentially coerced into bad deals. Typically, the heads of tribes are assembled with the representatives of the American government, and given a feast for the negotiations, where they are told of greater wildernesses beyond the scope of the present land in question.

*After giving this speech, firearms, woolen clothing, casks of brandy, glass necklaces, tin bracelets, earrings, and mirrors are spread out before the eyes of the Indians. If, at the sight of all these riches, they still hesitate, it is insinuated that they cannot refuse the consent demanded of them, and that soon the government itself will be unable to guarantee to them the enjoyment of their rights. What to do? Half persuaded, half forced, the Indians move away; they go to inhabit new wildernesses where whites will not leave them in peace for even ten years. In this way the Americans acquire at a very low price entire provinces that the richest sovereigns of Europe could not afford.*²⁵⁰

The Indians, he says, had only two options upon confronting the earliest European settlers: “war or civilization; in other words, they had to destroy the Europeans or become their equal”²⁵¹. Instead, not knowing the threat before them, they chose soft and slow annihilation. Later, some years after Tocqueville’s travels, the Indian wars did break out across the West. But this, as we can see for ourselves, was far too little and far too late to salvage what was left of the tribesmen.

Interestingly, Tocqueville comments on the distinctly anti-agricultural basis of most Indian societies and how this contributes to their primitive, roaming nature. Attempts had been made “[s]everal times... to bring enlightenment to the Indians while leaving them with the mores of wandering peoples”, he writes, but these “accomplished nothing lasting. Civilization was born within the hut and went to die in the woods”²⁵². Complex societies can only be built upon foundations of soil and land; a culture that maintains its rootlessness as part of its fundamental character and identity will never develop into a civilization comparable to Europe.

Of note are the Cherokee and Creek tribes. Tocqueville writes how these southern tribes, unlike their northern cousins, did not flee from place to place as Europeans advanced. Instead, they found

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themselves surrounded by settlements along the Ohio and Mississippi rivers, resorted to agrarianism and, in the case of the Cherokee, rather quickly adopted a written language.

Tocqueville concludes his analysis of Indian relations on another dark note: the tendency of Americans to renege on treaties of land ceded to Indian nations. In the case of the Cherokee and any other tribes that attempted halfway to integrate into the customs and civilization of European life, all too often their nation was either forced to disintegrate or to move. If it was forced to move, the roots put down in the soil were dug up again and generally never reestablished in the lands they were transplanted to, which did even more harm to the Indian soul than the cousins who were transplanted purely by means of famine and land swindling.

The Blacks

“The Indians will die in isolation as they lived;” Tocqueville begins, “but the destiny of the Negroes is in a way intertwined with that of the Europeans”²⁵³. The institution of slavery inflicts a great wound upon the American social state and carves a wedge between the whites and the blacks that is more insidious than the divide between the Indians and the whites.

The racial component of American slavery made this divide the worse of the two. As Tocqueville explains:

*[A]mong modern peoples the non-material and transitory fact of slavery is combined in the most fatal way with the material and permanent fact of the difference of race. The memory of slavery dishonors the race, and the race perpetuates the memory of slavery.*²⁵⁴

The laws can be changed. Indeed, much of the first volume of this work has depicted exactly the ways in which the laws do change. The customs on which those laws are founded, however, the mores—those will be harder to alter on American soil than they had been in antiquity because race plays such a major factor.

Tocqueville also mentions that the blacks are debased both by European prejudice and by the institution of slavery that eventual integration between the two races seems impossible. The Negro represents a “stranger that slavery introduced among us” in whom “we scarcely acknowledge the general features of humanity”²⁵⁵. Somewhat counter-intuitively, Tocqueville addresses how non-institutionalized racism is “stronger in the states that have abolished slavery than in those where slavery still exists, and nowhere does it appear as intolerant as in the states where servitude has always been unknown”²⁵⁶. Following the tendencies of a democratic order, the will of men becomes buried under their laws, while their unspoken prejudices guide their society comes out through their mores. Prejudice runs roughshod across the states where abolition has succeeded and slavery is not present. Tocqueville speaks at some length about the lack of legal restrictions in most such states concerning freemen to vote, to initiate

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interracial marriage, and to engage in typical acts of congregation with whites. None of these were expressly forbidden by law, and yet, for instance, “opinion declares vile the white who joins in marriage with a Negro woman”²⁵⁷.

And yet, “[i]n the South where slavery still exists, Negroes are less carefully kept aside”, Tocqueville writes; “[l]egislation is more harsh in their regard; habits are more tolerant and milder”²⁵⁸. The racism of the South was held in check by the legal restrictions placed upon the freedom of blacks; as a result, the whites of the South were more prone to treating blacks with more respect. Their children often played together, their men often labored in the same fields side by side, and frequently enjoyed leisure on the same porches and in the same houses. The legal distinctions between the races never made the whites in power afraid of the blacks in the same manner that the whites of the North feared integration.

Tocqueville asks the question of why, if the North had succeeded in legislating the abolition of slavery in their territories, the states of the South did not do the same. The answer, says, is easy: “[s]lavery is being destroyed in the United States not in the interest of the Negroes, but in that of the whites”²⁵⁹. He notes how, from the time in 1621 when Virginia first introduced the slave trade in the American colonies, the territories that relied on slavery did not grow in population and economy as those in which slavery was in ill favor, if not outright banned. He points to the differences between Ohio, a free state, and Kentucky, a slave state, as specific examples:

On the left bank of the Ohio work merges with the idea of slavery; on the right bank, with that of well-being and progress; there it is debased, here it is honored. On the left bank of the river you cannot find workers belonging to the white race; they would be afraid of resembling slaves; you must rely on the efforts of Negroes. On the right bank you would look in vain for someone idle; the white extends his activity and his intelligence to all undertakings.

*Thus the men who in Kentucky are charged with exploiting the natural riches of the soil have neither enthusiasm nor enlightenment; while those who could have these two things do nothing or go into Ohio in order to make use of their industry and to be able to exercise it without shame.*²⁶⁰

Work, when reduced to slavery, ceases to be a practice in which men find merit and value. The slave toils without legitimate social compensation; he is taken care of as an animal rather than being recognized as a man whose responsibilities to himself and his kin are measured by the marks of his freedom. Establish an economy upon which this sort of slavery is accepted and encouraged, and the result is an economy in which workers are compelled to work begrudgingly, where no pride is taken in work, and where social value of work is degraded as a means toward the accumulation of wealth.

257 554.

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259 Ibid.

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This attitude is certainly all-pervasive today among most of the so-called working class of the country. The American wage-slave, most easily recognized in low-end food service, retail, and more recently, gig economy, exists as an accurate stereotype of the corporate America's dehumanizing embrace of valueless capitalism. The beliefs of what work is, whether it's valuable or not, whether it should be appreciated or merely endured, could be said to have contributed to the development of this form of corporate economic domination.

A more contemporary argument that makes the same fundamental assertion can be found from purely economic theories. A market in which labor is free to an entrepreneur hamstringing any workers seeking to find gainful employment. Economies in which the labor supply is split between those who must work for free and those who must work for a wage obviously tilt in the direction against those who need wages. Labor markets that are split in such a way are even less likely to grow than those which are merely unbalanced by disproportionate amounts of low-wage workers versus higher-wage ones. Remove the question of wages from an entire sector of the market and economic growth plummets in comparison to economies in which wages are always a factor. The only people who profit are the ones who can already afford to own the people who do not get paid. Tocqueville's comments on the differences between Northern and Southern—free and slave—economies evidence such concerns.

Tocqueville also comments briefly on the diminishing returns presented to masters of slaves in the expense of raising, caring for, housing, and feeding slaves; meanwhile, the slave's productivity is motivated out of fear of punishment rather than out of the honor of compensation or even out of the hope of reward. The result is that "in reality the slave has cost more than the free man, and his efforts have been less productive"²⁶¹.

The institution of slavery, in the North, was pruned piece by piece, first through the banning of the transatlantic slave trade, then through the declaration that children born to slaves are freemen, then through the prohibition of transporting slaves through free states, and finally through waiting out the generation and banning slavery altogether in those states. Tocqueville explains how this process pushed slavery into the South, where the institution already had a foothold. The abolition of Northern states thus cemented the status of the institution in states that lagged behind. The inhospitable winters, the comparative lack of abundant and fertile farmland, and the difference in social and political organization in the North versus the South made it easier to take these steps, as well.

The blacks in the free states, however, are left in a bad spot. Tocqueville writes of how "they remain half civilized and deprived of rights amid a population that is infinitely superior to them in wealth and enlightenment", and how "they have against them the memories of slavery, and they cannot claim possession of a single piece of land"; ultimately, "many succumb to their misery; others concentrate in cities where, undertaking the roughest work, they lead a precarious and miserable existence"²⁶². This latter tendency would accelerate in the wake of the Civil War, and then again in the interwar period and the fifties as a result of the targeted ethnic replacement of Urban Renewal programs.

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The subject of ethno-statism becomes a clearer and more likely alternative to parallel living arrangements in the South at the time of Tocqueville's travels. Eventually, he believes, at such point that slavery is eventually abolished, the blacks of the South will be so numerous, so burdened by the memory of slavery, so prejudiced in their mores, and so disadvantaged in their 'enlightenment' that coexistence will become unlikely if not impossible. He writes:

*Whatever the period of the struggle must be, the whites of the South left to themselves will moreover present themselves in the contest with an immense superiority of enlightenment and means; but the Blacks will have for them numbers and the energy of despair. Those are great resources when you have weapons in hand. Perhaps what happened to the Moors of Spain will then happen to the white race of the South (something not very probable, it is true). After occupying the country for centuries, it will finally withdraw little by little toward the country from which its ancestors came in the past, abandoning to the Negroes the possession of a country that Providence seems to intend for the latter, since they live there without difficulty and work more easily there than whites.*²⁶³

Tocqueville leaves unsaid the hundred-year long Reconquista which encouraged Moorish migration out of the Iberian Peninsula in his analogy, but the point remains. There is a fear, he explains, in the North, of a freed black population, even if the effects of it would have little impact on Northern social, political, or economic life. Of the South, however, the conversation goes utterly unspoken; whatever fears exist in the South at this time, they are silent.

However, on a similar note of ethno-nationalism, Tocqueville comments on the existence of Liberia. In 1820, the American Colonization Society founded a settlement near Guinea, and thousands of former slaves and freemen of the United States immigrated there to establish their own independence. "Transported to their former country," Tocqueville writes, "the Blacks have introduced American institutions there. Liberia has a representative system, Negro jurors, Negro magistrates, Negro priests; you see churches and newspapers there, and by a singular turn of the vicissitudes of this world whites are forbidden to settle within its walls"²⁶⁴. Liberia then offers to the blacks of the New World a possibility of a free society that has answered the prejudice of the American institutions with their own ethnic solution, so long as those blacks were willing to make the voyage. Liberia, to its credit, existed as a lagging but functional African state up into the first half of the twentieth century; the communist revolutions that coincided with the period of the European decolonization of its neighbors, however, ran roughshod over the country.

But Tocqueville returns again to the problem that faces the South. The slavery of the South remains different to the slavery abolished by the North for a couple of reasons. First, the principle crops of the South are cotton, tobacco, and sugarcane—each crops that require year-round maintenance and large groups of people to manage; Northern agricultural slavery proved too burdensome on farms that predominantly grew wheat or corn, which needs far fewer hands to manage until only a few weeks

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during the harvest season. Secondly, due to the North having abandoned slavery much earlier, and abandoned their slave markets, the pressure of the institution become more entrenched in Southern social life than it ever was in the North.

He finishes his section on the American Black with this ominous warning:

*If you refuse liberty to the Negroes of the South, they will end by seizing it violently themselves; if you grant it to them, they will not take long to abuse it.*²⁶⁵

Longevity of the American Union

In the following section, Tocqueville analyzes the “probable fate of the Union”, intending “to show what are the causes that can lead to the dismemberment of the current confederation”²⁶⁶. The Union, he begins, was instituted not to be a single government to rule over a single people directly; rather, its existence served merely to regulate the various states. “To the Union reverted the direction of all general interests,” he writes, “to the states the government of all special and provincial interests”²⁶⁷.

Tocqueville uses this section to briefly reiterate much of what he covered in the rest of the book: the importance of the provincial governments, the ever-presence of laws and the political state on the local level, the seeming invisibility of national government in the common life, and the manner in which the complex systems of governments all correlate to one another from the town up through to the federal levels. The centralized laws that hold the federal system together “give the central government a strength” that the confederation’s “memories, customs, [and] habits” deny; patriotism is best served up to the states rather than to the Union as a whole²⁶⁸.

The Union of this period is thus quite weak in comparison to the government of the states. “Every time that an obstinate resistance is put up against the federal government, you will see it yield”, he writes, commenting further on how the Union frequently finds itself unable to command states so much as appeal to reason and advise its conduct²⁶⁹. With ominous foreboding, he continues: “[t]he United States covers an immense territory; long distances separate the states; the population is spread over a country still half wilderness. If the Union took arms to hold the confederated states to their duty, its position would be analogous to that of England at the time of the War of Independence”²⁷⁰.

Tocqueville, conceiving the Union in much the same way as Southern secessionists would in the following decade, believes that the Union was very much dissoluble. The Union itself was “useful to all the states” but remained “essential to none”, he explains; “if one portion of the Union wanted seriously to separate from the other, not only would you not be able to prevent it from doing so, but you would not even be tempted to try”²⁷¹. Things certainly changed between the years of 1829 and 1861,

265 582.

266 583.

267 Ibid.

268 588.

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but his words, though ultimately proven wrong, mark a harbinger of doom that was to come. But this false prophecy seems less to be an error on Tocqueville's part than indicative of such a radical change in American governance, both in its structure and in the aspirations of those who lead it.

Although the individual states do form distinct polities with distinct cultures, they are not, in essence, wholly separate nations. The South's agricultural economy relies on crops that would make it infeasible for any one state to fully separate from the Union, and the same could be said for any of the manufacturing hubs of the North or the Midwest. Meanwhile, militarily-speaking, the Union's biggest strength is the combined defense of its seaboard against foreign invasion or blockade.

But he goes further in describing the integration of the Union as a single nation:

*I will never admit that men form a society by the sole fact that they acknowledge the same leader and obey the same laws; 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.*²⁷²

The United States, he explains, remains a coherent people because they all agree on the same general conceptions of Man, State, and God. They may not agree on the manner in which these ideas manifest—how Man should act, how the State should govern, and the worship of God, for instance—but the framework that holds it all together is essentially the same. “They conceive the same ideas on liberty and equality”, Tocqueville writes, “the same opinions on the press, the right of association, the jury, the responsibility of the agents of power”²⁷³.

Amusingly, on the subject of the moral union of America, Tocqueville comments that there is a distinctly prideful character of the American people that is generally lacking from the peoples of Europe. Nationalism and civic patriotism exist, certainly, but Americans recognize, at the time of Tocqueville's travels, that they “form the only religious, enlightened and free people... so they have an immense opinion of themselves, and they are not far from believing that they form a species apart in the human race”²⁷⁴. This affects the whole Union, and to a degree, strengthens its cohesiveness.

What can threaten the cohesiveness, however, is the social mores and ethos of the distinctive Southern and Northern cultures. Slavery, Tocqueville comments again, has created a society of men in the South whose attitudes are unrecognizable to their English kin of the North. He says quite succinctly that the Southerner “is more spontaneous, more witty, more open, more generous, more intellectual and more brilliant” whereas the Northerner “is more active, more reasonable, more enlightened and more skillful... the one has the tastes, prejudices, weaknesses and the grandeur of all aristocracies” while “the other, the qualities and failings that characterize the middle class”²⁷⁵. Even in a society in which

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their interests are shared, their beliefs are shared, and their opinions are more or less the same, the differences in demeanor and attitude are enough to create irascible conflicts.

The problem gets more complex: the population and geographical size of America seems to double almost every twenty-two years, Tocqueville explains. Given such swift growth and the size that such a nation encompasses, he writes that, even should these men remain united in opinions and beliefs, “by the very fact that they are one hundred million, forming forty distinct and unequally powerful nations, the maintenance of a federal government is nothing more than a happy accident”²⁷⁶. Naturally, that being a reasonable conclusion, it suffices to say that the government that existed a hundred years after his prediction had undergone drastic changes in structure merely to accommodate the growth of its territory, population, and ethnic composition.

He further goes on to remark how the Southern states, in particular, feel threatened by the population booms of the Northern and more industrialized centers; this population boom allows them more leverage over the Union’s political apparatus, often embroiling the South in tariff and economic policies that undermine Southern competitiveness. Sentiments in the South, even at the time of Tocqueville’s travels, consist of a constant fear and distress: “examining the past, it wonders each day if it is not oppressed. If it comes to find a law of the Union not clearly favorable to it, it cries out that it is being abused by force”²⁷⁷. The sheer numbers of the population, coupled with Federalist representative government, have pressured Southern interests into a nonstop game of reactionary cries—and this despite the fact that Southerners, up until the war, more often held the Presidency by a wide margin.

It is thus Americans’ “very prosperity” which is “the greatest danger” to threaten it, according to Tocqueville; as even the poorest states grow richer faster than many of their Old World ancestor-peoples, but the difference in growth rate between them and their immediate neighbors sparks conflict and sentiments of resentment²⁷⁸.

The strength of the Federal government, at the time of Tocqueville’s writing, was significantly diminished since its formulation in 1789. He writes of how the anarchic period that facilitated the Constitution’s writing enabled “the interpretation of the Constitution ... to expand rather than narrow federal sovereignty”²⁷⁹. As a result, the nation consolidated politically beneath the centralized legislative body, and became a small, fledgling world power. But as Americans enjoyed the fruit of that success, they turned back to their communities and states, to a degree such that “every time the government of the Union entered into a contest with that of the states, it has almost never ceased to retreat”²⁸⁰. The Union ended up being led by the very people who disdained the existence of the Federal government itself.

Tocqueville takes a few pages to discuss the tariff affair that pressured South Carolina nearly into outright secession in the 1830s, before moving on to address President Andrew Jackson as a key

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example of the Federal government’s gradual decentralization and democratization. Tocqueville writes:

*Far from wanting to extend federal power, the current President represents, on the contrary, the party that wants to restrict this power to the clearest and most precise terms of the Constitution, and that does not accept any interpretation that can ever be favorable to the government of the Union; far from presenting himself as the champion of centralization, General Jackson is the agent of provincial jealousies; it is the decentralizing passions (if I can express myself in this way) that brought him to sovereign power. He remains and prospers there by flattering these passions each day. General Jackson is a slave to the majority; he follows it in its will, in its desires, in its half-discovered instincts, or rather he divines it and runs to put himself at its head.*²⁸¹

The section closes as Tocqueville ruminates on how long the Union itself can last; internal struggle, from the sources of racial, cultural, and sentimental differences, are more likely to drive the various states away from one another more than any foreign threat is likely to destroy the Union. The power of the Federal government seems to recede and the political organization of the Union at its highest levels seems weaker than even at its conception. Tocqueville recognizes the storm that brews amid the turmoil of the American mid-Nineteenth Century, though he does not comprehend—as no one does yet—the magnitude of the hellfire to come.

Republican Institutions and Commercial Greatness

“The Union is an accident that will only last as long as circumstances favor it,” Tocqueville begins, “but the republic seems to me the natural state of the Americans, and only the continuous action of contrary causes acting always in the same way could replace it with monarchy”²⁸². This sentiment, particularly the Union’s “accidental” quality, is something that spurred the centralizing forces of the Civil War’s outcome. The structure of the states’ polities, their social mores, and the staunch individualism of the average American all make the sort of bureaucratic centralization necessary for a totalitarian regime difficult at the time to establish. The diversity of men’s sentiments have forged a democratic character that will last in the nation even if the nation’s Union is disrupted or sundered.

There is a danger to be found, however, in the dictatorship of elected officials, as Tocqueville has noted numerous times in the previous pages. “What you can foresee from now on is that by leaving the republic the Americans would pass rapidly to despotism, without stopping for a very long time at monarchy”, he explains, and notes how if “Napoleon had followed Louis XIV... he would have shown himself more stable but not as absolute as he was. Napoleon following a representative of the people could do anything”²⁸³. The democratic instincts cannot conceive of monarchical instincts; when absolute power is manifested within a single individual through democratic means, the result is always some form of tyranny and never likely to be undone without the use of brute force.

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Meanwhile, Tocqueville notes that he “cannot believe that [Americans] will ever grant the exclusive use of those rights to a particular class of citizens or, in other words, that they will establish an aristocracy”:

*An aristocratic body is composed of a certain number of citizens who, without being placed very far from the crowd, raise themselves nonetheless in a permanent manner above it; you touch and cannot strike them; you mix with them each day, and cannot merge with them.*²⁸⁴

Aristocratic bodies, he believes, do not arise naturally out of free societies. They are antithetical to the very nature of an order founded on individual liberty and appeals to the natural rights of all men. As such, they must act upon laws that are created by force and through coercion. In fact, “all the aristocracies of the Middle Ages are daughters of conquest” he writes, being legitimized only by the laws and the passage of time²⁸⁵. The naivete of the Enlightenment shows through strongly with such an opinion.

Tocqueville’s attention shifts now to America’s unique interest in commercial endeavors and the degree to which Americans prosper in them. The maritime tradition of the American continent, coupled with the vast Eastern seaboard that stretches from the North Atlantic Maine to the Gulf of Mexico and the Caribbean, entrench America’s status as a major trader in the global marketplace. Likewise, the plethora of natural resources and the high volume of industry and agriculture ensure that the United States has numerous surplus products to sell to other countries, particularly Europe.

It is also the American’s general tendency to prioritize success over his own safety that Tocqueville notes is a source of America’s commercial success. The dangers Americans frequently brave on the high seas, owing less to standards and regulations than their Old World counterparts often do, results in more shipwrecks but, often, greater rewards. “I cannot express my thought better than by saying that the Americans put a kind of heroism in their way of doing commerce”, he writes²⁸⁶.

Tocqueville believes that the geographical makeup and social state of the United States position it to rule—if not directly then by trade and economy—the other nations on the American continents. Due to the various geneses of those countries, their peoples are less enlightened and more prone to violence and despotism than the Anglo-American experiment to their north. American commercial interests, Tocqueville believes, would find those markets irresistible.

He concludes chapter ten with the prediction that America’s naval and maritime dominance, regardless of whether the Union remains together or if it fractures, will only increase. England’s rule of the seas has been long, but the American’s nature and sense of heroism in their endeavors, along with the example they have successfully set for other Enlightened nations, will push their commerce and their politics beyond their shores. “They are pushed to take possession of the seas as the Romans,” he concludes, “to conquer the world”²⁸⁷.

284 636.

285 Ibid.

286 641.

287 648.

Conclusion

Volume I concludes with a brief exegesis of the general sentiment of the entire work: that Anglo-American domination of the New World seems inevitable, and that the reason for this lies in both their own steadfast attendance to individualism as well as the prevailing winds of Enlightenment that push European peoples forward out of the dark ages. Whatever can be critiqued in this conclusion would merely be commenting on a shadow of the details he expounded upon earlier in the text. America, Tocqueville believes, is an inevitable future that Europe will be pulled toward emulating; ever prophetic, he seemed to have been, though the Europe's urban culture most certainly infected the rugged American ethos that Tocqueville found most charming.

Conclusions

Democracy in America's first volume ends here. Let's review:

Tocqueville's opening chapters detailed the physical layout of the American continent and the historical background of Anglo-American settlement. We saw how the different cultures that arose in the North and the South can trace their origins to the reasons for their original colonial settlements. We saw how the North owed its social and political structure to a complex interweaving of its early radical Protestant theocratic system mixed with English common law. We saw that the South's decentralized farming structure owed itself to having largely been developed as commercial hubs for English businessmen. We saw how both of these systems, despite their cultural differences, maintained a high degree of autonomy from England even when their charters were directly administered by the Crown. And we saw how the overall American system that Tocqueville studied across this volume largely preexisted the Revolution that delivered the colonies into their own political entity.

The next section detailed the organization of the politics and the courts at local and state levels. We saw how the structure of American life was seamlessly integrated into the local political organization of the American town, county, and state. We saw that the minor differences in state organization arose from the distinct reasons for which these original colonial interests were settled. We saw how the distribution of court power served to check local administrative and legislative power, and we also saw how this may be necessary to circumvent in times of crisis. And we saw Tocqueville predict that increasing cases of this suspension of political jurisdiction would indicate the loss of American democracy.

Chapter eight of part one subjected the structure of the American federal system to scrutiny. We saw him compare the original composition of federal power under its earlier confederacy to its framework as outlined by the Constitution. We saw how the separation of powers is as much split across administrative, legislative, and judicial branches as it is split between senatorial and representative houses, which at the time were subject to different election processes. We saw how the presidency of the early American period was a post primarily concerned with foreign relations and legislative negotiations, as the organization and scope of the American polity was not conducive to a stronger central administrator. And we saw the necessity of federal courts in determining proper laws.

The second part of *Democracy in America* traced issues of general administration and problems with democratic organization. We saw Tocqueville observe how taxation is decided by those in power, and

how it can be used to leverage political gain out of certain classes at the expense of others. We saw how democratic instincts lurch toward leveling principles that discourage long-term planning and prioritize impulsivity. We saw the necessity of a free press, despite the press' indulgences in profanity, irreverence, and its general proclivities toward dragging down common discourse and ruining reputations.

The rest of part two approached the omnipotence of the majority, tyranny, and the errors that America must have avoided if it wished to remain a democracy. We saw Tocqueville place special emphasis on the power that "the majority" holds over American life, both in politics and in social life. We saw that it was the jurists and lawyers who tempered what Tocqueville considered the 'tyranny' of the majority, and we saw how Tocqueville seemed not to consider the possibility of a small minority using democratic means to control the majority's will. And we saw how it would be a combination of sheer providence, resource allocation, the laws, and the social cohesiveness of the American people that would maintain the country's democratic character.

The first volume concluded with Tocqueville broaching, in greater detail, the relationship between the races of the American continent and what future the ethnic tension held for the whites and the blacks that were brought here by force. We saw a distinction Tocqueville drew between the institutional racism of the South and the *de facto* racism of the North. We saw his accurate predictions about the impossibility of the blacks' total integration into the white societies on the American continent. And we saw Tocqueville conclude his volume with ruminations on the future of the entire continent and the impact on the world—particularly Europe—that the new country would have in trade, naval might, and culture.

His ultimate theme of this first volume, then, is one that anticipates decay. America's democracy was allowed to stand and continue because it lacked significant threats as immediate neighbors, it possessed inordinate natural resources and land to exploit, it was perfectly positioned to acquire more, and its people were both ruthless, tenacious, and pragmatic enough to go after them. In a certain sense, this poised America for rapid expansion and incredible growth—a winning combination, if one considers the powers of Europe to be their prime competition.

And yet, the unanswerable question of slavery posed an unavoidable future of ethnic strife. Also, the reasons for the decentralized nature of American governance were not ones hardwired into a first principle; Americans were broadly self-reliant, pragmatic, and individualistic as a result of certain physical realities rather than to specific ideological or moral foundations. Democracy, most charitably understood even by a defender like Tocqueville, seems only compatible in societies that are technologically or physically unable to centralize. It is not that the centralizing principle is recognized and subsequently rejected; it's that it simply has no opportunity to manifest. True, there are always a certain number of men who will recognize that centralizing tendency and reject it, but again, broadly speaking, the longer a democratic society endures, the more these men are relegated to the fringes.

Democracy in America then can be taken to be an arc of liberal optimism subjected to the tension of a Frenchman well-acquainted with the errors and pitfalls of democratic order. Tocqueville's work was

published a decade prior to the Revolutions of 1848 swept across Europe like wildfire, dealing particular damage to his native France—something he'd live to see, and suffer through, himself. His opposition both to the socialism of the revolutionaries, as well as the brutal measures enacted by the regime at the time to combat them, resulted in the loss of his career. He only regained his position in politics after several years of uncertainty. Late in life, as he embarked upon his unfinished study of the French Revolution, his pessimism regarding the longevity of the American experiment grew deeper.

In his own way, Tocqueville seemed to have been mostly correct in many of his predictions. To what degree this was the result of nebulous forces behind liberal democracy, rather than intentional motions of certain oligarchs remains left unsaid. It's certainly possible to consider the growth of the oligarchical elite to be a natural result of the American system's consolidation; the industrial revolution, the influence of late nineteenth century immigration, growing urbanity among the upper class, and increasing international influence created a perfect storm around which economic and political interests coalesced. And this is exactly what happened during the first decades of the twentieth century. While it's true that President Jackson was hard at work giving the National Bank the axe in Tocqueville's time, it's left unmentioned in Volume One. But despite the obvious similarities, that apparatus had nothing on the size and scope of the Federal Reserve—one of the linchpins that cemented an oligarchical apparatus in this country.

For the reactionary, *Democracy in America* stands as the testament of that dead breed of honest liberals that could carve out an excuse for their optimism in the nineteenth century. These were the men who, though jaded by the failures of French democracy, lived at a point where open condemnation of Enlightenment experiments was not yet completely justified on the basis of historical reality. It serves as both an historical document relevant to its period as well as one that traps the interests of today's conservatives in amber: one cannot address the democratic spirit of the American experiment without also mentioning its collapse in the Civil War, and Tocqueville's predictions in the 1830s perfectly encapsulate this tension. *Democracy in America* at once wants to sympathize with, and yet outmaneuvers and condemns the arguments put forward by modern-day establishment conservatives, merely by being correct in the predictions put forth.

We end on this note. America is not the country it was in 1830. It isn't even the country that it was in 1865. Yet Tocqueville's prescience and honesty with regards to liberal democracy's failings remain relevant to us, if only because of the narratives that contemporary political discourse attempts to keep alive.



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