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DEMOCRACY IN AMERICA

By Alexis De Tocqueville

AVOCAT À LA COUR ROYALE DE PARIS

ETC., ETC.

Translated by

Henry Reeve, Esq.

IN TWO VOLUMES.

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Book One

Introductory Chapter

Amongst the novel objects that attracted my attention during my stay in

the United States, nothing struck me more forcibly than the general

equality of conditions. I readily discovered the prodigious influence

which this primary fact exercises on the whole course of society, by

giving a certain direction to public opinion, and a certain tenor to

the laws; by imparting new maxims to the governing powers, and peculiar

habits to the governed. I speedily perceived that the influence of this

fact extends far beyond the political character and the laws of the

country, and that it has no less empire over civil society than over

the Government; it creates opinions, engenders sentiments, suggests the

ordinary practices of life, and modifies whatever it does not produce.

The more I advanced in the study of American society, the more I

perceived that the equality of conditions is the fundamental fact from

which all others seem to be derived, and the central point at which all

my observations constantly terminated.

I then turned my thoughts to our own hemisphere, where I imagined that

I discerned something analogous to the spectacle which the New World

presented to me. I observed that the equality of conditions is daily

progressing towards those extreme limits which it seems to have reached

in the United States, and that the democracy which governs the American

communities appears to be rapidly rising into power in Europe. I hence

conceived the idea of the book which is now before the reader.

It is evident to all alike that a great democratic revolution is going

on amongst us; but there are two opinions as to its nature and

consequences. To some it appears to be a novel accident, which as such

may still be checked; to others it seems irresistible, because it is

the most uniform, the most ancient, and the most permanent tendency

which is to be found in history. Let us recollect the situation of

France seven hundred years ago, when the territory was divided amongst

a small number of families, who were the owners of the soil and the

rulers of the inhabitants; the right of governing descended with the

family inheritance from generation to generation; force was the only

means by which man could act on man, and landed property was the sole

source of power. Soon, however, the political power of the clergy was

founded, and began to exert itself: the clergy opened its ranks to all

classes, to the poor and the rich, the villein and the lord; equality

penetrated into the Government through the Church, and the being who as

a serf must have vegetated in perpetual bondage took his place as a

priest in the midst of nobles, and not infrequently above the heads of

kings.

The different relations of men became more complicated and more

numerous as society gradually became more stable and more civilized.

Thence the want of civil laws was felt; and the order of legal

functionaries soon rose from the obscurity of the tribunals and their

dusty chambers, to appear at the court of the monarch, by the side of

the feudal barons in their ermine and their mail. Whilst the kings were

ruining themselves by their great enterprises, and the nobles

exhausting their resources by private wars, the lower orders were

enriching themselves by commerce. The influence of money began to be

perceptible in State affairs. The transactions of business opened a new

road to power, and the financier rose to a station of political

influence in which he was at once flattered and despised. Gradually the

spread of mental acquirements, and the increasing taste for literature

and art, opened chances of success to talent; science became a means of

government, intelligence led to social power, and the man of letters

took a part in the affairs of the State. The value attached to the

privileges of birth decreased in the exact proportion in which new

paths were struck out to advancement. In the eleventh century nobility

was beyond all price; in the thirteenth it might be purchased; it was

conferred for the first time in 1270; and equality was thus introduced

into the Government by the aristocracy itself.

In the course of these seven hundred years it sometimes happened that

in order to resist the authority of the Crown, or to diminish the power

of their rivals, the nobles granted a certain share of political rights

to the people. Or, more frequently, the king permitted the lower orders

to enjoy a degree of power, with the intention of repressing the

aristocracy. In France the kings have always been the most active and

the most constant of levellers. When they were strong and ambitious

they spared no pains to raise the people to the level of the nobles;

when they were temperate or weak they allowed the people to rise above

themselves. Some assisted the democracy by their talents, others by

their vices. Louis XI and Louis XIV reduced every rank beneath the

throne to the same subjection; Louis XV descended, himself and all his

Court, into the dust.

As soon as land was held on any other than a feudal tenure, and

personal property began in its turn to confer influence and power,

every improvement which was introduced in commerce or manufacture was a

fresh element of the equality of conditions. Henceforward every new

discovery, every new want which it engendered, and every new desire

which craved satisfaction, was a step towards the universal level. The

taste for luxury, the love of war, the sway of fashion, and the most

superficial as well as the deepest passions of the human heart,

co-operated to enrich the poor and to impoverish the rich.

From the time when the exercise of the intellect became the source of

strength and of wealth, it is impossible not to consider every addition

to science, every fresh truth, and every new idea as a germ of power

placed within the reach of the people. Poetry, eloquence, and memory,

the grace of wit, the glow of imagination, the depth of thought, and

all the gifts which are bestowed by Providence with an equal hand,

turned to the advantage of the democracy; and even when they were in

the possession of its adversaries they still served its cause by

throwing into relief the natural greatness of man; its conquests

spread, therefore, with those of civilization and knowledge, and

literature became an arsenal where the poorest and the weakest could

always find weapons to their hand.

In perusing the pages of our history, we shall scarcely meet with a

single great event, in the lapse of seven hundred years, which has not

turned to the advantage of equality. The Crusades and the wars of the

English decimated the nobles and divided their possessions; the

erection of communities introduced an element of democratic liberty

into the bosom of feudal monarchy; the invention of fire-arms equalized

the villein and the noble on the field of battle; printing opened the

same resources to the minds of all classes; the post was organized so

as to bring the same information to the door of the poor man’s cottage

and to the gate of the palace; and Protestantism proclaimed that all

men are alike able to find the road to heaven. The discovery of America

offered a thousand new paths to fortune, and placed riches and power

within the reach of the adventurous and the obscure. If we examine what

has happened in France at intervals of fifty years, beginning with the

eleventh century, we shall invariably perceive that a twofold

revolution has taken place in the state of society. The noble has gone

down on the social ladder, and the roturier has gone up; the one

descends as the other rises. Every half century brings them nearer to

each other, and they will very shortly meet.

Nor is this phenomenon at all peculiar to France. Whithersoever we turn

our eyes we shall witness the same continual revolution throughout the

whole of Christendom. The various occurrences of national existence

have everywhere turned to the advantage of democracy; all men have

aided it by their exertions: those who have intentionally labored in

its cause, and those who have served it unwittingly; those who have

fought for it and those who have declared themselves its opponents,

have all been driven along in the same track, have all labored to one

end, some ignorantly and some unwillingly; all have been blind

instruments in the hands of God.

The gradual development of the equality of conditions is therefore a

providential fact, and it possesses all the characteristics of a divine

decree: it is universal, it is durable, it constantly eludes all human

interference, and all events as well as all men contribute to its

progress. Would it, then, be wise to imagine that a social impulse

which dates from so far back can be checked by the efforts of a

generation? Is it credible that the democracy which has annihilated the

feudal system and vanquished kings will respect the citizen and the

capitalist? Will it stop now that it has grown so strong and its

adversaries so weak? None can say which way we are going, for all terms

of comparison are wanting: the equality of conditions is more complete

in the Christian countries of the present day than it has been at any

time or in any part of the world; so that the extent of what already

exists prevents us from foreseeing what may be yet to come.

The whole book which is here offered to the public has been written

under the impression of a kind of religious dread produced in the

author’s mind by the contemplation of so irresistible a revolution,

which has advanced for centuries in spite of such amazing obstacles,

and which is still proceeding in the midst of the ruins it has made. It

is not necessary that God himself should speak in order to disclose to

us the unquestionable signs of His will; we can discern them in the

habitual course of nature, and in the invariable tendency of events: I

know, without a special revelation, that the planets move in the orbits

traced by the Creator’s finger. If the men of our time were led by

attentive observation and by sincere reflection to acknowledge that the

gradual and progressive development of social equality is at once the

past and future of their history, this solitary truth would confer the

sacred character of a Divine decree upon the change. To attempt to

check democracy would be in that case to resist the will of God; and

the nations would then be constrained to make the best of the social

lot awarded to them by Providence.

The Christian nations of our age seem to me to present a most alarming

spectacle; the impulse which is bearing them along is so strong that it

cannot be stopped, but it is not yet so rapid that it cannot be guided:

their fate is in their hands; yet a little while and it may be so no

longer. The first duty which is at this time imposed upon those who

direct our affairs is to educate the democracy; to warm its faith, if

that be possible; to purify its morals; to direct its energies; to

substitute a knowledge of business for its inexperience, and an

acquaintance with its true interests for its blind propensities; to

adapt its government to time and place, and to modify it in compliance

with the occurrences and the actors of the age. A new science of

politics is indispensable to a new world. This, however, is what we

think of least; launched in the middle of a rapid stream, we

obstinately fix our eyes on the ruins which may still be described upon

the shore we have left, whilst the current sweeps us along, and drives

us backwards towards the gulf.

In no country in Europe has the great social revolution which I have

been describing made such rapid progress as in France; but it has

always been borne on by chance. The heads of the State have never had

any forethought for its exigencies, and its victories have been

obtained without their consent or without their knowledge. The most

powerful, the most intelligent, and the most moral classes of the

nation have never attempted to connect themselves with it in order to

guide it. The people has consequently been abandoned to its wild

propensities, and it has grown up like those outcasts who receive their

education in the public streets, and who are unacquainted with aught

but the vices and wretchedness of society. The existence of a democracy

was seemingly unknown, when on a sudden it took possession of the

supreme power. Everything was then submitted to its caprices; it was

worshipped as the idol of strength; until, when it was enfeebled by its

own excesses, the legislator conceived the rash project of annihilating

its power, instead of instructing it and correcting its vices; no

attempt was made to fit it to govern, but all were bent on excluding it

from the government.

The consequence of this has been that the democratic revolution has

been effected only in the material parts of society, without that

concomitant change in laws, ideas, customs, and manners which was

necessary to render such a revolution beneficial. We have gotten a

democracy, but without the conditions which lessen its vices and render

its natural advantages more prominent; and although we already perceive

the evils it brings, we are ignorant of the benefits it may confer.

While the power of the Crown, supported by the aristocracy, peaceably

governed the nations of Europe, society possessed, in the midst of its

wretchedness, several different advantages which can now scarcely be

appreciated or conceived. The power of a part of his subjects was an

insurmountable barrier to the tyranny of the prince; and the monarch,

who felt the almost divine character which he enjoyed in the eyes of

the multitude, derived a motive for the just use of his power from the

respect which he inspired. High as they were placed above the people,

the nobles could not but take that calm and benevolent interest in its

fate which the shepherd feels towards his flock; and without

acknowledging the poor as their equals, they watched over the destiny

of those whose welfare Providence had entrusted to their care. The

people never having conceived the idea of a social condition different

from its own, and entertaining no expectation of ever ranking with its

chiefs, received benefits from them without discussing their rights. It

grew attached to them when they were clement and just, and it submitted

without resistance or servility to their exactions, as to the

inevitable visitations of the arm of God. Custom, and the manners of

the time, had moreover created a species of law in the midst of

violence, and established certain limits to oppression. As the noble

never suspected that anyone would attempt to deprive him of the

privileges which he believed to be legitimate, and as the serf looked

upon his own inferiority as a consequence of the immutable order of

nature, it is easy to imagine that a mutual exchange of good-will took

place between two classes so differently gifted by fate. Inequality and

wretchedness were then to be found in society; but the souls of neither

rank of men were degraded. Men are not corrupted by the exercise of

power or debased by the habit of obedience, but by the exercise of a

power which they believe to be illegal and by obedience to a rule which

they consider to be usurped and oppressive. On one side was wealth,

strength, and leisure, accompanied by the refinements of luxury, the

elegance of taste, the pleasures of wit, and the religion of art. On

the other was labor and a rude ignorance; but in the midst of this

coarse and ignorant multitude it was not uncommon to meet with

energetic passions, generous sentiments, profound religious

convictions, and independent virtues. The body of a State thus

organized might boast of its stability, its power, and, above all, of

its glory.

But the scene is now changed, and gradually the two ranks mingle; the

divisions which once severed mankind are lowered, property is divided,

power is held in common, the light of intelligence spreads, and the

capacities of all classes are equally cultivated; the State becomes

democratic, and the empire of democracy is slowly and peaceably

introduced into the institutions and the manners of the nation. I can

conceive a society in which all men would profess an equal attachment

and respect for the laws of which they are the common authors; in which

the authority of the State would be respected as necessary, though not

as divine; and the loyalty of the subject to its chief magistrate would

not be a passion, but a quiet and rational persuasion. Every individual

being in the possession of rights which he is sure to retain, a kind of

manly reliance and reciprocal courtesy would arise between all classes,

alike removed from pride and meanness. The people, well acquainted with

its true interests, would allow that in order to profit by the

advantages of society it is necessary to satisfy its demands. In this

state of things the voluntary association of the citizens might supply

the individual exertions of the nobles, and the community would be

alike protected from anarchy and from oppression.

I admit that, in a democratic State thus constituted, society will not

be stationary; but the impulses of the social body may be regulated and

directed forwards; if there be less splendor than in the halls of an

aristocracy, the contrast of misery will be less frequent also; the

pleasures of enjoyment may be less excessive, but those of comfort will

be more general; the sciences may be less perfectly cultivated, but

ignorance will be less common; the impetuosity of the feelings will be

repressed, and the habits of the nation softened; there will be more

vices and fewer crimes. In the absence of enthusiasm and of an ardent

faith, great sacrifices may be obtained from the members of a

commonwealth by an appeal to their understandings and their experience;

each individual will feel the same necessity for uniting with his

fellow-citizens to protect his own weakness; and as he knows that if

they are to assist he must co-operate, he will readily perceive that

his personal interest is identified with the interest of the community.

The nation, taken as a whole, will be less brilliant, less glorious,

and perhaps less strong; but the majority of the citizens will enjoy a

greater degree of prosperity, and the people will remain quiet, not

because it despairs of amelioration, but because it is conscious of the

advantages of its condition. If all the consequences of this state of

things were not good or useful, society would at least have

appropriated all such as were useful and good; and having once and for

ever renounced the social advantages of aristocracy, mankind would

enter into possession of all the benefits which democracy can afford.

But here it may be asked what we have adopted in the place of those

institutions, those ideas, and those customs of our forefathers which

we have abandoned. The spell of royalty is broken, but it has not been

succeeded by the majesty of the laws; the people has learned to despise

all authority, but fear now extorts a larger tribute of obedience than

that which was formerly paid by reverence and by love.

I perceive that we have destroyed those independent beings which were

able to cope with tyranny single-handed; but it is the Government that

has inherited the privileges of which families, corporations, and

individuals have been deprived; the weakness of the whole community has

therefore succeeded that influence of a small body of citizens, which,

if it was sometimes oppressive, was often conservative. The division of

property has lessened the distance which separated the rich from the

poor; but it would seem that the nearer they draw to each other, the

greater is their mutual hatred, and the more vehement the envy and the

dread with which they resist each other’s claims to power; the notion

of Right is alike insensible to both classes, and Force affords to both

the only argument for the present, and the only guarantee for the

future. The poor man retains the prejudices of his forefathers without

their faith, and their ignorance without their virtues; he has adopted

the doctrine of self-interest as the rule of his actions, without

understanding the science which controls it, and his egotism is no less

blind than his devotedness was formerly. If society is tranquil, it is

not because it relies upon its strength and its well-being, but because

it knows its weakness and its infirmities; a single effort may cost it

its life; everybody feels the evil, but no one has courage or energy

enough to seek the cure; the desires, the regret, the sorrows, and the

joys of the time produce nothing that is visible or permanent, like the

passions of old men which terminate in impotence.

We have, then, abandoned whatever advantages the old state of things

afforded, without receiving any compensation from our present

condition; we have destroyed an aristocracy, and we seem inclined to

survey its ruins with complacency, and to fix our abode in the midst of

them.

The phenomena which the intellectual world presents are not less

deplorable. The democracy of France, checked in its course or abandoned

to its lawless passions, has overthrown whatever crossed its path, and

has shaken all that it has not destroyed. Its empire on society has not

been gradually introduced or peaceably established, but it has

constantly advanced in the midst of disorder and the agitation of a

conflict. In the heat of the struggle each partisan is hurried beyond

the limits of his opinions by the opinions and the excesses of his

opponents, until he loses sight of the end of his exertions, and holds

a language which disguises his real sentiments or secret instincts.

Hence arises the strange confusion which we are witnessing. I cannot

recall to my mind a passage in history more worthy of sorrow and of

pity than the scenes which are happening under our eyes; it is as if

the natural bond which unites the opinions of man to his tastes and his

actions to his principles was now broken; the sympathy which has always

been acknowledged between the feelings and the ideas of mankind appears

to be dissolved, and all the laws of moral analogy to be abolished.

Zealous Christians may be found amongst us whose minds are nurtured in

the love and knowledge of a future life, and who readily espouse the

cause of human liberty as the source of all moral greatness.

Christianity, which has declared that all men are equal in the sight of

God, will not refuse to acknowledge that all citizens are equal in the

eye of the law. But, by a singular concourse of events, religion is

entangled in those institutions which democracy assails, and it is not

unfrequently brought to reject the equality it loves, and to curse that

cause of liberty as a foe which it might hallow by its alliance.

By the side of these religious men I discern others whose looks are

turned to the earth more than to Heaven; they are the partisans of

liberty, not only as the source of the noblest virtues, but more

especially as the root of all solid advantages; and they sincerely

desire to extend its sway, and to impart its blessings to mankind. It

is natural that they should hasten to invoke the assistance of

religion, for they must know that liberty cannot be established without

morality, nor morality without faith; but they have seen religion in

the ranks of their adversaries, and they inquire no further; some of

them attack it openly, and the remainder are afraid to defend it.

In former ages slavery has been advocated by the venal and

slavish-minded, whilst the independent and the warm-hearted were

struggling without hope to save the liberties of mankind. But men of

high and generous characters are now to be met with, whose opinions are

at variance with their inclinations, and who praise that servility

which they have themselves never known. Others, on the contrary, speak

in the name of liberty, as if they were able to feel its sanctity and

its majesty, and loudly claim for humanity those rights which they have

always disowned. There are virtuous and peaceful individuals whose pure

morality, quiet habits, affluence, and talents fit them to be the

leaders of the surrounding population; their love of their country is

sincere, and they are prepared to make the greatest sacrifices to its

welfare, but they confound the abuses of civilization with its

benefits, and the idea of evil is inseparable in their minds from that

of novelty.

Not far from this class is another party, whose object is to

materialize mankind, to hit upon what is expedient without heeding what

is just, to acquire knowledge without faith, and prosperity apart from

virtue; assuming the title of the champions of modern civilization, and

placing themselves in a station which they usurp with insolence, and

from which they are driven by their own unworthiness. Where are we

then? The religionists are the enemies of liberty, and the friends of

liberty attack religion; the high-minded and the noble advocate

subjection, and the meanest and most servile minds preach independence;

honest and enlightened citizens are opposed to all progress, whilst men

without patriotism and without principles are the apostles of

civilization and of intelligence. Has such been the fate of the

centuries which have preceded our own? and has man always inhabited a

world like the present, where nothing is linked together, where virtue

is without genius, and genius without honor; where the love of order is

confounded with a taste for oppression, and the holy rites of freedom

with a contempt of law; where the light thrown by conscience on human

actions is dim, and where nothing seems to be any longer forbidden or

allowed, honorable or shameful, false or true? I cannot, however,

believe that the Creator made man to leave him in an endless struggle

with the intellectual miseries which surround us: God destines a calmer

and a more certain future to the communities of Europe; I am

unacquainted with His designs, but I shall not cease to believe in them

because I cannot fathom them, and I had rather mistrust my own capacity

than His justice.

There is a country in the world where the great revolution which I am

speaking of seems nearly to have reached its natural limits; it has

been effected with ease and simplicity, say rather that this country

has attained the consequences of the democratic revolution which we are

undergoing without having experienced the revolution itself. The

emigrants who fixed themselves on the shores of America in the

beginning of the seventeenth century severed the democratic principle

from all the principles which repressed it in the old communities of

Europe, and transplanted it unalloyed to the New World. It has there

been allowed to spread in perfect freedom, and to put forth its

consequences in the laws by influencing the manners of the country.

It appears to me beyond a doubt that sooner or later we shall arrive,

like the Americans, at an almost complete equality of conditions. But I

do not conclude from this that we shall ever be necessarily led to draw

the same political consequences which the Americans have derived from a

similar social organization. I am far from supposing that they have

chosen the only form of government which a democracy may adopt; but the

identity of the efficient cause of laws and manners in the two

countries is sufficient to account for the immense interest we have in

becoming acquainted with its effects in each of them.

It is not, then, merely to satisfy a legitimate curiosity that I have

examined America; my wish has been to find instruction by which we may

ourselves profit. Whoever should imagine that I have intended to write

a panegyric will perceive that such was not my design; nor has it been

my object to advocate any form of government in particular, for I am of

opinion that absolute excellence is rarely to be found in any

legislation; I have not even affected to discuss whether the social

revolution, which I believe to be irresistible, is advantageous or

prejudicial to mankind; I have acknowledged this revolution as a fact

already accomplished or on the eve of its accomplishment; and I have

selected the nation, from amongst those which have undergone it, in

which its development has been the most peaceful and the most complete,

in order to discern its natural consequences, and, if it be possible,

to distinguish the means by which it may be rendered profitable. I

confess that in America I saw more than America; I sought the image of

democracy itself, with its inclinations, its character, its prejudices,

and its passions, in order to learn what we have to fear or to hope

from its progress.

In the first part of this work I have attempted to show the tendency

given to the laws by the democracy of America, which is abandoned

almost without restraint to its instinctive propensities, and to

exhibit the course it prescribes to the Government and the influence it

exercises on affairs. I have sought to discover the evils and the

advantages which it produces. I have examined the precautions used by

the Americans to direct it, as well as those which they have not

adopted, and I have undertaken to point out the causes which enable it

to govern society. I do not know whether I have succeeded in making

known what I saw in America, but I am certain that such has been my

sincere desire, and that I have never, knowingly, moulded facts to

ideas, instead of ideas to facts.

Whenever a point could be established by the aid of written documents,

I have had recourse to the original text, and to the most authentic and

approved works. I have cited my authorities in the notes, and anyone

may refer to them. Whenever an opinion, a political custom, or a remark

on the manners of the country was concerned, I endeavored to consult

the most enlightened men I met with. If the point in question was

important or doubtful, I was not satisfied with one testimony, but I

formed my opinion on the evidence of several witnesses. Here the reader

must necessarily believe me upon my word. I could frequently have

quoted names which are either known to him, or which deserve to be so,

in proof of what I advance; but I have carefully abstained from this

practice. A stranger frequently hears important truths at the fire-side

of his host, which the latter would perhaps conceal from the ear of

friendship; he consoles himself with his guest for the silence to which

he is restricted, and the shortness of the traveller’s stay takes away

all fear of his indiscretion. I carefully noted every conversation of

this nature as soon as it occurred, but these notes will never leave my

writing-case; I had rather injure the success of my statements than add

my name to the list of those strangers who repay the generous

hospitality they have received by subsequent chagrin and annoyance.

I am aware that, notwithstanding my care, nothing will be easier than

to criticise this book, if anyone ever chooses to criticise it. Those

readers who may examine it closely will discover the fundamental idea

which connects the several parts together. But the diversity of the

subjects I have had to treat is exceedingly great, and it will not be

difficult to oppose an isolated fact to the body of facts which I

quote, or an isolated idea to the body of ideas I put forth. I hope to

be read in the spirit which has guided my labors, and that my book may

be judged by the general impression it leaves, as I have formed my own

judgment not on any single reason, but upon the mass of evidence. It

must not be forgotten that the author who wishes to be understood is

obliged to push all his ideas to their utmost theoretical consequences,

and often to the verge of what is false or impracticable; for if it be

necessary sometimes to quit the rules of logic in active life, such is

not the case in discourse, and a man finds that almost as many

difficulties spring from inconsistency of language as usually arise

from inconsistency of conduct.

I conclude by pointing out myself what many readers will consider the

principal defect of the work. This book is written to favor no

particular views, and in composing it I have entertained no designs of

serving or attacking any party; I have undertaken not to see

differently, but to look further than parties, and whilst they are

busied for the morrow I have turned my thoughts to the Future.

Chapter I: Exterior Form Of North America

Chapter Summary

North America divided into two vast regions, one inclining towards the

Pole, the other towards the Equator—Valley of the Mississippi—Traces of

the Revolutions of the Globe—Shore of the Atlantic Ocean where the

English Colonies were founded—Difference in the appearance of North and

of South America at the time of their Discovery—Forests of North

America—Prairies—Wandering Tribes of Natives—Their outward appearance,

manners, and language—Traces of an unknown people.

Exterior Form Of North America

North America presents in its external form certain general features

which it is easy to discriminate at the first glance. A sort of

methodical order seems to have regulated the separation of land and

water, mountains and valleys. A simple, but grand, arrangement is

discoverable amidst the confusion of objects and the prodigious variety

of scenes. This continent is divided, almost equally, into two vast

regions, one of which is bounded on the north by the Arctic Pole, and

by the two great oceans on the east and west. It stretches towards the

south, forming a triangle whose irregular sides meet at length below

the great lakes of Canada. The second region begins where the other

terminates, and includes all the remainder of the continent. The one

slopes gently towards the Pole, the other towards the Equator.

The territory comprehended in the first region descends towards the

north with so imperceptible a slope that it may almost be said to form

a level plain. Within the bounds of this immense tract of country there

are neither high mountains nor deep valleys. Streams meander through it

irregularly: great rivers mix their currents, separate and meet again,

disperse and form vast marshes, losing all trace of their channels in

the labyrinth of waters they have themselves created; and thus, at

length, after innumerable windings, fall into the Polar Seas. The great

lakes which bound this first region are not walled in, like most of

those in the Old World, between hills and rocks. Their banks are flat,

and rise but a few feet above the level of their waters; each of them

thus forming a vast bowl filled to the brim. The slightest change in

the structure of the globe would cause their waters to rush either

towards the Pole or to the tropical sea.

The second region is more varied on its surface, and better suited for

the habitation of man. Two long chains of mountains divide it from one

extreme to the other; the Alleghany ridge takes the form of the shores

of the Atlantic Ocean; the other is parallel with the Pacific. The

space which lies between these two chains of mountains contains

1,341,649 square miles. \*a Its surface is therefore about six times as

great as that of France. This vast territory, however, forms a single

valley, one side of which descends gradually from the rounded summits

of the Alleghanies, while the other rises in an uninterrupted course

towards the tops of the Rocky Mountains. At the bottom of the valley

flows an immense river, into which the various streams issuing from the

mountains fall from all parts. In memory of their native land, the

French formerly called this river the St. Louis. The Indians, in their

pompous language, have named it the Father of Waters, or the

Mississippi.

a

[ Darby’s “View of the United States.”]

The Mississippi takes its source above the limit of the two great

regions of which I have spoken, not far from the highest point of the

table-land where they unite. Near the same spot rises another river, \*b

which empties itself into the Polar seas. The course of the Mississippi

is at first dubious: it winds several times towards the north, from

whence it rose; and at length, after having been delayed in lakes and

marshes, it flows slowly onwards to the south. Sometimes quietly

gliding along the argillaceous bed which nature has assigned to it,

sometimes swollen by storms, the Mississippi waters 2,500 miles in its

course. \*c At the distance of 1,364 miles from its mouth this river

attains an average depth of fifteen feet; and it is navigated by

vessels of 300 tons burden for a course of nearly 500 miles.

Fifty-seven large navigable rivers contribute to swell the waters of

the Mississippi; amongst others, the Missouri, which traverses a space

of 2,500 miles; the Arkansas of 1,300 miles, the Red River 1,000 miles,

four whose course is from 800 to 1,000 miles in length, viz., the

Illinois, the St. Peter’s, the St. Francis, and the Moingona; besides a

countless multitude of rivulets which unite from all parts their

tributary streams.

b

[ The Red River.]

c

[ Warden’s “Description of the United States.”]

The valley which is watered by the Mississippi seems formed to be the

bed of this mighty river, which, like a god of antiquity, dispenses

both good and evil in its course. On the shores of the stream nature

displays an inexhaustible fertility; in proportion as you recede from

its banks, the powers of vegetation languish, the soil becomes poor,

and the plants that survive have a sickly growth. Nowhere have the

great convulsions of the globe left more evident traces than in the

valley of the Mississippi; the whole aspect of the country shows the

powerful effects of water, both by its fertility and by its barrenness.

The waters of the primeval ocean accumulated enormous beds of vegetable

mould in the valley, which they levelled as they retired. Upon the

right shore of the river are seen immense plains, as smooth as if the

husbandman had passed over them with his roller. As you approach the

mountains the soil becomes more and more unequal and sterile; the

ground is, as it were, pierced in a thousand places by primitive rocks,

which appear like the bones of a skeleton whose flesh is partly

consumed. The surface of the earth is covered with a granite sand and

huge irregular masses of stone, among which a few plants force their

growth, and give the appearance of a green field covered with the ruins

of a vast edifice. These stones and this sand discover, on examination,

a perfect analogy with those which compose the arid and broken summits

of the Rocky Mountains. The flood of waters which washed the soil to

the bottom of the valley afterwards carried away portions of the rocks

themselves; and these, dashed and bruised against the neighboring

cliffs, were left scattered like wrecks at their feet. \*d The valley of

the Mississippi is, upon the whole, the most magnificent dwelling-place

prepared by God for man’s abode; and yet it may be said that at present

it is but a mighty desert.

d

[ See Appendix, A.]

On the eastern side of the Alleghanies, between the base of these

mountains and the Atlantic Ocean, there lies a long ridge of rocks and

sand, which the sea appears to have left behind as it retired. The mean

breadth of this territory does not exceed one hundred miles; but it is

about nine hundred miles in length. This part of the American continent

has a soil which offers every obstacle to the husbandman, and its

vegetation is scanty and unvaried.

Upon this inhospitable coast the first united efforts of human industry

were made. The tongue of arid land was the cradle of those English

colonies which were destined one day to become the United States of

America. The centre of power still remains here; whilst in the

backwoods the true elements of the great people to whom the future

control of the continent belongs are gathering almost in secrecy

together.

When the Europeans first landed on the shores of the West Indies, and

afterwards on the coast of South America, they thought themselves

transported into those fabulous regions of which poets had sung. The

sea sparkled with phosphoric light, and the extraordinary transparency

of its waters discovered to the view of the navigator all that had

hitherto been hidden in the deep abyss. \*e Here and there appeared

little islands perfumed with odoriferous plants, and resembling baskets

of flowers floating on the tranquil surface of the ocean. Every object

which met the sight, in this enchanting region, seemed prepared to

satisfy the wants or contribute to the pleasures of man. Almost all the

trees were loaded with nourishing fruits, and those which were useless

as food delighted the eye by the brilliancy and variety of their

colors. In groves of fragrant lemon-trees, wild figs, flowering

myrtles, acacias, and oleanders, which were hung with festoons of

various climbing plants, covered with flowers, a multitude of birds

unknown in Europe displayed their bright plumage, glittering with

purple and azure, and mingled their warbling with the harmony of a

world teeming with life and motion. \*f Underneath this brilliant

exterior death was concealed. But the air of these climates had so

enervating an influence that man, absorbed by present enjoyment, was

rendered regardless of the future.

e

[ Malte Brun tells us (vol. v. p. 726) that the water of the Caribbean

Sea is so transparent that corals and fish are discernible at a depth

of sixty fathoms. The ship seemed to float in air, the navigator became

giddy as his eye penetrated through the crystal flood, and beheld

submarine gardens, or beds of shells, or gilded fishes gliding among

tufts and thickets of seaweed.]

f

[ See Appendix, B.]

North America appeared under a very different aspect; there everything

was grave, serious, and solemn: it seemed created to be the domain of

intelligence, as the South was that of sensual delight. A turbulent and

foggy ocean washed its shores. It was girt round by a belt of granite

rocks, or by wide tracts of sand. The foliage of its woods was dark and

gloomy, for they were composed of firs, larches, evergreen oaks, wild

olive-trees, and laurels. Beyond this outer belt lay the thick shades

of the central forest, where the largest trees which are produced in

the two hemispheres grow side by side. The plane, the catalpa, the

sugar-maple, and the Virginian poplar mingled their branches with those

of the oak, the beech, and the lime. In these, as in the forests of the

Old World, destruction was perpetually going on. The ruins of

vegetation were heaped upon each other; but there was no laboring hand

to remove them, and their decay was not rapid enough to make room for

the continual work of reproduction. Climbing plants, grasses, and other

herbs forced their way through the mass of dying trees; they crept

along their bending trunks, found nourishment in their dusty cavities,

and a passage beneath the lifeless bark. Thus decay gave its assistance

to life, and their respective productions were mingled together. The

depths of these forests were gloomy and obscure, and a thousand

rivulets, undirected in their course by human industry, preserved in

them a constant moisture. It was rare to meet with flowers, wild

fruits, or birds beneath their shades. The fall of a tree overthrown by

age, the rushing torrent of a cataract, the lowing of the buffalo, and

the howling of the wind were the only sounds which broke the silence of

nature.

To the east of the great river, the woods almost disappeared; in their

stead were seen prairies of immense extent. Whether Nature in her

infinite variety had denied the germs of trees to these fertile plains,

or whether they had once been covered with forests, subsequently

destroyed by the hand of man, is a question which neither tradition nor

scientific research has been able to resolve.

These immense deserts were not, however, devoid of human inhabitants.

Some wandering tribes had been for ages scattered among the forest

shades or the green pastures of the prairie. From the mouth of the St.

Lawrence to the delta of the Mississippi, and from the Atlantic to the

Pacific Ocean, these savages possessed certain points of resemblance

which bore witness of their common origin; but at the same time they

differed from all other known races of men: \*g they were neither white

like the Europeans, nor yellow like most of the Asiatics, nor black

like the negroes. Their skin was reddish brown, their hair long and

shining, their lips thin, and their cheekbones very prominent. The

languages spoken by the North American tribes are various as far as

regarded their words, but they were subject to the same grammatical

rules. These rules differed in several points from such as had been

observed to govern the origin of language. The idiom of the Americans

seemed to be the product of new combinations, and bespoke an effort of

the understanding of which the Indians of our days would be incapable.

\*h

g

[ With the progress of discovery some resemblance has been found to

exist between the physical conformation, the language, and the habits

of the Indians of North America, and those of the Tongous, Mantchous,

Mongols, Tartars, and other wandering tribes of Asia. The land occupied

by these tribes is not very distant from Behring’s Strait, which allows

of the supposition, that at a remote period they gave inhabitants to

the desert continent of America. But this is a point which has not yet

been clearly elucidated by science. See Malte Brun, vol. v.; the works

of Humboldt; Fischer, “Conjecture sur l’Origine des Americains”; Adair,

“History of the American Indians.”]

h

[ See Appendix, C.]

The social state of these tribes differed also in many respects from

all that was seen in the Old World. They seemed to have multiplied

freely in the midst of their deserts without coming in contact with

other races more civilized than their own. Accordingly, they exhibited

none of those indistinct, incoherent notions of right and wrong, none

of that deep corruption of manners, which is usually joined with

ignorance and rudeness among nations which, after advancing to

civilization, have relapsed into a state of barbarism. The Indian was

indebted to no one but himself; his virtues, his vices, and his

prejudices were his own work; he had grown up in the wild independence

of his nature.

If, in polished countries, the lowest of the people are rude and

uncivil, it is not merely because they are poor and ignorant, but that,

being so, they are in daily contact with rich and enlightened men. The

sight of their own hard lot and of their weakness, which is daily

contrasted with the happiness and power of some of their

fellow-creatures, excites in their hearts at the same time the

sentiments of anger and of fear: the consciousness of their inferiority

and of their dependence irritates while it humiliates them. This state

of mind displays itself in their manners and language; they are at once

insolent and servile. The truth of this is easily proved by

observation; the people are more rude in aristocratic countries than

elsewhere, in opulent cities than in rural districts. In those places

where the rich and powerful are assembled together the weak and the

indigent feel themselves oppressed by their inferior condition. Unable

to perceive a single chance of regaining their equality, they give up

to despair, and allow themselves to fall below the dignity of human

nature.

This unfortunate effect of the disparity of conditions is not

observable in savage life: the Indians, although they are ignorant and

poor, are equal and free. At the period when Europeans first came among

them the natives of North America were ignorant of the value of riches,

and indifferent to the enjoyments which civilized man procures to

himself by their means. Nevertheless there was nothing coarse in their

demeanor; they practised an habitual reserve and a kind of aristocratic

politeness. Mild and hospitable when at peace, though merciless in war

beyond any known degree of human ferocity, the Indian would expose

himself to die of hunger in order to succor the stranger who asked

admittance by night at the door of his hut; yet he could tear in pieces

with his hands the still quivering limbs of his prisoner. The famous

republics of antiquity never gave examples of more unshaken courage,

more haughty spirits, or more intractable love of independence than

were hidden in former times among the wild forests of the New World. \*i

The Europeans produced no great impression when they landed upon the

shores of North America; their presence engendered neither envy nor

fear. What influence could they possess over such men as we have

described? The Indian could live without wants, suffer without

complaint, and pour out his death-song at the stake. \*j Like all the

other members of the great human family, these savages believed in the

existence of a better world, and adored under different names, God, the

creator of the universe. Their notions on the great intellectual truths

were in general simple and philosophical. \*k

i

[ We learn from President Jefferson’s “Notes upon Virginia,” p. 148,

that among the Iroquois, when attacked by a superior force, aged men

refused to fly or to survive the destruction of their country; and they

braved death like the ancient Romans when their capital was sacked by

the Gauls. Further on, p. 150, he tells us that there is no example of

an Indian who, having fallen into the hands of his enemies, begged for

his life; on the contrary, the captive sought to obtain death at the

hands of his conquerors by the use of insult and provocation.]

j

[ See “Histoire de la Louisiane,” by Lepage Dupratz; Charlevoix,

“Histoire de la Nouvelle France”; “Lettres du Rev. G. Hecwelder;”

“Transactions of the American Philosophical Society,” v. I; Jefferson’s

“Notes on Virginia,” pp. 135-190. What is said by Jefferson is of

especial weight, on account of the personal merit of the writer, of his

peculiar position, and of the matter-of-fact age in which he lived.]

k

[ See Appendix, D.]

Although we have here traced the character of a primitive people, yet

it cannot be doubted that another people, more civilized and more

advanced in all respects, had preceded it in the same regions.

An obscure tradition which prevailed among the Indians to the north of

the Atlantic informs us that these very tribes formerly dwelt on the

west side of the Mississippi. Along the banks of the Ohio, and

throughout the central valley, there are frequently found, at this day,

tumuli raised by the hands of men. On exploring these heaps of earth to

their centre, it is usual to meet with human bones, strange

instruments, arms and utensils of all kinds, made of metal, or destined

for purposes unknown to the present race. The Indians of our time are

unable to give any information relative to the history of this unknown

people. Neither did those who lived three hundred years ago, when

America was first discovered, leave any accounts from which even an

hypothesis could be formed. Tradition—that perishable, yet ever renewed

monument of the pristine world—throws no light upon the subject. It is

an undoubted fact, however, that in this part of the globe thousands of

our fellow-beings had lived. When they came hither, what was their

origin, their destiny, their history, and how they perished, no one can

tell. How strange does it appear that nations have existed, and

afterwards so completely disappeared from the earth that the

remembrance of their very names is effaced; their languages are lost;

their glory is vanished like a sound without an echo; though perhaps

there is not one which has not left behind it some tomb in memory of

its passage! The most durable monument of human labor is that which

recalls the wretchedness and nothingness of man.

Although the vast country which we have been describing was inhabited

by many indigenous tribes, it may justly be said at the time of its

discovery by Europeans to have formed one great desert. The Indians

occupied without possessing it. It is by agricultural labor that man

appropriates the soil, and the early inhabitants of North America lived

by the produce of the chase. Their implacable prejudices, their

uncontrolled passions, their vices, and still more perhaps their savage

virtues, consigned them to inevitable destruction. The ruin of these

nations began from the day when Europeans landed on their shores; it

has proceeded ever since, and we are now witnessing the completion of

it. They seem to have been placed by Providence amidst the riches of

the New World to enjoy them for a season, and then surrender them.

Those coasts, so admirably adapted for commerce and industry; those

wide and deep rivers; that inexhaustible valley of the Mississippi; the

whole continent, in short, seemed prepared to be the abode of a great

nation, yet unborn.

In that land the great experiment was to be made, by civilized man, of

the attempt to construct society upon a new basis; and it was there,

for the first time, that theories hitherto unknown, or deemed

impracticable, were to exhibit a spectacle for which the world had not

been prepared by the history of the past.

Chapter II: Origin Of The Anglo-Americans—Part I

Chapter Summary

Utility of knowing the origin of nations in order to understand their

social condition and their laws—America the only country in which the

starting-point of a great people has been clearly observable—In what

respects all who emigrated to British America were similar—In what they

differed—Remark applicable to all Europeans who established themselves

on the shores of the New World—Colonization of Virginia—Colonization of

New England—Original character of the first inhabitants of New

England—Their arrival—Their first laws—Their social contract—Penal code

borrowed from the Hebrew legislation—Religious fervor—Republican

spirit—Intimate union of the spirit of religion with the spirit of

liberty.

Origin Of The Anglo-Americans, And Its Importance In Relation To Their

Future Condition.

After the birth of a human being his early years are obscurely spent in

the toils or pleasures of childhood. As he grows up the world receives

him, when his manhood begins, and he enters into contact with his

fellows. He is then studied for the first time, and it is imagined that

the germ of the vices and the virtues of his maturer years is then

formed. This, if I am not mistaken, is a great error. We must begin

higher up; we must watch the infant in its mother’s arms; we must see

the first images which the external world casts upon the dark mirror of

his mind; the first occurrences which he witnesses; we must hear the

first words which awaken the sleeping powers of thought, and stand by

his earliest efforts, if we would understand the prejudices, the

habits, and the passions which will rule his life. The entire man is,

so to speak, to be seen in the cradle of the child.

The growth of nations presents something analogous to this: they all

bear some marks of their origin; and the circumstances which

accompanied their birth and contributed to their rise affect the whole

term of their being. If we were able to go back to the elements of

states, and to examine the oldest monuments of their history, I doubt

not that we should discover the primal cause of the prejudices, the

habits, the ruling passions, and, in short, of all that constitutes

what is called the national character; we should then find the

explanation of certain customs which now seem at variance with the

prevailing manners; of such laws as conflict with established

principles; and of such incoherent opinions as are here and there to be

met with in society, like those fragments of broken chains which we

sometimes see hanging from the vault of an edifice, and supporting

nothing. This might explain the destinies of certain nations, which

seem borne on by an unknown force to ends of which they themselves are

ignorant. But hitherto facts have been wanting to researches of this

kind: the spirit of inquiry has only come upon communities in their

latter days; and when they at length contemplated their origin, time

had already obscured it, or ignorance and pride adorned it with

truth-concealing fables.

America is the only country in which it has been possible to witness

the natural and tranquil growth of society, and where the influences

exercised on the future condition of states by their origin is clearly

distinguishable. At the period when the peoples of Europe landed in the

New World their national characteristics were already completely

formed; each of them had a physiognomy of its own; and as they had

already attained that stage of civilization at which men are led to

study themselves, they have transmitted to us a faithful picture of

their opinions, their manners, and their laws. The men of the sixteenth

century are almost as well known to us as our contemporaries. America,

consequently, exhibits in the broad light of day the phenomena which

the ignorance or rudeness of earlier ages conceals from our researches.

Near enough to the time when the states of America were founded, to be

accurately acquainted with their elements, and sufficiently removed

from that period to judge of some of their results, the men of our own

day seem destined to see further than their predecessors into the

series of human events. Providence has given us a torch which our

forefathers did not possess, and has allowed us to discern fundamental

causes in the history of the world which the obscurity of the past

concealed from them. If we carefully examine the social and political

state of America, after having studied its history, we shall remain

perfectly convinced that not an opinion, not a custom, not a law, I may

even say not an event, is upon record which the origin of that people

will not explain. The readers of this book will find the germ of all

that is to follow in the present chapter, and the key to almost the

whole work.

The emigrants who came, at different periods to occupy the territory

now covered by the American Union differed from each other in many

respects; their aim was not the same, and they governed themselves on

different principles. These men had, however, certain features in

common, and they were all placed in an analogous situation. The tie of

language is perhaps the strongest and the most durable that can unite

mankind. All the emigrants spoke the same tongue; they were all offsets

from the same people. Born in a country which had been agitated for

centuries by the struggles of faction, and in which all parties had

been obliged in their turn to place themselves under the protection of

the laws, their political education had been perfected in this rude

school, and they were more conversant with the notions of right and the

principles of true freedom than the greater part of their European

contemporaries. At the period of their first emigrations the parish

system, that fruitful germ of free institutions, was deeply rooted in

the habits of the English; and with it the doctrine of the sovereignty

of the people had been introduced into the bosom of the monarchy of the

House of Tudor.

The religious quarrels which have agitated the Christian world were

then rife. England had plunged into the new order of things with

headlong vehemence. The character of its inhabitants, which had always

been sedate and reflective, became argumentative and austere. General

information had been increased by intellectual debate, and the mind had

received a deeper cultivation. Whilst religion was the topic of

discussion, the morals of the people were reformed. All these national

features are more or less discoverable in the physiognomy of those

adventurers who came to seek a new home on the opposite shores of the

Atlantic.

Another remark, to which we shall hereafter have occasion to recur, is

applicable not only to the English, but to the French, the Spaniards,

and all the Europeans who successively established themselves in the

New World. All these European colonies contained the elements, if not

the development, of a complete democracy. Two causes led to this

result. It may safely be advanced, that on leaving the mother-country

the emigrants had in general no notion of superiority over one another.

The happy and the powerful do not go into exile, and there are no surer

guarantees of equality among men than poverty and misfortune. It

happened, however, on several occasions, that persons of rank were

driven to America by political and religious quarrels. Laws were made

to establish a gradation of ranks; but it was soon found that the soil

of America was opposed to a territorial aristocracy. To bring that

refractory land into cultivation, the constant and interested exertions

of the owner himself were necessary; and when the ground was prepared,

its produce was found to be insufficient to enrich a master and a

farmer at the same time. The land was then naturally broken up into

small portions, which the proprietor cultivated for himself. Land is

the basis of an aristocracy, which clings to the soil that supports it;

for it is not by privileges alone, nor by birth, but by landed property

handed down from generation to generation, that an aristocracy is

constituted. A nation may present immense fortunes and extreme

wretchedness, but unless those fortunes are territorial there is no

aristocracy, but simply the class of the rich and that of the poor.

All the British colonies had then a great degree of similarity at the

epoch of their settlement. All of them, from their first beginning,

seemed destined to witness the growth, not of the aristocratic liberty

of their mother-country, but of that freedom of the middle and lower

orders of which the history of the world had as yet furnished no

complete example.

In this general uniformity several striking differences were however

discernible, which it is necessary to point out. Two branches may be

distinguished in the Anglo-American family, which have hitherto grown

up without entirely commingling; the one in the South, the other in the

North.

Virginia received the first English colony; the emigrants took

possession of it in 1607. The idea that mines of gold and silver are

the sources of national wealth was at that time singularly prevalent in

Europe; a fatal delusion, which has done more to impoverish the nations

which adopted it, and has cost more lives in America, than the united

influence of war and bad laws. The men sent to Virginia \*a were seekers

of gold, adventurers, without resources and without character, whose

turbulent and restless spirit endangered the infant colony, \*b and

rendered its progress uncertain. The artisans and agriculturists

arrived afterwards; and, although they were a more moral and orderly

race of men, they were in nowise above the level of the inferior

classes in England. \*c No lofty conceptions, no intellectual system,

directed the foundation of these new settlements. The colony was

scarcely established when slavery was introduced, \*d and this was the

main circumstance which has exercised so prodigious an influence on the

character, the laws, and all the future prospects of the South.

Slavery, as we shall afterwards show, dishonors labor; it introduces

idleness into society, and with idleness, ignorance and pride, luxury

and distress. It enervates the powers of the mind, and benumbs the

activity of man. The influence of slavery, united to the English

character, explains the manners and the social condition of the

Southern States.

a

[ The charter granted by the Crown of England in 1609 stipulated,

amongst other conditions, that the adventurers should pay to the Crown

a fifth of the produce of all gold and silver mines. See Marshall’s

“Life of Washington,” vol. i. pp. 18-66.] [Footnote b: A large portion

of the adventurers, says Stith (“History of Virginia”), were

unprincipled young men of family, whom their parents were glad to ship

off, discharged servants, fraudulent bankrupts, or debauchees; and

others of the same class, people more apt to pillage and destroy than

to assist the settlement, were the seditious chiefs, who easily led

this band into every kind of extravagance and excess. See for the

history of Virginia the following works:—

“History of Virginia, from the First Settlements in the year 1624,” by

Smith.

“History of Virginia,” by William Stith.

“History of Virginia, from the Earliest Period,” by Beverley.]

c

[ It was not till some time later that a certain number of rich English

capitalists came to fix themselves in the colony.]

d

[ Slavery was introduced about the year 1620 by a Dutch vessel which

landed twenty negroes on the banks of the river James. See Chalmer.]

In the North, the same English foundation was modified by the most

opposite shades of character; and here I may be allowed to enter into

some details. The two or three main ideas which constitute the basis of

the social theory of the United States were first combined in the

Northern English colonies, more generally denominated the States of New

England. \*e The principles of New England spread at first to the

neighboring states; they then passed successively to the more distant

ones; and at length they imbued the whole Confederation. They now

extend their influence beyond its limits over the whole American world.

The civilization of New England has been like a beacon lit upon a hill,

which, after it has diffused its warmth around, tinges the distant

horizon with its glow.

e

[ The States of New England are those situated to the east of the

Hudson; they are now six in number: 1, Connecticut; 2, Rhode Island; 3,

Massachusetts; 4, Vermont; 5, New Hampshire; 6, Maine.]

The foundation of New England was a novel spectacle, and all the

circumstances attending it were singular and original. The large

majority of colonies have been first inhabited either by men without

education and without resources, driven by their poverty and their

misconduct from the land which gave them birth, or by speculators and

adventurers greedy of gain. Some settlements cannot even boast so

honorable an origin; St. Domingo was founded by buccaneers; and the

criminal courts of England originally supplied the population of

Australia.

The settlers who established themselves on the shores of New England

all belonged to the more independent classes of their native country.

Their union on the soil of America at once presented the singular

phenomenon of a society containing neither lords nor common people,

neither rich nor poor. These men possessed, in proportion to their

number, a greater mass of intelligence than is to be found in any

European nation of our own time. All, without a single exception, had

received a good education, and many of them were known in Europe for

their talents and their acquirements. The other colonies had been

founded by adventurers without family; the emigrants of New England

brought with them the best elements of order and morality—they landed

in the desert accompanied by their wives and children. But what most

especially distinguished them was the aim of their undertaking. They

had not been obliged by necessity to leave their country; the social

position they abandoned was one to be regretted, and their means of

subsistence were certain. Nor did they cross the Atlantic to improve

their situation or to increase their wealth; the call which summoned

them from the comforts of their homes was purely intellectual; and in

facing the inevitable sufferings of exile their object was the triumph

of an idea.

The emigrants, or, as they deservedly styled themselves, the Pilgrims,

belonged to that English sect the austerity of whose principles had

acquired for them the name of Puritans. Puritanism was not merely a

religious doctrine, but it corresponded in many points with the most

absolute democratic and republican theories. It was this tendency which

had aroused its most dangerous adversaries. Persecuted by the

Government of the mother-country, and disgusted by the habits of a

society opposed to the rigor of their own principles, the Puritans went

forth to seek some rude and unfrequented part of the world, where they

could live according to their own opinions, and worship God in freedom.

A few quotations will throw more light upon the spirit of these pious

adventures than all we can say of them. Nathaniel Morton, \*f the

historian of the first years of the settlement, thus opens his subject:

f

[ “New England’s Memorial,” p. 13; Boston, 1826. See also “Hutchinson’s

History,” vol. ii. p. 440.]

“Gentle Reader,—I have for some length of time looked upon it as a duty

incumbent, especially on the immediate successors of those that have

had so large experience of those many memorable and signal

demonstrations of God’s goodness, viz., the first beginners of this

Plantation in New England, to commit to writing his gracious

dispensations on that behalf; having so many inducements thereunto, not

onely otherwise but so plentifully in the Sacred Scriptures: that so,

what we have seen, and what our fathers have told us (Psalm lxxviii. 3,

4), we may not hide from our children, showing to the generations to

come the praises of the Lord; that especially the seed of Abraham his

servant, and the children of Jacob his chosen (Psalm cv. 5, 6), may

remember his marvellous works in the beginning and progress of the

planting of New England, his wonders and the judgments of his mouth;

how that God brought a vine into this wilderness; that he cast out the

heathen, and planted it; that he made room for it and caused it to take

deep root; and it filled the land (Psalm lxxx. 8, 9). And not onely so,

but also that he hath guided his people by his strength to his holy

habitation and planted them in the mountain of his inheritance in

respect of precious Gospel enjoyments: and that as especially God may

have the glory of all unto whom it is most due; so also some rays of

glory may reach the names of those blessed Saints that were the main

instruments and the beginning of this happy enterprise.”

It is impossible to read this opening paragraph without an involuntary

feeling of religious awe; it breathes the very savor of Gospel

antiquity. The sincerity of the author heightens his power of language.

The band which to his eyes was a mere party of adventurers gone forth

to seek their fortune beyond seas appears to the reader as the germ of

a great nation wafted by Providence to a predestined shore.

The author thus continues his narrative of the departure of the first

pilgrims:—

“So they left that goodly and pleasant city of Leyden, \*g which had

been their resting-place for above eleven years; but they knew that

they were pilgrims and strangers here below, and looked not much on

these things, but lifted up their eyes to Heaven, their dearest

country, where God hath prepared for them a city (Heb. xi. 16), and

therein quieted their spirits. When they came to Delfs-Haven they found

the ship and all things ready; and such of their friends as could not

come with them followed after them, and sundry came from Amsterdam to

see them shipt, and to take their leaves of them. One night was spent

with little sleep with the most, but with friendly entertainment and

Christian discourse, and other real expressions of true Christian love.

The next day they went on board, and their friends with them, where

truly doleful was the sight of that sad and mournful parting, to hear

what sighs and sobs and prayers did sound amongst them; what tears did

gush from every eye, and pithy speeches pierced each other’s heart,

that sundry of the Dutch strangers that stood on the Key as spectators

could not refrain from tears. But the tide (which stays for no man)

calling them away, that were thus loth to depart, their Reverend Pastor

falling down on his knees, and they all with him, with watery cheeks

commended them with most fervent prayers unto the Lord and his

blessing; and then, with mutual embraces and many tears they took their

leaves one of another, which proved to be the last leave to many of

them.”

g

[ The emigrants were, for the most part, godly Christians from the

North of England, who had quitted their native country because they

were “studious of reformation, and entered into covenant to walk with

one another according to the primitive pattern of the Word of God.”

They emigrated to Holland, and settled in the city of Leyden in 1610,

where they abode, being lovingly respected by the Dutch, for many

years: they left it in 1620 for several reasons, the last of which was,

that their posterity would in a few generations become Dutch, and so

lose their interest in the English nation; they being desirous rather

to enlarge His Majesty’s dominions, and to live under their natural

prince.—Translator’s Note.]

The emigrants were about 150 in number, including the women and the

children. Their object was to plant a colony on the shores of the

Hudson; but after having been driven about for some time in the

Atlantic Ocean, they were forced to land on that arid coast of New

England which is now the site of the town of Plymouth. The rock is

still shown on which the pilgrims disembarked. \*h

h

[ This rock is become an object of veneration in the United States. I

have seen bits of it carefully preserved in several towns of the Union.

Does not this sufficiently show how entirely all human power and

greatness is in the soul of man? Here is a stone which the feet of a

few outcasts pressed for an instant, and this stone becomes famous; it

is treasured by a great nation, its very dust is shared as a relic: and

what is become of the gateways of a thousand palaces?]

“But before we pass on,” continues our historian, “let the reader with

me make a pause and seriously consider this poor people’s present

condition, the more to be raised up to admiration of God’s goodness

towards them in their preservation: for being now passed the vast

ocean, and a sea of troubles before them in expectation, they had now

no friends to welcome them, no inns to entertain or refresh them, no

houses, or much less towns to repair unto to seek for succour: and for

the season it was winter, and they that know the winters of the country

know them to be sharp and violent, subject to cruel and fierce storms,

dangerous to travel to known places, much more to search unknown

coasts. Besides, what could they see but a hideous and desolate

wilderness, full of wilde beasts, and wilde men? and what multitudes of

them there were, they then knew not: for which way soever they turned

their eyes (save upward to Heaven) they could have but little solace or

content in respect of any outward object; for summer being ended, all

things stand in appearance with a weather-beaten face, and the whole

country full of woods and thickets, represented a wild and savage hew;

if they looked behind them, there was the mighty ocean which they had

passed, and was now as a main bar or gulph to separate them from all

the civil parts of the world.”

It must not be imagined that the piety of the Puritans was of a merely

speculative kind, or that it took no cognizance of the course of

worldly affairs. Puritanism, as I have already remarked, was scarcely

less a political than a religious doctrine. No sooner had the emigrants

landed on the barren coast described by Nathaniel Morton than it was

their first care to constitute a society, by passing the following Act:

“In the name of God. Amen. We, whose names are underwritten, the loyal

subjects of our dread Sovereign Lord King James, etc., etc., Having

undertaken for the glory of God, and advancement of the Christian

Faith, and the honour of our King and country, a voyage to plant the

first colony in the northern parts of Virginia; Do by these presents

solemnly and mutually, in the presence of God and one another, covenant

and combine ourselves together into a civil body politick, for our

better ordering and preservation, and furtherance of the ends

aforesaid: and by virtue hereof do enact, constitute and frame such

just and equal laws, ordinances, acts, constitutions, and officers,

from time to time, as shall be thought most meet and convenient for the

general good of the Colony: unto which we promise all due submission

and obedience,” etc. \*i

i

[ The emigrants who founded the State of Rhode Island in 1638, those

who landed at New Haven in 1637, the first settlers in Connecticut in

1639, and the founders of Providence in 1640, began in like manner by

drawing up a social contract, which was acceded to by all the

interested parties. See “Pitkin’s History,” pp. 42 and 47.]

This happened in 1620, and from that time forwards the emigration went

on. The religious and political passions which ravaged the British

Empire during the whole reign of Charles I drove fresh crowds of

sectarians every year to the shores of America. In England the

stronghold of Puritanism was in the middle classes, and it was from the

middle classes that the majority of the emigrants came. The population

of New England increased rapidly; and whilst the hierarchy of rank

despotically classed the inhabitants of the mother-country, the colony

continued to present the novel spectacle of a community homogeneous in

all its parts. A democracy, more perfect than any which antiquity had

dreamt of, started in full size and panoply from the midst of an

ancient feudal society.

Chapter II: Origin Of The Anglo-Americans—Part II

The English Government was not dissatisfied with an emigration which

removed the elements of fresh discord and of further revolutions. On

the contrary, everything was done to encourage it, and great exertions

were made to mitigate the hardships of those who sought a shelter from

the rigor of their country’s laws on the soil of America. It seemed as

if New England was a region given up to the dreams of fancy and the

unrestrained experiments of innovators.

The English colonies (and this is one of the main causes of their

prosperity) have always enjoyed more internal freedom and more

political independence than the colonies of other nations; but this

principle of liberty was nowhere more extensively applied than in the

States of New England.

It was generally allowed at that period that the territories of the New

World belonged to that European nation which had been the first to

discover them. Nearly the whole coast of North America thus became a

British possession towards the end of the sixteenth century. The means

used by the English Government to people these new domains were of

several kinds; the King sometimes appointed a governor of his own

choice, who ruled a portion of the New World in the name and under the

immediate orders of the Crown; \*j this is the colonial system adopted

by other countries of Europe. Sometimes grants of certain tracts were

made by the Crown to an individual or to a company, \*k in which case

all the civil and political power fell into the hands of one or more

persons, who, under the inspection and control of the Crown, sold the

lands and governed the inhabitants. Lastly, a third system consisted in

allowing a certain number of emigrants to constitute a political

society under the protection of the mother-country, and to govern

themselves in whatever was not contrary to her laws. This mode of

colonization, so remarkably favorable to liberty, was only adopted in

New England. \*l

j

[ This was the case in the State of New York.]

k

[ Maryland, the Carolinas, Pennsylvania, and New Jersey were in this

situation. See “Pitkin’s History,” vol. i. pp. 11-31.]

l

[ See the work entitled “Historical Collection of State Papers and

other authentic Documents intended as materials for a History of the

United States of America, by Ebenezer Hasard. Philadelphia, 1792,” for

a great number of documents relating to the commencement of the

colonies, which are valuable from their contents and their

authenticity: amongst them are the various charters granted by the King

of England, and the first acts of the local governments.

See also the analysis of all these charters given by Mr. Story, Judge

of the Supreme Court of the United States, in the Introduction to his

“Commentary on the Constitution of the United States.” It results from

these documents that the principles of representative government and

the external forms of political liberty were introduced into all the

colonies at their origin. These principles were more fully acted upon

in the North than in the South, but they existed everywhere.]

In 1628 \*m a charter of this kind was granted by Charles I to the

emigrants who went to form the colony of Massachusetts. But, in

general, charters were not given to the colonies of New England till

they had acquired a certain existence. Plymouth, Providence, New Haven,

the State of Connecticut, and that of Rhode Island \*n were founded

without the co-operation and almost without the knowledge of the

mother-country. The new settlers did not derive their incorporation

from the seat of the empire, although they did not deny its supremacy;

they constituted a society of their own accord, and it was not till

thirty or forty years afterwards, under Charles II. that their

existence was legally recognized by a royal charter.

m

[ See “Pitkin’s History,” p, 35. See the “History of the Colony of

Massachusetts Bay,” by Hutchinson, vol. i. p. 9.] [Footnote n: See

“Pitkin’s History,” pp. 42, 47.]

This frequently renders its it difficult to detect the link which

connected the emigrants with the land of their forefathers in studying

the earliest historical and legislative records of New England. They

exercised the rights of sovereignty; they named their magistrates,

concluded peace or declared war, made police regulations, and enacted

laws as if their allegiance was due only to God. \*o Nothing can be more

curious and, at the same time more instructive, than the legislation of

that period; it is there that the solution of the great social problem

which the United States now present to the world is to be found.

o

[ The inhabitants of Massachusetts had deviated from the forms which

are preserved in the criminal and civil procedure of England; in 1650

the decrees of justice were not yet headed by the royal style. See

Hutchinson, vol. i. p. 452.]

Amongst these documents we shall notice, as especially characteristic,

the code of laws promulgated by the little State of Connecticut in

1650. \*p The legislators of Connecticut \*q begin with the penal laws,

and, strange to say, they borrow their provisions from the text of Holy

Writ. “Whosoever shall worship any other God than the Lord,” says the

preamble of the Code, “shall surely be put to death.” This is followed

by ten or twelve enactments of the same kind, copied verbatim from the

books of Exodus, Leviticus, and Deuteronomy. Blasphemy, sorcery,

adultery, \*r and rape were punished with death; an outrage offered by a

son to his parents was to be expiated by the same penalty. The

legislation of a rude and half-civilized people was thus applied to an

enlightened and moral community. The consequence was that the

punishment of death was never more frequently prescribed by the

statute, and never more rarely enforced towards the guilty.

p

[ Code of 1650, p. 28; Hartford, 1830.]

q

[ See also in “Hutchinson’s History,” vol. i. pp. 435, 456, the

analysis of the penal code adopted in 1648 by the Colony of

Massachusetts: this code is drawn up on the same principles as that of

Connecticut.]

r

[ Adultery was also punished with death by the law of Massachusetts:

and Hutchinson, vol. i. p. 441, says that several persons actually

suffered for this crime. He quotes a curious anecdote on this subject,

which occurred in the year 1663. A married woman had had criminal

intercourse with a young man; her husband died, and she married the

lover. Several years had elapsed, when the public began to suspect the

previous intercourse of this couple: they were thrown into prison, put

upon trial, and very narrowly escaped capital punishment.]

The chief care of the legislators, in this body of penal laws, was the

maintenance of orderly conduct and good morals in the community: they

constantly invaded the domain of conscience, and there was scarcely a

sin which was not subject to magisterial censure. The reader is aware

of the rigor with which these laws punished rape and adultery;

intercourse between unmarried persons was likewise severely repressed.

The judge was empowered to inflict a pecuniary penalty, a whipping, or

marriage \*s on the misdemeanants; and if the records of the old courts

of New Haven may be believed, prosecutions of this kind were not

unfrequent. We find a sentence bearing date the first of May, 1660,

inflicting a fine and reprimand on a young woman who was accused of

using improper language, and of allowing herself to be kissed. \*t The

Code of 1650 abounds in preventive measures. It punishes idleness and

drunkenness with severity. \*u Innkeepers are forbidden to furnish more

than a certain quantity of liquor to each consumer; and simple lying,

whenever it may be injurious, \*v is checked by a fine or a flogging. In

other places, the legislator, entirely forgetting the great principles

of religious toleration which he had himself upheld in Europe, renders

attendance on divine service compulsory, \*w and goes so far as to visit

with severe punishment, \*\* and even with death, the Christians who

chose to worship God according to a ritual differing from his own. \*x

Sometimes indeed the zeal of his enactments induces him to descend to

the most frivolous particulars: thus a law is to be found in the same

Code which prohibits the use of tobacco. \*y It must not be forgotten

that these fantastical and vexatious laws were not imposed by

authority, but that they were freely voted by all the persons

interested, and that the manners of the community were even more

austere and more puritanical than the laws. In 1649 a solemn

association was formed in Boston to check the worldly luxury of long

hair. \*z

s

[ Code of 1650, p. 48. It seems sometimes to have happened that the

judges superadded these punishments to each other, as is seen in a

sentence pronounced in 1643 (p. 114, “New Haven Antiquities”), by which

Margaret Bedford, convicted of loose conduct, was condemned to be

whipped, and afterwards to marry Nicholas Jemmings, her accomplice.]

t

[ “New Haven Antiquities,” p. 104. See also “Hutchinson’s History,” for

several causes equally extraordinary.]

u

[ Code of 1650, pp. 50, 57.]

v

[ Ibid., p. 64.]

w

[ Ibid., p. 44.]

\*

[ This was not peculiar to Connecticut. See, for instance, the law

which, on September 13, 1644, banished the Anabaptists from the State

of Massachusetts. (“Historical Collection of State Papers,” vol. i. p.

538.) See also the law against the Quakers, passed on October 14, 1656:

“Whereas,” says the preamble, “an accursed race of heretics called

Quakers has sprung up,” etc. The clauses of the statute inflict a heavy

fine on all captains of ships who should import Quakers into the

country. The Quakers who may be found there shall be whipped and

imprisoned with hard labor. Those members of the sect who should defend

their opinions shall be first fined, then imprisoned, and finally

driven out of the province.—“Historical Collection of State Papers,”

vol. i. p. 630.]

x

[ By the penal law of Massachusetts, any Catholic priest who should set

foot in the colony after having been once driven out of it was liable

to capital punishment.]

y

[ Code of 1650, p. 96.]

z

[ “New England’s Memorial,” p. 316. See Appendix, E.]

These errors are no doubt discreditable to human reason; they attest

the inferiority of our nature, which is incapable of laying firm hold

upon what is true and just, and is often reduced to the alternative of

two excesses. In strict connection with this penal legislation, which

bears such striking marks of a narrow sectarian spirit, and of those

religious passions which had been warmed by persecution and were still

fermenting among the people, a body of political laws is to be found,

which, though written two hundred years ago, is still ahead of the

liberties of our age. The general principles which are the groundwork

of modern constitutions—principles which were imperfectly known in

Europe, and not completely triumphant even in Great Britain, in the

seventeenth century—were all recognized and determined by the laws of

New England: the intervention of the people in public affairs, the free

voting of taxes, the responsibility of authorities, personal liberty,

and trial by jury, were all positively established without discussion.

From these fruitful principles consequences have been derived and

applications have been made such as no nation in Europe has yet

ventured to attempt.

In Connecticut the electoral body consisted, from its origin, of the

whole number of citizens; and this is readily to be understood, \*a when

we recollect that this people enjoyed an almost perfect equality of

fortune, and a still greater uniformity of opinions. \*b In Connecticut,

at this period, all the executive functionaries were elected, including

the Governor of the State. \*c The citizens above the age of sixteen

were obliged to bear arms; they formed a national militia, which

appointed its own officers, and was to hold itself at all times in

readiness to march for the defence of the country. \*d

a

[ Constitution of 1638, p. 17.]

b

[ In 1641 the General Assembly of Rhode Island unanimously declared

that the government of the State was a democracy, and that the power

was vested in the body of free citizens, who alone had the right to

make the laws and to watch their execution.—Code of 1650, p. 70.]

c

[ “Pitkin’s History,” p. 47.]

d

[ Constitution of 1638, p. 12.]

In the laws of Connecticut, as well as in all those of New England, we

find the germ and gradual development of that township independence

which is the life and mainspring of American liberty at the present

day. The political existence of the majority of the nations of Europe

commenced in the superior ranks of society, and was gradually and

imperfectly communicated to the different members of the social body.

In America, on the other hand, it may be said that the township was

organized before the county, the county before the State, the State

before the Union. In New England townships were completely and

definitively constituted as early as 1650. The independence of the

township was the nucleus round which the local interests, passions,

rights, and duties collected and clung. It gave scope to the activity

of a real political life most thoroughly democratic and republican. The

colonies still recognized the supremacy of the mother-country; monarchy

was still the law of the State; but the republic was already

established in every township. The towns named their own magistrates of

every kind, rated themselves, and levied their own taxes. \*e In the

parish of New England the law of representation was not adopted, but

the affairs of the community were discussed, as at Athens, in the

market-place, by a general assembly of the citizens.

e

[ Code of 1650, p. 80.]

In studying the laws which were promulgated at this first era of the

American republics, it is impossible not to be struck by the remarkable

acquaintance with the science of government and the advanced theory of

legislation which they display. The ideas there formed of the duties of

society towards its members are evidently much loftier and more

comprehensive than those of the European legislators at that time:

obligations were there imposed which were elsewhere slighted. In the

States of New England, from the first, the condition of the poor was

provided for; \*f strict measures were taken for the maintenance of

roads, and surveyors were appointed to attend to them; \*g registers

were established in every parish, in which the results of public

deliberations, and the births, deaths, and marriages of the citizens

were entered; \*h clerks were directed to keep these registers; \*i

officers were charged with the administration of vacant inheritances,

and with the arbitration of litigated landmarks; and many others were

created whose chief functions were the maintenance of public order in

the community. \*j The law enters into a thousand useful provisions for

a number of social wants which are at present very inadequately felt in

France. [Footnote f: Ibid., p. 78.]

g

[ Ibid., p. 49.]

h

[ See “Hutchinson’s History,” vol. i. p. 455.]

i

[ Code of 1650, p. 86.]

j

[ Ibid., p. 40.]

But it is by the attention it pays to Public Education that the

original character of American civilization is at once placed in the

clearest light. “It being,” says the law, “one chief project of Satan

to keep men from the knowledge of the Scripture by persuading from the

use of tongues, to the end that learning may not be buried in the

graves of our forefathers, in church and commonwealth, the Lord

assisting our endeavors. . . .” \*k Here follow clauses establishing

schools in every township, and obliging the inhabitants, under pain of

heavy fines, to support them. Schools of a superior kind were founded

in the same manner in the more populous districts. The municipal

authorities were bound to enforce the sending of children to school by

their parents; they were empowered to inflict fines upon all who

refused compliance; and in case of continued resistance society assumed

the place of the parent, took possession of the child, and deprived the

father of those natural rights which he used to so bad a purpose. The

reader will undoubtedly have remarked the preamble of these enactments:

in America religion is the road to knowledge, and the observance of the

divine laws leads man to civil freedom.

k

[ Ibid., p. 90.]

If, after having cast a rapid glance over the state of American society

in 1650, we turn to the condition of Europe, and more especially to

that of the Continent, at the same period, we cannot fail to be struck

with astonishment. On the Continent of Europe, at the beginning of the

seventeenth century, absolute monarchy had everywhere triumphed over

the ruins of the oligarchical and feudal liberties of the Middle Ages.

Never were the notions of right more completely confounded than in the

midst of the splendor and literature of Europe; never was there less

political activity among the people; never were the principles of true

freedom less widely circulated; and at that very time those principles,

which were scorned or unknown by the nations of Europe, were proclaimed

in the deserts of the New World, and were accepted as the future creed

of a great people. The boldest theories of the human reason were put

into practice by a community so humble that not a statesman

condescended to attend to it; and a legislation without a precedent was

produced offhand by the imagination of the citizens. In the bosom of

this obscure democracy, which had as yet brought forth neither

generals, nor philosophers, nor authors, a man might stand up in the

face of a free people and pronounce the following fine definition of

liberty. \*l

l

[ Mather’s “Magnalia Christi Americana,” vol. ii. p. 13. This speech

was made by Winthrop; he was accused of having committed arbitrary

actions during his magistracy, but after having made the speech of

which the above is a fragment, he was acquitted by acclamation, and

from that time forwards he was always re-elected governor of the State.

See Marshal, vol. i. p. 166.]

“Nor would I have you to mistake in the point of your own liberty.

There is a liberty of a corrupt nature which is effected both by men

and beasts to do what they list, and this liberty is inconsistent with

authority, impatient of all restraint; by this liberty ‘sumus omnes

deteriores’: ’tis the grand enemy of truth and peace, and all the

ordinances of God are bent against it. But there is a civil, a moral, a

federal liberty which is the proper end and object of authority; it is

a liberty for that only which is just and good: for this liberty you

are to stand with the hazard of your very lives and whatsoever crosses

it is not authority, but a distemper thereof. This liberty is

maintained in a way of subjection to authority; and the authority set

over you will, in all administrations for your good, be quietly

submitted unto by all but such as have a disposition to shake off the

yoke and lose their true liberty, by their murmuring at the honor and

power of authority.”

The remarks I have made will suffice to display the character of

Anglo-American civilization in its true light. It is the result (and

this should be constantly present to the mind of two distinct

elements), which in other places have been in frequent hostility, but

which in America have been admirably incorporated and combined with one

another. I allude to the spirit of Religion and the spirit of Liberty.

The settlers of New England were at the same time ardent sectarians and

daring innovators. Narrow as the limits of some of their religious

opinions were, they were entirely free from political prejudices. Hence

arose two tendencies, distinct but not opposite, which are constantly

discernible in the manners as well as in the laws of the country.

It might be imagined that men who sacrificed their friends, their

family, and their native land to a religious conviction were absorbed

in the pursuit of the intellectual advantages which they purchased at

so dear a rate. The energy, however, with which they strove for the

acquirement of wealth, moral enjoyment, and the comforts as well as

liberties of the world, is scarcely inferior to that with which they

devoted themselves to Heaven.

Political principles and all human laws and institutions were moulded

and altered at their pleasure; the barriers of the society in which

they were born were broken down before them; the old principles which

had governed the world for ages were no more; a path without a turn and

a field without an horizon were opened to the exploring and ardent

curiosity of man: but at the limits of the political world he checks

his researches, he discreetly lays aside the use of his most formidable

faculties, he no longer consents to doubt or to innovate, but carefully

abstaining from raising the curtain of the sanctuary, he yields with

submissive respect to truths which he will not discuss. Thus, in the

moral world everything is classed, adapted, decided, and foreseen; in

the political world everything is agitated, uncertain, and disputed: in

the one is a passive, though a voluntary, obedience; in the other an

independence scornful of experience and jealous of authority.

These two tendencies, apparently so discrepant, are far from

conflicting; they advance together, and mutually support each other.

Religion perceives that civil liberty affords a noble exercise to the

faculties of man, and that the political world is a field prepared by

the Creator for the efforts of the intelligence. Contented with the

freedom and the power which it enjoys in its own sphere, and with the

place which it occupies, the empire of religion is never more surely

established than when it reigns in the hearts of men unsupported by

aught beside its native strength. Religion is no less the companion of

liberty in all its battles and its triumphs; the cradle of its infancy,

and the divine source of its claims. The safeguard of morality is

religion, and morality is the best security of law and the surest

pledge of freedom. \*m

m

[ See Appendix, F.]

Reasons Of Certain Anomalies Which The Laws And Customs Of The

Anglo-Americans Present

Remains of aristocratic institutions in the midst of a complete

democracy—Why?—Distinction carefully to be drawn between what is of

Puritanical and what is of English origin.

The reader is cautioned not to draw too general or too absolute an

inference from what has been said. The social condition, the religion,

and the manners of the first emigrants undoubtedly exercised an immense

influence on the destiny of their new country. Nevertheless they were

not in a situation to found a state of things solely dependent on

themselves: no man can entirely shake off the influence of the past,

and the settlers, intentionally or involuntarily, mingled habits and

notions derived from their education and from the traditions of their

country with those habits and notions which were exclusively their own.

To form a judgment on the Anglo-Americans of the present day it is

therefore necessary to distinguish what is of Puritanical and what is

of English origin.

Laws and customs are frequently to be met with in the United States

which contrast strongly with all that surrounds them. These laws seem

to be drawn up in a spirit contrary to the prevailing tenor of the

American legislation; and these customs are no less opposed to the tone

of society. If the English colonies had been founded in an age of

darkness, or if their origin was already lost in the lapse of years,

the problem would be insoluble.

I shall quote a single example to illustrate what I advance. The civil

and criminal procedure of the Americans has only two means of

action—committal and bail. The first measure taken by the magistrate is

to exact security from the defendant, or, in case of refusal, to

incarcerate him: the ground of the accusation and the importance of the

charges against him are then discussed. It is evident that a

legislation of this kind is hostile to the poor man, and favorable only

to the rich. The poor man has not always a security to produce, even in

a civil cause; and if he is obliged to wait for justice in prison, he

is speedily reduced to distress. The wealthy individual, on the

contrary, always escapes imprisonment in civil causes; nay, more, he

may readily elude the punishment which awaits him for a delinquency by

breaking his bail. So that all the penalties of the law are, for him,

reducible to fines. \*n Nothing can be more aristocratic than this

system of legislation. Yet in America it is the poor who make the law,

and they usually reserve the greatest social advantages to themselves.

The explanation of the phenomenon is to be found in England; the laws

of which I speak are English, \*o and the Americans have retained them,

however repugnant they may be to the tenor of their legislation and the

mass of their ideas. Next to its habits, the thing which a nation is

least apt to change is its civil legislation. Civil laws are only

familiarly known to legal men, whose direct interest it is to maintain

them as they are, whether good or bad, simply because they themselves

are conversant with them. The body of the nation is scarcely acquainted

with them; it merely perceives their action in particular cases; but it

has some difficulty in seizing their tendency, and obeys them without

premeditation. I have quoted one instance where it would have been easy

to adduce a great number of others. The surface of American society is,

if I may use the expression, covered with a layer of democracy, from

beneath which the old aristocratic colors sometimes peep.

n

[ Crimes no doubt exist for which bail is inadmissible, but they are

few in number.]

o

[ See Blackstone; and Delolme, book I chap. x.]

Chapter III: Social Conditions Of The Anglo-Americans

Chapter Summary

A Social condition is commonly the result of circumstances, sometimes

of laws, oftener still of these two causes united; but wherever it

exists, it may justly be considered as the source of almost all the

laws, the usages, and the ideas which regulate the conduct of nations;

whatever it does not produce it modifies. It is therefore necessary, if

we would become acquainted with the legislation and the manners of a

nation, to begin by the study of its social condition.

The Striking Characteristic Of The Social Condition Of The

Anglo-Americans In Its Essential Democracy.

The first emigrants of New England—Their equality—Aristocratic laws

introduced in the South—Period of the Revolution—Change in the law of

descent—Effects produced by this change—Democracy carried to its utmost

limits in the new States of the West—Equality of education.

Many important observations suggest themselves upon the social

condition of the Anglo-Americans, but there is one which takes

precedence of all the rest. The social condition of the Americans is

eminently democratic; this was its character at the foundation of the

Colonies, and is still more strongly marked at the present day. I have

stated in the preceding chapter that great equality existed among the

emigrants who settled on the shores of New England. The germ of

aristocracy was never planted in that part of the Union. The only

influence which obtained there was that of intellect; the people were

used to reverence certain names as the emblems of knowledge and virtue.

Some of their fellow-citizens acquired a power over the rest which

might truly have been called aristocratic, if it had been capable of

transmission from father to son.

This was the state of things to the east of the Hudson: to the

south-west of that river, and in the direction of the Floridas, the

case was different. In most of the States situated to the south-west of

the Hudson some great English proprietors had settled, who had imported

with them aristocratic principles and the English law of descent. I

have explained the reasons why it was impossible ever to establish a

powerful aristocracy in America; these reasons existed with less force

to the south-west of the Hudson. In the South, one man, aided by

slaves, could cultivate a great extent of country: it was therefore

common to see rich landed proprietors. But their influence was not

altogether aristocratic as that term is understood in Europe, since

they possessed no privileges; and the cultivation of their estates

being carried on by slaves, they had no tenants depending on them, and

consequently no patronage. Still, the great proprietors south of the

Hudson constituted a superior class, having ideas and tastes of its

own, and forming the centre of political action. This kind of

aristocracy sympathized with the body of the people, whose passions and

interests it easily embraced; but it was too weak and too short-lived

to excite either love or hatred for itself. This was the class which

headed the insurrection in the South, and furnished the best leaders of

the American revolution.

At the period of which we are now speaking society was shaken to its

centre: the people, in whose name the struggle had taken place,

conceived the desire of exercising the authority which it had acquired;

its democratic tendencies were awakened; and having thrown off the yoke

of the mother-country, it aspired to independence of every kind. The

influence of individuals gradually ceased to be felt, and custom and

law united together to produce the same result.

But the law of descent was the last step to equality. I am surprised

that ancient and modern jurists have not attributed to this law a

greater influence on human affairs. \*a It is true that these laws

belong to civil affairs; but they ought nevertheless to be placed at

the head of all political institutions; for, whilst political laws are

only the symbol of a nation’s condition, they exercise an incredible

influence upon its social state. They have, moreover, a sure and

uniform manner of operating upon society, affecting, as it were,

generations yet unborn.

a

[ I understand by the law of descent all those laws whose principal

object is to regulate the distribution of property after the death of

its owner. The law of entail is of this number; it certainly prevents

the owner from disposing of his possessions before his death; but this

is solely with the view of preserving them entire for the heir. The

principal object, therefore, of the law of entail is to regulate the

descent of property after the death of its owner: its other provisions

are merely means to this end.]

Through their means man acquires a kind of preternatural power over the

future lot of his fellow-creatures. When the legislator has regulated

the law of inheritance, he may rest from his labor. The machine once

put in motion will go on for ages, and advance, as if self-guided,

towards a given point. When framed in a particular manner, this law

unites, draws together, and vests property and power in a few hands:

its tendency is clearly aristocratic. On opposite principles its action

is still more rapid; it divides, distributes, and disperses both

property and power. Alarmed by the rapidity of its progress, those who

despair of arresting its motion endeavor to obstruct it by difficulties

and impediments; they vainly seek to counteract its effect by contrary

efforts; but it gradually reduces or destroys every obstacle, until by

its incessant activity the bulwarks of the influence of wealth are

ground down to the fine and shifting sand which is the basis of

democracy. When the law of inheritance permits, still more when it

decrees, the equal division of a father’s property amongst all his

children, its effects are of two kinds: it is important to distinguish

them from each other, although they tend to the same end.

In virtue of the law of partible inheritance, the death of every

proprietor brings about a kind of revolution in property; not only do

his possessions change hands, but their very nature is altered, since

they are parcelled into shares, which become smaller and smaller at

each division. This is the direct and, as it were, the physical effect

of the law. It follows, then, that in countries where equality of

inheritance is established by law, property, and especially landed

property, must have a tendency to perpetual diminution. The effects,

however, of such legislation would only be perceptible after a lapse of

time, if the law was abandoned to its own working; for supposing the

family to consist of two children (and in a country people as France is

the average number is not above three), these children, sharing amongst

them the fortune of both parents, would not be poorer than their father

or mother.

But the law of equal division exercises its influence not merely upon

the property itself, but it affects the minds of the heirs, and brings

their passions into play. These indirect consequences tend powerfully

to the destruction of large fortunes, and especially of large domains.

Among nations whose law of descent is founded upon the right of

primogeniture landed estates often pass from generation to generation

without undergoing division, the consequence of which is that family

feeling is to a certain degree incorporated with the estate. The family

represents the estate, the estate the family; whose name, together with

its origin, its glory, its power, and its virtues, is thus perpetuated

in an imperishable memorial of the past and a sure pledge of the

future.

When the equal partition of property is established by law, the

intimate connection is destroyed between family feeling and the

preservation of the paternal estate; the property ceases to represent

the family; for as it must inevitably be divided after one or two

generations, it has evidently a constant tendency to diminish, and must

in the end be completely dispersed. The sons of the great landed

proprietor, if they are few in number, or if fortune befriends them,

may indeed entertain the hope of being as wealthy as their father, but

not that of possessing the same property as he did; the riches must

necessarily be composed of elements different from his.

Now, from the moment that you divest the landowner of that interest in

the preservation of his estate which he derives from association, from

tradition, and from family pride, you may be certain that sooner or

later he will dispose of it; for there is a strong pecuniary interest

in favor of selling, as floating capital produces higher interest than

real property, and is more readily available to gratify the passions of

the moment.

Great landed estates which have once been divided never come together

again; for the small proprietor draws from his land a better revenue,

in proportion, than the large owner does from his, and of course he

sells it at a higher rate. \*b The calculations of gain, therefore,

which decide the rich man to sell his domain will still more powerfully

influence him against buying small estates to unite them into a large

one.

b

[ I do not mean to say that the small proprietor cultivates his land

better, but he cultivates it with more ardor and care; so that he makes

up by his labor for his want of skill.]

What is called family pride is often founded upon an illusion of

self-love. A man wishes to perpetuate and immortalize himself, as it

were, in his great-grandchildren. Where the esprit de famille ceases to

act individual selfishness comes into play. When the idea of family

becomes vague, indeterminate, and uncertain, a man thinks of his

present convenience; he provides for the establishment of his

succeeding generation, and no more. Either a man gives up the idea of

perpetuating his family, or at any rate he seeks to accomplish it by

other means than that of a landed estate. Thus not only does the law of

partible inheritance render it difficult for families to preserve their

ancestral domains entire, but it deprives them of the inclination to

attempt it, and compels them in some measure to co-operate with the law

in their own extinction.

The law of equal distribution proceeds by two methods: by acting upon

things, it acts upon persons; by influencing persons, it affects

things. By these means the law succeeds in striking at the root of

landed property, and dispersing rapidly both families and fortunes. \*c

c

[ Land being the most stable kind of property, we find, from time to

time, rich individuals who are disposed to make great sacrifices in

order to obtain it, and who willingly forfeit a considerable part of

their income to make sure of the rest. But these are accidental cases.

The preference for landed property is no longer found habitually in any

class but among the poor. The small landowner, who has less

information, less imagination, and fewer passions than the great one,

is generally occupied with the desire of increasing his estate: and it

often happens that by inheritance, by marriage, or by the chances of

trade, he is gradually furnished with the means. Thus, to balance the

tendency which leads men to divide their estates, there exists another,

which incites them to add to them. This tendency, which is sufficient

to prevent estates from being divided ad infinitum, is not strong

enough to create great territorial possessions, certainly not to keep

them up in the same family.]

Most certainly it is not for us Frenchmen of the nineteenth century,

who daily witness the political and social changes which the law of

partition is bringing to pass, to question its influence. It is

perpetually conspicuous in our country, overthrowing the walls of our

dwellings and removing the landmarks of our fields. But although it has

produced great effects in France, much still remains for it to do. Our

recollections, opinions, and habits present powerful obstacles to its

progress.

In the United States it has nearly completed its work of destruction,

and there we can best study its results. The English laws concerning

the transmission of property were abolished in almost all the States at

the time of the Revolution. The law of entail was so modified as not to

interrupt the free circulation of property. \*d The first generation

having passed away, estates began to be parcelled out, and the change

became more and more rapid with the progress of time. At this moment,

after a lapse of a little more than sixty years, the aspect of society

is totally altered; the families of the great landed proprietors are

almost all commingled with the general mass. In the State of New York,

which formerly contained many of these, there are but two who still

keep their heads above the stream, and they must shortly disappear. The

sons of these opulent citizens are become merchants, lawyers, or

physicians. Most of them have lapsed into obscurity. The last trace of

hereditary ranks and distinctions is destroyed—the law of partition has

reduced all to one level. [Footnote d: See Appendix, G.]

I do not mean that there is any deficiency of wealthy individuals in

the United States; I know of no country, indeed, where the love of

money has taken stronger hold on the affections of men, and where the

profounder contempt is expressed for the theory of the permanent

equality of property. But wealth circulates with inconceivable

rapidity, and experience shows that it is rare to find two succeeding

generations in the full enjoyment of it.

This picture, which may perhaps be thought to be overcharged, still

gives a very imperfect idea of what is taking place in the new States

of the West and South-west. At the end of the last century a few bold

adventurers began to penetrate into the valleys of the Mississippi, and

the mass of the population very soon began to move in that direction:

communities unheard of till then were seen to emerge from the wilds:

States whose names were not in existence a few years before claimed

their place in the American Union; and in the Western settlements we

may behold democracy arrived at its utmost extreme. In these States,

founded off-hand, and, as it were, by chance, the inhabitants are but

of yesterday. Scarcely known to one another, the nearest neighbors are

ignorant of each other’s history. In this part of the American

continent, therefore, the population has not experienced the influence

of great names and great wealth, nor even that of the natural

aristocracy of knowledge and virtue. None are there to wield that

respectable power which men willingly grant to the remembrance of a

life spent in doing good before their eyes. The new States of the West

are already inhabited, but society has no existence among them. \*e

e

[ This may have been true in 1832, but is not so in 1874, when great

cities like Chicago and San Francisco have sprung up in the Western

States. But as yet the Western States exert no powerful influence on

American society.—-Translator’s Note.]

It is not only the fortunes of men which are equal in America; even

their requirements partake in some degree of the same uniformity. I do

not believe that there is a country in the world where, in proportion

to the population, there are so few uninstructed and at the same time

so few learned individuals. Primary instruction is within the reach of

everybody; superior instruction is scarcely to be obtained by any. This

is not surprising; it is in fact the necessary consequence of what we

have advanced above. Almost all the Americans are in easy

circumstances, and can therefore obtain the first elements of human

knowledge.

In America there are comparatively few who are rich enough to live

without a profession. Every profession requires an apprenticeship,

which limits the time of instruction to the early years of life. At

fifteen they enter upon their calling, and thus their education ends at

the age when ours begins. Whatever is done afterwards is with a view to

some special and lucrative object; a science is taken up as a matter of

business, and the only branch of it which is attended to is such as

admits of an immediate practical application. In America most of the

rich men were formerly poor; most of those who now enjoy leisure were

absorbed in business during their youth; the consequence of which is,

that when they might have had a taste for study they had no time for

it, and when time is at their disposal they have no longer the

inclination.

There is no class, then, in America, in which the taste for

intellectual pleasures is transmitted with hereditary fortune and

leisure, and by which the labors of the intellect are held in honor.

Accordingly there is an equal want of the desire and the power of

application to these objects.

A middle standard is fixed in America for human knowledge. All approach

as near to it as they can; some as they rise, others as they descend.

Of course, an immense multitude of persons are to be found who

entertain the same number of ideas on religion, history, science,

political economy, legislation, and government. The gifts of intellect

proceed directly from God, and man cannot prevent their unequal

distribution. But in consequence of the state of things which we have

here represented it happens that, although the capacities of men are

widely different, as the Creator has doubtless intended they should be,

they are submitted to the same method of treatment.

In America the aristocratic element has always been feeble from its

birth; and if at the present day it is not actually destroyed, it is at

any rate so completely disabled that we can scarcely assign to it any

degree of influence in the course of affairs. The democratic principle,

on the contrary, has gained so much strength by time, by events, and by

legislation, as to have become not only predominant but all-powerful.

There is no family or corporate authority, and it is rare to find even

the influence of individual character enjoy any durability.

America, then, exhibits in her social state a most extraordinary

phenomenon. Men are there seen on a greater equality in point of

fortune and intellect, or, in other words, more equal in their

strength, than in any other country of the world, or in any age of

which history has preserved the remembrance.

Political Consequences Of The Social Condition Of The Anglo-Americans

The political consequences of such a social condition as this are

easily deducible. It is impossible to believe that equality will not

eventually find its way into the political world as it does everywhere

else. To conceive of men remaining forever unequal upon one single

point, yet equal on all others, is impossible; they must come in the

end to be equal upon all. Now I know of only two methods of

establishing equality in the political world; every citizen must be put

in possession of his rights, or rights must be granted to no one. For

nations which are arrived at the same stage of social existence as the

Anglo-Americans, it is therefore very difficult to discover a medium

between the sovereignty of all and the absolute power of one man: and

it would be vain to deny that the social condition which I have been

describing is equally liable to each of these consequences.

There is, in fact, a manly and lawful passion for equality which

excites men to wish all to be powerful and honored. This passion tends

to elevate the humble to the rank of the great; but there exists also

in the human heart a depraved taste for equality, which impels the weak

to attempt to lower the powerful to their own level, and reduces men to

prefer equality in slavery to inequality with freedom. Not that those

nations whose social condition is democratic naturally despise liberty;

on the contrary, they have an instinctive love of it. But liberty is

not the chief and constant object of their desires; equality is their

idol: they make rapid and sudden efforts to obtain liberty, and if they

miss their aim resign themselves to their disappointment; but nothing

can satisfy them except equality, and rather than lose it they resolve

to perish.

On the other hand, in a State where the citizens are nearly on an

equality, it becomes difficult for them to preserve their independence

against the aggressions of power. No one among them being strong enough

to engage in the struggle with advantage, nothing but a general

combination can protect their liberty. And such a union is not always

to be found.

From the same social position, then, nations may derive one or the

other of two great political results; these results are extremely

different from each other, but they may both proceed from the same

cause.

The Anglo-Americans are the first nations who, having been exposed to

this formidable alternative, have been happy enough to escape the

dominion of absolute power. They have been allowed by their

circumstances, their origin, their intelligence, and especially by

their moral feeling, to establish and maintain the sovereignty of the

people.

Chapter IV: The Principle Of The Sovereignty Of The People In America

Chapter Summary

It predominates over the whole of society in America—Application made

of this principle by the Americans even before their

Revolution—Development given to it by that Revolution—Gradual and

irresistible extension of the elective qualification.

The Principle Of The Sovereignty Of The People In America

Whenever the political laws of the United States are to be discussed,

it is with the doctrine of the sovereignty of the people that we must

begin. The principle of the sovereignty of the people, which is to be

found, more or less, at the bottom of almost all human institutions,

generally remains concealed from view. It is obeyed without being

recognized, or if for a moment it be brought to light, it is hastily

cast back into the gloom of the sanctuary. “The will of the nation” is

one of those expressions which have been most profusely abused by the

wily and the despotic of every age. To the eyes of some it has been

represented by the venal suffrages of a few of the satellites of power;

to others by the votes of a timid or an interested minority; and some

have even discovered it in the silence of a people, on the supposition

that the fact of submission established the right of command.

In America the principle of the sovereignty of the people is not either

barren or concealed, as it is with some other nations; it is recognized

by the customs and proclaimed by the laws; it spreads freely, and

arrives without impediment at its most remote consequences. If there be

a country in the world where the doctrine of the sovereignty of the

people can be fairly appreciated, where it can be studied in its

application to the affairs of society, and where its dangers and its

advantages may be foreseen, that country is assuredly America.

I have already observed that, from their origin, the sovereignty of the

people was the fundamental principle of the greater number of British

colonies in America. It was far, however, from then exercising as much

influence on the government of society as it now does. Two obstacles,

the one external, the other internal, checked its invasive progress. It

could not ostensibly disclose itself in the laws of colonies which were

still constrained to obey the mother-country: it was therefore obliged

to spread secretly, and to gain ground in the provincial assemblies,

and especially in the townships.

American society was not yet prepared to adopt it with all its

consequences. The intelligence of New England, and the wealth of the

country to the south of the Hudson (as I have shown in the preceding

chapter), long exercised a sort of aristocratic influence, which tended

to retain the exercise of social authority in the hands of a few. The

public functionaries were not universally elected, and the citizens

were not all of them electors. The electoral franchise was everywhere

placed within certain limits, and made dependent on a certain

qualification, which was exceedingly low in the North and more

considerable in the South.

The American revolution broke out, and the doctrine of the sovereignty

of the people, which had been nurtured in the townships and

municipalities, took possession of the State: every class was enlisted

in its cause; battles were fought, and victories obtained for it, until

it became the law of laws.

A no less rapid change was effected in the interior of society, where

the law of descent completed the abolition of local influences.

At the very time when this consequence of the laws and of the

revolution was apparent to every eye, victory was irrevocably

pronounced in favor of the democratic cause. All power was, in fact, in

its hands, and resistance was no longer possible. The higher orders

submitted without a murmur and without a struggle to an evil which was

thenceforth inevitable. The ordinary fate of falling powers awaited

them; each of their several members followed his own interests; and as

it was impossible to wring the power from the hands of a people which

they did not detest sufficiently to brave, their only aim was to secure

its good-will at any price. The most democratic laws were consequently

voted by the very men whose interests they impaired; and thus, although

the higher classes did not excite the passions of the people against

their order, they accelerated the triumph of the new state of things;

so that by a singular change the democratic impulse was found to be

most irresistible in the very States where the aristocracy had the

firmest hold. The State of Maryland, which had been founded by men of

rank, was the first to proclaim universal suffrage, and to introduce

the most democratic forms into the conduct of its government.

When a nation modifies the elective qualification, it may easily be

foreseen that sooner or later that qualification will be entirely

abolished. There is no more invariable rule in the history of society:

the further electoral rights are extended, the greater is the need of

extending them; for after each concession the strength of the democracy

increases, and its demands increase with its strength. The ambition of

those who are below the appointed rate is irritated in exact proportion

to the great number of those who are above it. The exception at last

becomes the rule, concession follows concession, and no stop can be

made short of universal suffrage.

At the present day the principle of the sovereignty of the people has

acquired, in the United States, all the practical development which the

imagination can conceive. It is unencumbered by those fictions which

have been thrown over it in other countries, and it appears in every

possible form according to the exigency of the occasion. Sometimes the

laws are made by the people in a body, as at Athens; and sometimes its

representatives, chosen by universal suffrage, transact business in its

name, and almost under its immediate control.

In some countries a power exists which, though it is in a degree

foreign to the social body, directs it, and forces it to pursue a

certain track. In others the ruling force is divided, being partly

within and partly without the ranks of the people. But nothing of the

kind is to be seen in the United States; there society governs itself

for itself. All power centres in its bosom; and scarcely an individual

is to be meet with who would venture to conceive, or, still less, to

express, the idea of seeking it elsewhere. The nation participates in

the making of its laws by the choice of its legislators, and in the

execution of them by the choice of the agents of the executive

government; it may almost be said to govern itself, so feeble and so

restricted is the share left to the administration, so little do the

authorities forget their popular origin and the power from which they

emanate. \*a [Footnote a: See Appendix, H.]

Chapter V: Necessity Of Examining The Condition Of The States—Part I

Necessity Of Examining The Condition Of The States Before That Of The

Union At Large.

It is proposed to examine in the following chapter what is the form of

government established in America on the principle of the sovereignty

of the people; what are its resources, its hindrances, its advantages,

and its dangers. The first difficulty which presents itself arises from

the complex nature of the constitution of the United States, which

consists of two distinct social structures, connected and, as it were,

encased one within the other; two governments, completely separate and

almost independent, the one fulfilling the ordinary duties and

responding to the daily and indefinite calls of a community, the other

circumscribed within certain limits, and only exercising an exceptional

authority over the general interests of the country. In short, there

are twenty-four small sovereign nations, whose agglomeration

constitutes the body of the Union. To examine the Union before we have

studied the States would be to adopt a method filled with obstacles.

The form of the Federal Government of the United States was the last

which was adopted; and it is in fact nothing more than a modification

or a summary of those republican principles which were current in the

whole community before it existed, and independently of its existence.

Moreover, the Federal Government is, as I have just observed, the

exception; the Government of the States is the rule. The author who

should attempt to exhibit the picture as a whole before he had

explained its details would necessarily fall into obscurity and

repetition.

The great political principles which govern American society at this

day undoubtedly took their origin and their growth in the State. It is

therefore necessary to become acquainted with the State in order to

possess a clue to the remainder. The States which at present compose

the American Union all present the same features, as far as regards the

external aspect of their institutions. Their political or

administrative existence is centred in three focuses of action, which

may not inaptly be compared to the different nervous centres which

convey motion to the human body. The township is the lowest in order,

then the county, and lastly the State; and I propose to devote the

following chapter to the examination of these three divisions.

The American System Of Townships And Municipal Bodies

Why the Author begins the examination of the political institutions

with the township—Its existence in all nations—Difficulty of

establishing and preserving municipal independence—Its importance—Why

the Author has selected the township system of New England as the main

topic of his discussion.

It is not undesignedly that I begin this subject with the Township. The

village or township is the only association which is so perfectly

natural that wherever a number of men are collected it seems to

constitute itself.

The town, or tithing, as the smallest division of a community, must

necessarily exist in all nations, whatever their laws and customs may

be: if man makes monarchies and establishes republics, the first

association of mankind seems constituted by the hand of God. But

although the existence of the township is coeval with that of man, its

liberties are not the less rarely respected and easily destroyed. A

nation is always able to establish great political assemblies, because

it habitually contains a certain number of individuals fitted by their

talents, if not by their habits, for the direction of affairs. The

township is, on the contrary, composed of coarser materials, which are

less easily fashioned by the legislator. The difficulties which attend

the consolidation of its independence rather augment than diminish with

the increasing enlightenment of the people. A highly civilized

community spurns the attempts of a local independence, is disgusted at

its numerous blunders, and is apt to despair of success before the

experiment is completed. Again, no immunities are so ill protected from

the encroachments of the supreme power as those of municipal bodies in

general: they are unable to struggle, single-handed, against a strong

or an enterprising government, and they cannot defend their cause with

success unless it be identified with the customs of the nation and

supported by public opinion. Thus until the independence of townships

is amalgamated with the manners of a people it is easily destroyed, and

it is only after a long existence in the laws that it can be thus

amalgamated. Municipal freedom is not the fruit of human device; it is

rarely created; but it is, as it were, secretly and spontaneously

engendered in the midst of a semi-barbarous state of society. The

constant action of the laws and the national habits, peculiar

circumstances, and above all time, may consolidate it; but there is

certainly no nation on the continent of Europe which has experienced

its advantages. Nevertheless local assemblies of citizens constitute

the strength of free nations. Town-meetings are to liberty what primary

schools are to science; they bring it within the people’s reach, they

teach men how to use and how to enjoy it. A nation may establish a

system of free government, but without the spirit of municipal

institutions it cannot have the spirit of liberty. The transient

passions and the interests of an hour, or the chance of circumstances,

may have created the external forms of independence; but the despotic

tendency which has been repelled will, sooner or later, inevitably

reappear on the surface.

In order to explain to the reader the general principles on which the

political organization of the counties and townships of the United

States rests, I have thought it expedient to choose one of the States

of New England as an example, to examine the mechanism of its

constitution, and then to cast a general glance over the country. The

township and the county are not organized in the same manner in every

part of the Union; it is, however, easy to perceive that the same

principles have guided the formation of both of them throughout the

Union. I am inclined to believe that these principles have been carried

further in New England than elsewhere, and consequently that they offer

greater facilities to the observations of a stranger. The institutions

of New England form a complete and regular whole; they have received

the sanction of time, they have the support of the laws, and the still

stronger support of the manners of the community, over which they

exercise the most prodigious influence; they consequently deserve our

attention on every account.

Limits Of The Township

The township of New England is a division which stands between the

commune and the canton of France, and which corresponds in general to

the English tithing, or town. Its average population is from two to

three thousand; \*a so that, on the one hand, the interests of its

inhabitants are not likely to conflict, and, on the other, men capable

of conducting its affairs are always to be found among its citizens.

a

[ In 1830 there were 305 townships in the State of Massachusetts, and

610,014 inhabitants, which gives an average of about 2,000 inhabitants

to each township.]

Authorities Of The Township In New England

The people the source of all power here as elsewhere—Manages its own

affairs—No corporation—The greater part of the authority vested in the

hands of the Selectmen—How the Selectmen act—Town-meeting—Enumeration

of the public officers of the township—Obligatory and remunerated

functions.

In the township, as well as everywhere else, the people is the only

source of power; but in no stage of government does the body of

citizens exercise a more immediate influence. In America the people is

a master whose exigencies demand obedience to the utmost limits of

possibility.

In New England the majority acts by representatives in the conduct of

the public business of the State; but if such an arrangement be

necessary in general affairs, in the townships, where the legislative

and administrative action of the government is in more immediate

contact with the subject, the system of representation is not adopted.

There is no corporation; but the body of electors, after having

designated its magistrates, directs them in everything that exceeds the

simple and ordinary executive business of the State. \*b

b

[ The same rules are not applicable to the great towns, which generally

have a mayor, and a corporation divided into two bodies; this, however,

is an exception which requires the sanction of a law.—See the Act of

February 22, 1822, for appointing the authorities of the city of

Boston. It frequently happens that small towns as well as cities are

subject to a peculiar administration. In 1832, 104 townships in the

State of New York were governed in this manner.—Williams’ Register.]

This state of things is so contrary to our ideas, and so different from

our customs, that it is necessary for me to adduce some examples to

explain it thoroughly.

The public duties in the township are extremely numerous and minutely

divided, as we shall see further on; but the larger proportion of

administrative power is vested in the hands of a small number of

individuals, called “the Selectmen.” \*c The general laws of the State

impose a certain number of obligations on the selectmen, which they may

fulfil without the authorization of the body they represent, but which

they can only neglect on their own responsibility. The law of the State

obliges them, for instance, to draw up the list of electors in their

townships; and if they omit this part of their functions, they are

guilty of a misdemeanor. In all the affairs, however, which are

determined by the town-meeting, the selectmen are the organs of the

popular mandate, as in France the Maire executes the decree of the

municipal council. They usually act upon their own responsibility, and

merely put in practice principles which have been previously recognized

by the majority. But if any change is to be introduced in the existing

state of things, or if they wish to undertake any new enterprise, they

are obliged to refer to the source of their power. If, for instance, a

school is to be established, the selectmen convoke the whole body of

the electors on a certain day at an appointed place; they explain the

urgency of the case; they give their opinion on the means of satisfying

it, on the probable expense, and the site which seems to be most

favorable. The meeting is consulted on these several points; it adopts

the principle, marks out the site, votes the rate, and confides the

execution of its resolution to the selectmen.

c

[ Three selectmen are appointed in the small townships, and nine in the

large ones. See “The Town-Officer,” p. 186. See also the principal laws

of the State of Massachusetts relative to the selectmen:

Act of February 20, 1786, vol. i. p. 219; February 24, 1796, vol. i. p.

488; March 7, 1801, vol. ii. p. 45; June 16, 1795, vol. i. p. 475;

March 12, 1808, vol. ii. p. 186; February 28, 1787, vol. i. p. 302;

June 22, 1797, vol. i. p. 539.]

The selectmen have alone the right of calling a town-meeting, but they

may be requested to do so: if ten citizens are desirous of submitting a

new project to the assent of the township, they may demand a general

convocation of the inhabitants; the selectmen are obliged to comply,

but they have only the right of presiding at the meeting. \*d

d

[ See Laws of Massachusetts, vol. i. p. 150, Act of March 25, 1786.]

The selectmen are elected every year in the month of April or of May.

The town-meeting chooses at the same time a number of other municipal

magistrates, who are entrusted with important administrative functions.

The assessors rate the township; the collectors receive the rate. A

constable is appointed to keep the peace, to watch the streets, and to

forward the execution of the laws; the town-clerk records all the town

votes, orders, grants, births, deaths, and marriages; the treasurer

keeps the funds; the overseer of the poor performs the difficult task

of superintending the action of the poor-laws; committee-men are

appointed to attend to the schools and to public instruction; and the

road-surveyors, who take care of the greater and lesser thoroughfares

of the township, complete the list of the principal functionaries. They

are, however, still further subdivided; and amongst the municipal

officers are to be found parish commissioners, who audit the expenses

of public worship; different classes of inspectors, some of whom are to

direct the citizens in case of fire; tithing-men, listers, haywards,

chimney-viewers, fence-viewers to maintain the bounds of property,

timber-measurers, and sealers of weights and measures. \*e

e

[ All these magistrates actually exist; their different functions are

all detailed in a book called “The Town-Officer,” by Isaac Goodwin,

Worcester, 1827; and in the “Collection of the General Laws of

Massachusetts,” 3 vols., Boston, 1823.]

There are nineteen principal officers in a township. Every inhabitant

is constrained, on the pain of being fined, to undertake these

different functions; which, however, are almost all paid, in order that

the poorer citizens may be able to give up their time without loss. In

general the American system is not to grant a fixed salary to its

functionaries. Every service has its price, and they are remunerated in

proportion to what they have done.

Existence Of The Township

Every one the best judge of his own interest—Corollary of the principle

of the sovereignty of the people—Application of those doctrines in the

townships of America—The township of New England is sovereign in all

that concerns itself alone: subject to the State in all other

matters—Bond of the township and the State—In France the Government

lends its agent to the Commune—In America the reverse occurs.

I have already observed that the principle of the sovereignty of the

people governs the whole political system of the Anglo-Americans. Every

page of this book will afford new instances of the same doctrine. In

the nations by which the sovereignty of the people is recognized every

individual possesses an equal share of power, and participates alike in

the government of the State. Every individual is, therefore, supposed

to be as well informed, as virtuous, and as strong as any of his

fellow-citizens. He obeys the government, not because he is inferior to

the authorities which conduct it, or that he is less capable than his

neighbor of governing himself, but because he acknowledges the utility

of an association with his fellow-men, and because he knows that no

such association can exist without a regulating force. If he be a

subject in all that concerns the mutual relations of citizens, he is

free and responsible to God alone for all that concerns himself. Hence

arises the maxim that every one is the best and the sole judge of his

own private interest, and that society has no right to control a man’s

actions, unless they are prejudicial to the common weal, or unless the

common weal demands his co-operation. This doctrine is universally

admitted in the United States. I shall hereafter examine the general

influence which it exercises on the ordinary actions of life; I am now

speaking of the nature of municipal bodies.

The township, taken as a whole, and in relation to the government of

the country, may be looked upon as an individual to whom the theory I

have just alluded to is applied. Municipal independence is therefore a

natural consequence of the principle of the sovereignty of the people

in the United States: all the American republics recognize it more or

less; but circumstances have peculiarly favored its growth in New

England.

In this part of the Union the impulsion of political activity was given

in the townships; and it may almost be said that each of them

originally formed an independent nation. When the Kings of England

asserted their supremacy, they were contented to assume the central

power of the State. The townships of New England remained as they were

before; and although they are now subject to the State, they were at

first scarcely dependent upon it. It is important to remember that they

have not been invested with privileges, but that they have, on the

contrary, forfeited a portion of their independence to the State. The

townships are only subordinate to the State in those interests which I

shall term social, as they are common to all the citizens. They are

independent in all that concerns themselves; and amongst the

inhabitants of New England I believe that not a man is to be found who

would acknowledge that the State has any right to interfere in their

local interests. The towns of New England buy and sell, sue or are

sued, augment or diminish their rates, without the slightest opposition

on the part of the administrative authority of the State.

They are bound, however, to comply with the demands of the community.

If the State is in need of money, a town can neither give nor withhold

the supplies. If the State projects a road, the township cannot refuse

to let it cross its territory; if a police regulation is made by the

State, it must be enforced by the town. A uniform system of instruction

is organized all over the country, and every town is bound to establish

the schools which the law ordains. In speaking of the administration of

the United States I shall have occasion to point out the means by which

the townships are compelled to obey in these different cases: I here

merely show the existence of the obligation. Strict as this obligation

is, the government of the State imposes it in principle only, and in

its performance the township resumes all its independent rights. Thus,

taxes are voted by the State, but they are levied and collected by the

township; the existence of a school is obligatory, but the township

builds, pays, and superintends it. In France the State-collector

receives the local imposts; in America the town-collector receives the

taxes of the State. Thus the French Government lends its agents to the

commune; in America the township is the agent of the Government. This

fact alone shows the extent of the differences which exist between the

two nations.

Public Spirit Of The Townships Of New England

How the township of New England wins the affections of its

inhabitants—Difficulty of creating local public spirit in Europe—The

rights and duties of the American township favorable to

it—Characteristics of home in the United States—Manifestations of

public spirit in New England—Its happy effects.

In America, not only do municipal bodies exist, but they are kept alive

and supported by public spirit. The township of New England possesses

two advantages which infallibly secure the attentive interest of

mankind, namely, independence and authority. Its sphere is indeed small

and limited, but within that sphere its action is unrestrained; and its

independence gives to it a real importance which its extent and

population may not always ensure.

It is to be remembered that the affections of men generally lie on the

side of authority. Patriotism is not durable in a conquered nation. The

New Englander is attached to his township, not only because he was born

in it, but because it constitutes a social body of which he is a

member, and whose government claims and deserves the exercise of his

sagacity. In Europe the absence of local public spirit is a frequent

subject of regret to those who are in power; everyone agrees that there

is no surer guarantee of order and tranquility, and yet nothing is more

difficult to create. If the municipal bodies were made powerful and

independent, the authorities of the nation might be disunited and the

peace of the country endangered. Yet, without power and independence, a

town may contain good subjects, but it can have no active citizens.

Another important fact is that the township of New England is so

constituted as to excite the warmest of human affections, without

arousing the ambitious passions of the heart of man. The officers of

the country are not elected, and their authority is very limited. Even

the State is only a second-rate community, whose tranquil and obscure

administration offers no inducement sufficient to draw men away from

the circle of their interests into the turmoil of public affairs. The

federal government confers power and honor on the men who conduct it;

but these individuals can never be very numerous. The high station of

the Presidency can only be reached at an advanced period of life, and

the other federal functionaries are generally men who have been favored

by fortune, or distinguished in some other career. Such cannot be the

permanent aim of the ambitious. But the township serves as a centre for

the desire of public esteem, the want of exciting interests, and the

taste for authority and popularity, in the midst of the ordinary

relations of life; and the passions which commonly embroil society

change their character when they find a vent so near the domestic

hearth and the family circle.

In the American States power has been disseminated with admirable skill

for the purpose of interesting the greatest possible number of persons

in the common weal. Independently of the electors who are from time to

time called into action, the body politic is divided into innumerable

functionaries and officers, who all, in their several spheres,

represent the same powerful whole in whose name they act. The local

administration thus affords an unfailing source of profit and interest

to a vast number of individuals.

The American system, which divides the local authority among so many

citizens, does not scruple to multiply the functions of the town

officers. For in the United States it is believed, and with truth, that

patriotism is a kind of devotion which is strengthened by ritual

observance. In this manner the activity of the township is continually

perceptible; it is daily manifested in the fulfilment of a duty or the

exercise of a right, and a constant though gentle motion is thus kept

up in society which animates without disturbing it.

The American attaches himself to his home as the mountaineer clings to

his hills, because the characteristic features of his country are there

more distinctly marked than elsewhere. The existence of the townships

of New England is in general a happy one. Their government is suited to

their tastes, and chosen by themselves. In the midst of the profound

peace and general comfort which reign in America the commotions of

municipal discord are unfrequent. The conduct of local business is

easy. The political education of the people has long been complete; say

rather that it was complete when the people first set foot upon the

soil. In New England no tradition exists of a distinction of ranks; no

portion of the community is tempted to oppress the remainder; and the

abuses which may injure isolated individuals are forgotten in the

general contentment which prevails. If the government is defective (and

it would no doubt be easy to point out its deficiencies), the fact that

it really emanates from those it governs, and that it acts, either ill

or well, casts the protecting spell of a parental pride over its

faults. No term of comparison disturbs the satisfaction of the citizen:

England formerly governed the mass of the colonies, but the people was

always sovereign in the township where its rule is not only an ancient

but a primitive state.

The native of New England is attached to his township because it is

independent and free: his co-operation in its affairs ensures his

attachment to its interest; the well-being it affords him secures his

affection; and its welfare is the aim of his ambition and of his future

exertions: he takes a part in every occurrence in the place; he

practises the art of government in the small sphere within his reach;

he accustoms himself to those forms which can alone ensure the steady

progress of liberty; he imbibes their spirit; he acquires a taste for

order, comprehends the union or the balance of powers, and collects

clear practical notions on the nature of his duties and the extent of

his rights.

The Counties Of New England

The division of the countries in America has considerable analogy with

that of the arrondissements of France. The limits of the counties are

arbitrarily laid down, and the various districts which they contain

have no necessary connection, no common tradition or natural sympathy;

their object is simply to facilitate the administration of justice.

The extent of the township was too small to contain a system of

judicial institutions; each county has, however, a court of justice, \*f

a sheriff to execute its decrees, and a prison for criminals. There are

certain wants which are felt alike by all the townships of a county; it

is therefore natural that they should be satisfied by a central

authority. In the State of Massachusetts this authority is vested in

the hands of several magistrates, who are appointed by the Governor of

the State, with the advice \*g of his council. \*h The officers of the

county have only a limited and occasional authority, which is

applicable to certain predetermined cases. The State and the townships

possess all the power requisite to conduct public business. The budget

of the county is drawn up by its officers, and is voted by the

legislature, but there is no assembly which directly or indirectly

represents the county. It has, therefore, properly speaking, no

political existence.

f

[ See the Act of February 14, 1821, Laws of Massachusetts, vol. i. p.

551.]

g

[ See the Act of February 20, 1819, Laws of Massachusetts, vol. ii. p.

494.]

h

[ The council of the Governor is an elective body.] A twofold tendency

may be discerned in the American constitutions, which impels the

legislator to centralize the legislative and to disperse the executive

power. The township of New England has in itself an indestructible

element of independence; and this distinct existence could only be

fictitiously introduced into the county, where its utility has not been

felt. But all the townships united have but one representation, which

is the State, the centre of the national authority: beyond the action

of the township and that of the nation, nothing can be said to exist

but the influence of individual exertion.

Administration In New England

Administration not perceived in America—Why?—The Europeans believe that

liberty is promoted by depriving the social authority of some of its

rights; the Americans, by dividing its exercise—Almost all the

administration confined to the township, and divided amongst the

town-officers—No trace of an administrative body to be perceived,

either in the township or above it—The reason of this—How it happens

that the administration of the State is uniform—Who is empowered to

enforce the obedience of the township and the county to the law—The

introduction of judicial power into the administration—Consequence of

the extension of the elective principle to all functionaries—The

Justice of the Peace in New England—By whom appointed—County officer:

ensures the administration of the townships—Court of Sessions—Its

action—Right of inspection and indictment disseminated like the other

administrative functions—Informers encouraged by the division of fines.

Nothing is more striking to an European traveller in the United States

than the absence of what we term the Government, or the Administration.

Written laws exist in America, and one sees that they are daily

executed; but although everything is in motion, the hand which gives

the impulse to the social machine can nowhere be discovered.

Nevertheless, as all peoples are obliged to have recourse to certain

grammatical forms, which are the foundation of human language, in order

to express their thoughts; so all communities are obliged to secure

their existence by submitting to a certain dose of authority, without

which they fall a prey to anarchy. This authority may be distributed in

several ways, but it must always exist somewhere.

There are two methods of diminishing the force of authority in a

nation: The first is to weaken the supreme power in its very principle,

by forbidding or preventing society from acting in its own defence

under certain circumstances. To weaken authority in this manner is what

is generally termed in Europe to lay the foundations of freedom. The

second manner of diminishing the influence of authority does not

consist in stripping society of any of its rights, nor in paralyzing

its efforts, but in distributing the exercise of its privileges in

various hands, and in multiplying functionaries, to each of whom the

degree of power necessary for him to perform his duty is entrusted.

There may be nations whom this distribution of social powers might lead

to anarchy; but in itself it is not anarchical. The action of authority

is indeed thus rendered less irresistible and less perilous, but it is

not totally suppressed.

The revolution of the United States was the result of a mature and

dignified taste for freedom, and not of a vague or ill-defined craving

for independence. It contracted no alliance with the turbulent passions

of anarchy; but its course was marked, on the contrary, by an

attachment to whatever was lawful and orderly.

It was never assumed in the United States that the citizen of a free

country has a right to do whatever he pleases; on the contrary, social

obligations were there imposed upon him more various than anywhere

else. No idea was ever entertained of attacking the principles or of

contesting the rights of society; but the exercise of its authority was

divided, to the end that the office might be powerful and the officer

insignificant, and that the community should be at once regulated and

free. In no country in the world does the law hold so absolute a

language as in America, and in no country is the right of applying it

vested in so many hands. The administrative power in the United States

presents nothing either central or hierarchical in its constitution,

which accounts for its passing, unperceived. The power exists, but its

representative is not to be perceived.

We have already seen that the independent townships of New England

protect their own private interests; and the municipal magistrates are

the persons to whom the execution of the laws of the State is most

frequently entrusted. \*i Besides the general laws, the State sometimes

passes general police regulations; but more commonly the townships and

town officers, conjointly with justices of the peace, regulate the

minor details of social life, according to the necessities of the

different localities, and promulgate such enactments as concern the

health of the community, and the peace as well as morality of the

citizens. \*j Lastly, these municipal magistrates provide, of their own

accord and without any delegated powers, for those unforeseen

emergencies which frequently occur in society. \*k

i

[ See “The Town-Officer,” especially at the words Selectmen, Assessors,

Collectors, Schools, Surveyors of Highways. I take one example in a

thousand: the State prohibits travelling on the Sunday; the

tything-men, who are town-officers, are specially charged to keep watch

and to execute the law. See the Laws of Massachusetts, vol. i. p. 410.

The selectmen draw up the lists of electors for the election of the

Governor, and transmit the result of the ballot to the Secretary of the

State. See Act of February 24, 1796: Id., vol. i. p. 488.]

j

[ Thus, for instance, the selectmen authorize the construction of

drains, point out the proper sites for slaughter-houses and other

trades which are a nuisance to the neighborhood. See the Act of June 7,

1785: Id., vol. i. p. 193.]

k

[ The selectmen take measures for the security of the public in case of

contagious diseases, conjointly with the justices of the peace. See Act

of June 22, 1797, vol. i. p. 539.]

It results from what we have said that in the State of Massachusetts

the administrative authority is almost entirely restricted to the

township, \*l but that it is distributed among a great number of

individuals. In the French commune there is properly but one official

functionary, namely, the Maire; and in New England we have seen that

there are nineteen. These nineteen functionaries do not in general

depend upon one another. The law carefully prescribes a circle of

action to each of these magistrates; and within that circle they have

an entire right to perform their functions independently of any other

authority. Above the township scarcely any trace of a series of

official dignitaries is to be found. It sometimes happens that the

county officers alter a decision of the townships or town magistrates,

\*m but in general the authorities of the county have no right to

interfere with the authorities of the township, \*n except in such

matters as concern the county.

l

[ I say almost, for there are various circumstances in the annals of a

township which are regulated by the justice of the peace in his

individual capacity, or by the justices of the peace assembled in the

chief town of the county; thus licenses are granted by the justices.

See the Act of February 28, 1787, vol. i. p. 297.]

m

[ Thus licenses are only granted to such persons as can produce a

certificate of good conduct from the selectmen. If the selectmen refuse

to give the certificate, the party may appeal to the justices assembled

in the Court of Sessions, and they may grant the license. See Act of

March 12, 1808, vol. ii. p. 186.

The townships have the right to make by-laws, and to enforce them by

fines which are fixed by law; but these by-laws must be approved by the

Court of Sessions. See Act of March 23, 1786, vol. i. p. 254.]

n

[ In Massachusetts the county magistrates are frequently called upon to

investigate the acts of the town magistrates; but it will be shown

further on that this investigation is a consequence, not of their

administrative, but of their judicial power.]

The magistrates of the township, as well as those of the county, are

bound to communicate their acts to the central government in a very

small number of predetermined cases. \*o But the central government is

not represented by an individual whose business it is to publish police

regulations and ordinances enforcing the execution of the laws; to keep

up a regular communication with the officers of the township and the

county; to inspect their conduct, to direct their actions, or to

reprimand their faults. There is no point which serves as a centre to

the radii of the administration.

o

[ The town committees of schools are obliged to make an annual report

to the Secretary of the State on the condition of the school. See Act

of March 10, 1827, vol. iii. p. 183.]

Chapter V: Necessity Of Examining The Condition Of The States—Part II

What, then, is the uniform plan on which the government is conducted,

and how is the compliance of the counties and their magistrates or the

townships and their officers enforced? In the States of New England the

legislative authority embraces more subjects than it does in France;

the legislator penetrates to the very core of the administration; the

law descends to the most minute details; the same enactment prescribes

the principle and the method of its application, and thus imposes a

multitude of strict and rigorously defined obligations on the secondary

functionaries of the State. The consequence of this is that if all the

secondary functionaries of the administration conform to the law,

society in all its branches proceeds with the greatest uniformity: the

difficulty remains of compelling the secondary functionaries of the

administration to conform to the law. It may be affirmed that, in

general, society has only two methods of enforcing the execution of the

laws at its disposal: a discretionary power may be entrusted to a

superior functionary of directing all the others, and of cashiering

them in case of disobedience; or the courts of justice may be

authorized to inflict judicial penalties on the offender: but these two

methods are not always available.

The right of directing a civil officer presupposes that of cashiering

him if he does not obey orders, and of rewarding him by promotion if he

fulfils his duties with propriety. But an elected magistrate can

neither be cashiered nor promoted. All elective functions are

inalienable until their term is expired. In fact, the elected

magistrate has nothing either to expect or to fear from his

constituents; and when all public offices are filled by ballot there

can be no series of official dignities, because the double right of

commanding and of enforcing obedience can never be vested in the same

individual, and because the power of issuing an order can never be

joined to that of inflicting a punishment or bestowing a reward.

The communities therefore in which the secondary functionaries of the

government are elected are perforce obliged to make great use of

judicial penalties as a means of administration. This is not evident at

first sight; for those in power are apt to look upon the institution of

elective functionaries as one concession, and the subjection of the

elected magistrate to the judges of the land as another. They are

equally averse to both these innovations; and as they are more

pressingly solicited to grant the former than the latter, they accede

to the election of the magistrate, and leave him independent of the

judicial power. Nevertheless, the second of these measures is the only

thing that can possibly counterbalance the first; and it will be found

that an elective authority which is not subject to judicial power will,

sooner or later, either elude all control or be destroyed. The courts

of justice are the only possible medium between the central power and

the administrative bodies; they alone can compel the elected

functionary to obey, without violating the rights of the elector. The

extension of judicial power in the political world ought therefore to

be in the exact ratio of the extension of elective offices: if these

two institutions do not go hand in hand, the State must fall into

anarchy or into subjection.

It has always been remarked that habits of legal business do not render

men apt to the exercise of administrative authority. The Americans have

borrowed from the English, their fathers, the idea of an institution

which is unknown upon the continent of Europe: I allude to that of the

Justices of the Peace. The Justice of the Peace is a sort of mezzo

termine between the magistrate and the man of the world, between the

civil officer and the judge. A justice of the peace is a well-informed

citizen, though he is not necessarily versed in the knowledge of the

laws. His office simply obliges him to execute the police regulations

of society; a task in which good sense and integrity are of more avail

than legal science. The justice introduces into the administration a

certain taste for established forms and publicity, which renders him a

most unserviceable instrument of despotism; and, on the other hand, he

is not blinded by those superstitions which render legal officers unfit

members of a government. The Americans have adopted the system of the

English justices of the peace, but they have deprived it of that

aristocratic character which is discernible in the mother-country. The

Governor of Massachusetts \*p appoints a certain number of justices of

the peace in every county, whose functions last seven years. \*q He

further designates three individuals from amongst the whole body of

justices who form in each county what is called the Court of Sessions.

The justices take a personal share in public business; they are

sometimes entrusted with administrative functions in conjunction with

elected officers, \*r they sometimes constitute a tribunal, before which

the magistrates summarily prosecute a refractory citizen, or the

citizens inform against the abuses of the magistrate. But it is in the

Court of Sessions that they exercise their most important functions.

This court meets twice a year in the county town; in Massachusetts it

is empowered to enforce the obedience of the greater number \*s of

public officers. \*t It must be observed, that in the State of

Massachusetts the Court of Sessions is at the same time an

administrative body, properly so called, and a political tribunal. It

has been asserted that the county is a purely administrative division.

The Court of Sessions presides over that small number of affairs which,

as they concern several townships, or all the townships of the county

in common, cannot be entrusted to any one of them in particular. \*u In

all that concerns county business the duties of the Court of Sessions

are purely administrative; and if in its investigations it occasionally

borrows the forms of judicial procedure, it is only with a view to its

own information, \*v or as a guarantee to the community over which it

presides. But when the administration of the township is brought before

it, it always acts as a judicial body, and in some few cases as an

official assembly.

p

[ We shall hereafter learn what a Governor is: I shall content myself

with remarking in this place that he represents the executive power of

the whole State.]

q

[ See the Constitution of Massachusetts, chap. II. sect. 1. Section 9;

chap. III. Section 3.]

r

[ Thus, for example, a stranger arrives in a township from a country

where a contagious disease prevails, and he falls ill. Two justices of

the peace can, with the assent of the selectmen, order the sheriff of

the county to remove and take care of him.—Act of June 22, 1797, vol.

i. p. 540.

In general the justices interfere in all the important acts of the

administration, and give them a semi-judicial character.] [Footnote s:

I say the greater number, because certain administrative misdemeanors

are brought before ordinary tribunals. If, for instance, a township

refuses to make the necessary expenditure for its schools or to name a

school-committee, it is liable to a heavy fine. But this penalty is

pronounced by the Supreme Judicial Court or the Court of Common Pleas.

See Act of March 10, 1827, Laws of Massachusetts, vol. iii. p. 190. Or

when a township neglects to provide the necessary war-stores.—Act of

February 21, 1822: Id., vol. ii. p. 570.]

t

[ In their individual capacity the justices of the peace take a part in

the business of the counties and townships.] [Footnote u: These affairs

may be brought under the following heads:—1. The erection of prisons

and courts of justice. 2. The county budget, which is afterwards voted

by the State. 3. The distribution of the taxes so voted. 4. Grants of

certain patents. 5. The laying down and repairs of the country roads.]

v

[ Thus, when a road is under consideration, almost all difficulties are

disposed of by the aid of the jury.]

The first difficulty is to procure the obedience of an authority as

entirely independent of the general laws of the State as the township

is. We have stated that assessors are annually named by the

town-meetings to levy the taxes. If a township attempts to evade the

payment of the taxes by neglecting to name its assessors, the Court of

Sessions condemns it to a heavy penalty. \*w The fine is levied on each

of the inhabitants; and the sheriff of the county, who is the officer

of justice, executes the mandate. Thus it is that in the United States

the authority of the Government is mysteriously concealed under the

forms of a judicial sentence; and its influence is at the same time

fortified by that irresistible power with which men have invested the

formalities of law.

w

[ See Act of February 20, 1786, Laws of Massachusetts, vol. i. p. 217.]

These proceedings are easy to follow and to understand. The demands

made upon a township are in general plain and accurately defined; they

consist in a simple fact without any complication, or in a principle

without its application in detail. \*x But the difficulty increases when

it is not the obedience of the township, but that of the town officers

which is to be enforced. All the reprehensible actions of which a

public functionary may be guilty are reducible to the following heads:

x

[ There is an indirect method of enforcing the obedience of a township.

Suppose that the funds which the law demands for the maintenance of the

roads have not been voted, the town surveyor is then authorized, ex

officio, to levy the supplies. As he is personally responsible to

private individuals for the state of the roads, and indictable before

the Court of Sessions, he is sure to employ the extraordinary right

which the law gives him against the township. Thus by threatening the

officer the Court of Sessions exacts compliance from the town. See Act

of March 5, 1787, Id., vol. i. p. 305.]

He may execute the law without energy or zeal;

He may neglect to execute the law;

He may do what the law enjoins him not to do.

The last two violations of duty can alone come under the cognizance of

a tribunal; a positive and appreciable fact is the indispensable

foundation of an action at law. Thus, if the selectmen omit to fulfil

the legal formalities usual at town elections, they may be condemned to

pay a fine; \*y but when the public officer performs his duty without

ability, and when he obeys the letter of the law without zeal or

energy, he is at least beyond the reach of judicial interference. The

Court of Sessions, even when it is invested with its official powers,

is in this case unable to compel him to a more satisfactory obedience.

The fear of removal is the only check to these quasi-offences; and as

the Court of Sessions does not originate the town authorities, it

cannot remove functionaries whom it does not appoint. Moreover, a

perpetual investigation would be necessary to convict the officer of

negligence or lukewarmness; and the Court of Sessions sits but twice a

year and then only judges such offences as are brought before its

notice. The only security of that active and enlightened obedience

which a court of justice cannot impose upon public officers lies in the

possibility of their arbitrary removal. In France this security is

sought for in powers exercised by the heads of the administration; in

America it is sought for in the principle of election.

y

[ Laws of Massachusetts, vol. ii. p. 45.]

Thus, to recapitulate in a few words what I have been showing: If a

public officer in New England commits a crime in the exercise of his

functions, the ordinary courts of justice are always called upon to

pass sentence upon him. If he commits a fault in his official capacity,

a purely administrative tribunal is empowered to punish him; and, if

the affair is important or urgent, the judge supplies the omission of

the functionary. \*z Lastly, if the same individual is guilty of one of

those intangible offences of which human justice has no cognizance, he

annually appears before a tribunal from which there is no appeal, which

can at once reduce him to insignificance and deprive him of his charge.

This system undoubtedly possesses great advantages, but its execution

is attended with a practical difficulty which it is important to point

out.

z

[ If, for instance, a township persists in refusing to name its

assessors, the Court of Sessions nominates them; and the magistrates

thus appointed are invested with the same authority as elected

officers. See the Act quoted above, February 20, 1787.]

I have already observed that the administrative tribunal, which is

called the Court of Sessions, has no right of inspection over the town

officers. It can only interfere when the conduct of a magistrate is

specially brought under its notice; and this is the delicate part of

the system. The Americans of New England are unacquainted with the

office of public prosecutor in the Court of Sessions, \*a and it may

readily be perceived that it could not have been established without

difficulty. If an accusing magistrate had merely been appointed in the

chief town of each county, and if he had been unassisted by agents in

the townships, he would not have been better acquainted with what was

going on in the county than the members of the Court of Sessions. But

to appoint agents in each township would have been to centre in his

person the most formidable of powers, that of a judicial

administration. Moreover, laws are the children of habit, and nothing

of the kind exists in the legislation of England. The Americans have

therefore divided the offices of inspection and of prosecution, as well

as all the other functions of the administration. Grand jurors are

bound by the law to apprise the court to which they belong of all the

misdemeanors which may have been committed in their county. \*b There

are certain great offences which are officially prosecuted by the

States; \*c but more frequently the task of punishing delinquents

devolves upon the fiscal officer, whose province it is to receive the

fine: thus the treasurer of the township is charged with the

prosecution of such administrative offences as fall under his notice.

But a more special appeal is made by American legislation to the

private interest of the citizen; \*d and this great principle is

constantly to be met with in studying the laws of the United States.

American legislators are more apt to give men credit for intelligence

than for honesty, and they rely not a little on personal cupidity for

the execution of the laws. When an individual is really and sensibly

injured by an administrative abuse, it is natural that his personal

interest should induce him to prosecute. But if a legal formality be

required, which, however advantageous to the community, is of small

importance to individuals, plaintiffs may be less easily found; and

thus, by a tacit agreement, the laws may fall into disuse. Reduced by

their system to this extremity, the Americans are obliged to encourage

informers by bestowing on them a portion of the penalty in certain

cases, \*e and to insure the execution of the laws by the dangerous

expedient of degrading the morals of the people. The only

administrative authority above the county magistrates is, properly

speaking, that of the Government.

a

[ I say the Court of Sessions, because in common courts there is a

magistrate who exercises some of the functions of a public prosecutor.]

b

[ The grand-jurors are, for instance, bound to inform the court of the

bad state of the roads.—Laws of Massachusetts, vol. i. p. 308.]

c

[ If, for instance, the treasurer of the county holds back his

accounts.—Laws of Massachusetts, vol. i. p. 406.] [Footnote d: Thus, if

a private individual breaks down or is wounded in consequence of the

badness of a road, he can sue the township or the county for damages at

the sessions.—Laws of Massachusetts, vol. i. p. 309.]

e

[ In cases of invasion or insurrection, if the town-officers neglect to

furnish the necessary stores and ammunition for the militia, the

township may be condemned to a fine of from $200 to $500. It may

readily be imagined that in such a case it might happen that no one

cared to prosecute; hence the law adds that all the citizens may indict

offences of this kind, and that half of the fine shall belong to the

plaintiff. See Act of March 6, 1810, vol. ii. p. 236. The same clause

is frequently to be met with in the law of Massachusetts. Not only are

private individuals thus incited to prosecute the public officers, but

the public officers are encouraged in the same manner to bring the

disobedience of private individuals to justice. If a citizen refuses to

perform the work which has been assigned to him upon a road, the road

surveyor may prosecute him, and he receives half the penalty for

himself. See the Laws above quoted, vol. i. p. 308.]

General Remarks On The Administration Of The United States Differences

of the States of the Union in their system of administration—Activity

and perfection of the local authorities decrease towards the

South—Power of the magistrate increases; that of the elector

diminishes—Administration passes from the township to the county—States

of New York, Ohio, Pennsylvania—Principles of administration applicable

to the whole Union—Election of public officers, and inalienability of

their functions—Absence of gradation of ranks—Introduction of judicial

resources into the administration.

I have already premised that, after having examined the constitution of

the township and the county of New England in detail, I should take a

general view of the remainder of the Union. Townships and a local

activity exist in every State; but in no part of the confederation is a

township to be met with precisely similar to those of New England. The

more we descend towards the South, the less active does the business of

the township or parish become; the number of magistrates, of functions,

and of rights decreases; the population exercises a less immediate

influence on affairs; town meetings are less frequent, and the subjects

of debate less numerous. The power of the elected magistrate is

augmented and that of the elector diminished, whilst the public spirit

of the local communities is less awakened and less influential. \*f

These differences may be perceived to a certain extent in the State of

New York; they are very sensible in Pennsylvania; but they become less

striking as we advance to the northwest. The majority of the emigrants

who settle in the northwestern States are natives of New England, and

they carry the habits of their mother country with them into that which

they adopt. A township in Ohio is by no means dissimilar from a

township in Massachusetts.

f

[ For details see the Revised Statutes of the State of New York, part

i. chap. xi. vol. i. pp. 336-364, entitled, “Of the Powers, Duties, and

Privileges of Towns.”

See in the Digest of the Laws of Pennsylvania, the words Assessors,

Collector, Constables, Overseer of the Poor, Supervisors of Highways;

and in the Acts of a general nature of the State of Ohio, the Act of

February 25, 1834, relating to townships, p. 412; besides the peculiar

dispositions relating to divers town-officers, such as Township’s

Clerk, Trustees, Overseers of the Poor, Fence Viewers, Appraisers of

Property, Township’s Treasurer, Constables, Supervisors of Highways.]

We have seen that in Massachusetts the mainspring of public

administration lies in the township. It forms the common centre of the

interests and affections of the citizens. But this ceases to be the

case as we descend to States in which knowledge is less generally

diffused, and where the township consequently offers fewer guarantees

of a wise and active administration. As we leave New England,

therefore, we find that the importance of the town is gradually

transferred to the county, which becomes the centre of administration,

and the intermediate power between the Government and the citizen. In

Massachusetts the business of the county is conducted by the Court of

Sessions, which is composed of a quorum named by the Governor and his

council; but the county has no representative assembly, and its

expenditure is voted by the national legislature. In the great State of

New York, on the contrary, and in those of Ohio and Pennsylvania, the

inhabitants of each county choose a certain number of representatives,

who constitute the assembly of the county. \*g The county assembly has

the right of taxing the inhabitants to a certain extent; and in this

respect it enjoys the privileges of a real legislative body: at the

same time it exercises an executive power in the county, frequently

directs the administration of the townships, and restricts their

authority within much narrower bounds than in Massachusetts.

g

[ See the Revised Statutes of the State of New York, part i. chap. xi.

vol. i. p. 340. Id. chap. xii. p. 366; also in the Acts of the State of

Ohio, an act relating to county commissioners, February 25, 1824, p.

263. See the Digest of the Laws of Pennsylvania, at the words

County-rates and Levies, p. 170. In the State of New York each township

elects a representative, who has a share in the administration of the

county as well as in that of the township.]

Such are the principal differences which the systems of county and town

administration present in the Federal States. Were it my intention to

examine the provisions of American law minutely, I should have to point

out still further differences in the executive details of the several

communities. But what I have already said may suffice to show the

general principles on which the administration of the United States

rests. These principles are differently applied; their consequences are

more or less numerous in various localities; but they are always

substantially the same. The laws differ, and their outward features

change, but their character does not vary. If the township and the

county are not everywhere constituted in the same manner, it is at

least true that in the United States the county and the township are

always based upon the same principle, namely, that everyone is the best

judge of what concerns himself alone, and the most proper person to

supply his private wants. The township and the county are therefore

bound to take care of their special interests: the State governs, but

it does not interfere with their administration. Exceptions to this

rule may be met with, but not a contrary principle.

The first consequence of this doctrine has been to cause all the

magistrates to be chosen either by or at least from amongst the

citizens. As the officers are everywhere elected or appointed for a

certain period, it has been impossible to establish the rules of a

dependent series of authorities; there are almost as many independent

functionaries as there are functions, and the executive power is

disseminated in a multitude of hands. Hence arose the indispensable

necessity of introducing the control of the courts of justice over the

administration, and the system of pecuniary penalties, by which the

secondary bodies and their representatives are constrained to obey the

laws. This system obtains from one end of the Union to the other. The

power of punishing the misconduct of public officers, or of performing

the part of the executive in urgent cases, has not, however, been

bestowed on the same judges in all the States. The Anglo-Americans

derived the institution of justices of the peace from a common source;

but although it exists in all the States, it is not always turned to

the same use. The justices of the peace everywhere participate in the

administration of the townships and the counties, \*h either as public

officers or as the judges of public misdemeanors, but in most of the

States the more important classes of public offences come under the

cognizance of the ordinary tribunals.

h

[ In some of the Southern States the county courts are charged with all

the details of the administration. See the Statutes of the State of

Tennessee, arts. Judiciary, Taxes, etc.]

The election of public officers, or the inalienability of their

functions, the absence of a gradation of powers, and the introduction

of a judicial control over the secondary branches of the

administration, are the universal characteristics of the American

system from Maine to the Floridas. In some States (and that of New York

has advanced most in this direction) traces of a centralized

administration begin to be discernible. In the State of New York the

officers of the central government exercise, in certain cases, a sort

of inspection or control over the secondary bodies. \*i

i

[ For instance, the direction of public instruction centres in the

hands of the Government. The legislature names the members of the

University, who are denominated Regents; the Governor and

Lieutentant-Governor of the State are necessarily of the

number.—Revised Statutes, vol. i. p. 455. The Regents of the University

annually visit the colleges and academies, and make their report to the

legislature. Their superintendence is not inefficient, for several

reasons: the colleges in order to become corporations stand in need of

a charter, which is only granted on the recommendation of the Regents;

every year funds are distributed by the State for the encouragement of

learning, and the Regents are the distributors of this money. See chap.

xv. “Instruction,” Revised Statutes, vol. i. p. 455.

The school-commissioners are obliged to send an annual report to the

Superintendent of the Republic.—Id. p. 488.

A similar report is annually made to the same person on the number and

condition of the poor.—Id. p. 631.]

At other times they constitute a court of appeal for the decision of

affairs. \*j In the State of New York judicial penalties are less used

than in other parts as a means of administration, and the right of

prosecuting the offences of public officers is vested in fewer hands.

\*k The same tendency is faintly observable in some other States; \*l but

in general the prominent feature of the administration in the United

States is its excessive local independence.

j

[ If any one conceives himself to be wronged by the

school-commissioners (who are town-officers), he can appeal to the

superintendent of the primary schools, whose decision is final.—Revised

Statutes, vol. i. p. 487.

Provisions similar to those above cited are to be met with from time to

time in the laws of the State of New York; but in general these

attempts at centralization are weak and unproductive. The great

authorities of the State have the right of watching and controlling the

subordinate agents, without that of rewarding or punishing them. The

same individual is never empowered to give an order and to punish

disobedience; he has therefore the right of commanding, without the

means of exacting compliance. In 1830 the Superintendent of Schools

complained in his Annual Report addressed to the legislature that

several school-commissioners had neglected, notwithstanding his

application, to furnish him with the accounts which were due. He added

that if this omission continued he should be obliged to prosecute them,

as the law directs, before the proper tribunals.]

k

[ Thus the district-attorney is directed to recover all fines below the

sum of fifty dollars, unless such a right has been specially awarded to

another magistrate.—Revised Statutes, vol. i. p. 383.]

l

[ Several traces of centralization may be discovered in Massachusetts;

for instance, the committees of the town-schools are directed to make

an annual report to the Secretary of State. See Laws of Massachusetts,

vol. i. p. 367.]

Of The State

I have described the townships and the administration; it now remains

for me to speak of the State and the Government. This is ground I may

pass over rapidly, without fear of being misunderstood; for all I have

to say is to be found in written forms of the various constitutions,

which are easily to be procured. These constitutions rest upon a simple

and rational theory; their forms have been adopted by all

constitutional nations, and are become familiar to us. In this place,

therefore, it is only necessary for me to give a short analysis; I

shall endeavor afterwards to pass judgment upon what I now describe.

Chapter V: Necessity Of Examining The Condition Of The States—Part III

Legislative Power Of The State

Division of the Legislative Body into two Houses—Senate—House of

Representatives—Different functions of these two Bodies.

The legislative power of the State is vested in two assemblies, the

first of which generally bears the name of the Senate. The Senate is

commonly a legislative body; but it sometimes becomes an executive and

judicial one. It takes a part in the government in several ways,

according to the constitution of the different States; \*m but it is in

the nomination of public functionaries that it most commonly assumes an

executive power. It partakes of judicial power in the trial of certain

political offences, and sometimes also in the decision of certain civil

cases. \*n The number of its members is always small. The other branch

of the legislature, which is usually called the House of

Representatives, has no share whatever in the administration, and only

takes a part in the judicial power inasmuch as it impeaches public

functionaries before the Senate. The members of the two Houses are

nearly everywhere subject to the same conditions of election. They are

chosen in the same manner, and by the same citizens. The only

difference which exists between them is, that the term for which the

Senate is chosen is in general longer than that of the House of

Representatives. The latter seldom remain in office longer than a year;

the former usually sit two or three years. By granting to the senators

the privilege of being chosen for several years, and being renewed

seriatim, the law takes care to preserve in the legislative body a

nucleus of men already accustomed to public business, and capable of

exercising a salutary influence upon the junior members.

m

[ In Massachusetts the Senate is not invested with any administrative

functions.]

n

[ As in the State of New York.]

The Americans, plainly, did not desire, by this separation of the

legislative body into two branches, to make one house hereditary and

the other elective; one aristocratic and the other democratic. It was

not their object to create in the one a bulwark to power, whilst the

other represented the interests and passions of the people. The only

advantages which result from the present constitution of the United

States are the division of the legislative power and the consequent

check upon political assemblies; with the creation of a tribunal of

appeal for the revision of the laws.

Time and experience, however, have convinced the Americans that if

these are its only advantages, the division of the legislative power is

still a principle of the greatest necessity. Pennsylvania was the only

one of the United States which at first attempted to establish a single

House of Assembly, and Franklin himself was so far carried away by the

necessary consequences of the principle of the sovereignty of the

people as to have concurred in the measure; but the Pennsylvanians were

soon obliged to change the law, and to create two Houses. Thus the

principle of the division of the legislative power was finally

established, and its necessity may henceforward be regarded as a

demonstrated truth. This theory, which was nearly unknown to the

republics of antiquity—which was introduced into the world almost by

accident, like so many other great truths—and misunderstood by several

modern nations, is at length become an axiom in the political science

of the present age.

[See Benjamin Franklin]

The Executive Power Of The State

Office of Governor in an American State—The place he occupies in

relation to the Legislature—His rights and his duties—His dependence on

the people.

The executive power of the State may with truth be said to be

represented by the Governor, although he enjoys but a portion of its

rights. The supreme magistrate, under the title of Governor, is the

official moderator and counsellor of the legislature. He is armed with

a veto or suspensive power, which allows him to stop, or at least to

retard, its movements at pleasure. He lays the wants of the country

before the legislative body, and points out the means which he thinks

may be usefully employed in providing for them; he is the natural

executor of its decrees in all the undertakings which interest the

nation at large. \*o In the absence of the legislature, the Governor is

bound to take all necessary steps to guard the State against violent

shocks and unforeseen dangers. The whole military power of the State is

at the disposal of the Governor. He is the commander of the militia,

and head of the armed force. When the authority, which is by general

consent awarded to the laws, is disregarded, the Governor puts himself

at the head of the armed force of the State, to quell resistance, and

to restore order. Lastly, the Governor takes no share in the

administration of townships and counties, except it be indirectly in

the nomination of Justices of the Peace, which nomination he has not

the power to cancel. \*p The Governor is an elected magistrate, and is

generally chosen for one or two years only; so that he always continues

to be strictly dependent upon the majority who returned him.

o

[ Practically speaking, it is not always the Governor who executes the

plans of the Legislature; it often happens that the latter, in voting a

measure, names special agents to superintend the execution of it.]

p

[ In some of the States the justices of the peace are not elected by

the Governor.]

Political Effects Of The System Of Local Administration In The United

States

Necessary distinction between the general centralization of Government

and the centralization of the local administration—Local administration

not centralized in the United States: great general centralization of

the Government—Some bad consequences resulting to the United States

from the local administration—Administrative advantages attending this

order of things—The power which conducts the Government is less

regular, less enlightened, less learned, but much greater than in

Europe—Political advantages of this order of things—In the United

States the interests of the country are everywhere kept in view—Support

given to the Government by the community—Provincial institutions more

necessary in proportion as the social condition becomes more

democratic—Reason of this.

Centralization is become a word of general and daily use, without any

precise meaning being attached to it. Nevertheless, there exist two

distinct kinds of centralization, which it is necessary to discriminate

with accuracy. Certain interests are common to all parts of a nation,

such as the enactment of its general laws and the maintenance of its

foreign relations. Other interests are peculiar to certain parts of the

nation; such, for instance, as the business of different townships.

When the power which directs the general interests is centred in one

place, or vested in the same persons, it constitutes a central

government. In like manner the power of directing partial or local

interests, when brought together into one place, constitutes what may

be termed a central administration.

Upon some points these two kinds of centralization coalesce; but by

classifying the objects which fall more particularly within the

province of each of them, they may easily be distinguished. It is

evident that a central government acquires immense power when united to

administrative centralization. Thus combined, it accustoms men to set

their own will habitually and completely aside; to submit, not only for

once, or upon one point, but in every respect, and at all times. Not

only, therefore, does this union of power subdue them compulsorily, but

it affects them in the ordinary habits of life, and influences each

individual, first separately and then collectively.

These two kinds of centralization mutually assist and attract each

other; but they must not be supposed to be inseparable. It is

impossible to imagine a more completely central government than that

which existed in France under Louis XIV.; when the same individual was

the author and the interpreter of the laws, and the representative of

France at home and abroad, he was justified in asserting that the State

was identified with his person. Nevertheless, the administration was

much less centralized under Louis XIV. than it is at the present day.

In England the centralization of the government is carried to great

perfection; the State has the compact vigor of a man, and by the sole

act of its will it puts immense engines in motion, and wields or

collects the efforts of its authority. Indeed, I cannot conceive that a

nation can enjoy a secure or prosperous existence without a powerful

centralization of government. But I am of opinion that a central

administration enervates the nations in which it exists by incessantly

diminishing their public spirit. If such an administration succeeds in

condensing at a given moment, on a given point, all the disposable

resources of a people, it impairs at least the renewal of those

resources. It may ensure a victory in the hour of strife, but it

gradually relaxes the sinews of strength. It may contribute admirably

to the transient greatness of a man, but it cannot ensure the durable

prosperity of a nation.

If we pay proper attention, we shall find that whenever it is said that

a State cannot act because it has no central point, it is the

centralization of the government in which it is deficient. It is

frequently asserted, and we are prepared to assent to the proposition,

that the German empire was never able to bring all its powers into

action. But the reason was, that the State was never able to enforce

obedience to its general laws, because the several members of that

great body always claimed the right, or found the means, of refusing

their co-operation to the representatives of the common authority, even

in the affairs which concerned the mass of the people; in other words,

because there was no centralization of government. The same remark is

applicable to the Middle Ages; the cause of all the confusion of feudal

society was that the control, not only of local but of general

interests, was divided amongst a thousand hands, and broken up in a

thousand different ways; the absence of a central government prevented

the nations of Europe from advancing with energy in any straightforward

course.

We have shown that in the United States no central administration and

no dependent series of public functionaries exist. Local authority has

been carried to lengths which no European nation could endure without

great inconvenience, and which has even produced some disadvantageous

consequences in America. But in the United States the centralization of

the Government is complete; and it would be easy to prove that the

national power is more compact than it has ever been in the old nations

of Europe. Not only is there but one legislative body in each State;

not only does there exist but one source of political authority; but

district assemblies and county courts have not in general been

multiplied, lest they should be tempted to exceed their administrative

duties, and interfere with the Government. In America the legislature

of each State is supreme; nothing can impede its authority; neither

privileges, nor local immunities, nor personal influence, nor even the

empire of reason, since it represents that majority which claims to be

the sole organ of reason. Its own determination is, therefore, the only

limit to this action. In juxtaposition to it, and under its immediate

control, is the representative of the executive power, whose duty it is

to constrain the refractory to submit by superior force. The only

symptom of weakness lies in certain details of the action of the

Government. The American republics have no standing armies to

intimidate a discontented minority; but as no minority has as yet been

reduced to declare open war, the necessity of an army has not been

felt. \*q The State usually employs the officers of the township or the

county to deal with the citizens. Thus, for instance, in New England,

the assessor fixes the rate of taxes; the collector receives them; the

town-treasurer transmits the amount to the public treasury; and the

disputes which may arise are brought before the ordinary courts of

justice. This method of collecting taxes is slow as well as

inconvenient, and it would prove a perpetual hindrance to a Government

whose pecuniary demands were large. It is desirable that, in whatever

materially affects its existence, the Government should be served by

officers of its own, appointed by itself, removable at pleasure, and

accustomed to rapid methods of proceeding. But it will always be easy

for the central government, organized as it is in America, to introduce

new and more efficacious modes of action, proportioned to its wants.

[Footnote q: [The Civil War of 1860-65 cruelly belied this statement,

and in the course of the struggle the North alone called two millions

and a half of men to arms; but to the honor of the United States it

must be added that, with the cessation of the contest, this army

disappeared as rapidly as it had been raised.—Translator’s Note.]]

The absence of a central government will not, then, as has often been

asserted, prove the destruction of the republics of the New World; far

from supposing that the American governments are not sufficiently

centralized, I shall prove hereafter that they are too much so. The

legislative bodies daily encroach upon the authority of the Government,

and their tendency, like that of the French Convention, is to

appropriate it entirely to themselves. Under these circumstances the

social power is constantly changing hands, because it is subordinate to

the power of the people, which is too apt to forget the maxims of

wisdom and of foresight in the consciousness of its strength: hence

arises its danger; and thus its vigor, and not its impotence, will

probably be the cause of its ultimate destruction.

The system of local administration produces several different effects

in America. The Americans seem to me to have outstepped the limits of

sound policy in isolating the administration of the Government; for

order, even in second-rate affairs, is a matter of national importance.

\*r As the State has no administrative functionaries of its own,

stationed on different points of its territory, to whom it can give a

common impulse, the consequence is that it rarely attempts to issue any

general police regulations. The want of these regulations is severely

felt, and is frequently observed by Europeans. The appearance of

disorder which prevails on the surface leads him at first to imagine

that society is in a state of anarchy; nor does he perceive his mistake

till he has gone deeper into the subject. Certain undertakings are of

importance to the whole State; but they cannot be put in execution,

because there is no national administration to direct them. Abandoned

to the exertions of the towns or counties, under the care of elected or

temporary agents, they lead to no result, or at least to no durable

benefit.

r

[ The authority which represents the State ought not, I think, to waive

the right of inspecting the local administration, even when it does not

interfere more actively. Suppose, for instance, that an agent of the

Government was stationed at some appointed spot in the country, to

prosecute the misdemeanors of the town and county officers, would not a

more uniform order be the result, without in any way compromising the

independence of the township? Nothing of the kind, however, exists in

America: there is nothing above the county-courts, which have, as it

were, only an incidental cognizance of the offences they are meant to

repress.]

The partisans of centralization in Europe are wont to maintain that the

Government directs the affairs of each locality better than the

citizens could do it for themselves; this may be true when the central

power is enlightened, and when the local districts are ignorant; when

it is as alert as they are slow; when it is accustomed to act, and they

to obey. Indeed, it is evident that this double tendency must augment

with the increase of centralization, and that the readiness of the one

and the incapacity of the others must become more and more prominent.

But I deny that such is the case when the people is as enlightened, as

awake to its interests, and as accustomed to reflect on them, as the

Americans are. I am persuaded, on the contrary, that in this case the

collective strength of the citizens will always conduce more

efficaciously to the public welfare than the authority of the

Government. It is difficult to point out with certainty the means of

arousing a sleeping population, and of giving it passions and knowledge

which it does not possess; it is, I am well aware, an arduous task to

persuade men to busy themselves about their own affairs; and it would

frequently be easier to interest them in the punctilios of court

etiquette than in the repairs of their common dwelling. But whenever a

central administration affects to supersede the persons most

interested, I am inclined to suppose that it is either misled or

desirous to mislead. However enlightened and however skilful a central

power may be, it cannot of itself embrace all the details of the

existence of a great nation. Such vigilance exceeds the powers of man.

And when it attempts to create and set in motion so many complicated

springs, it must submit to a very imperfect result, or consume itself

in bootless efforts.

Centralization succeeds more easily, indeed, in subjecting the external

actions of men to a certain uniformity, which at least commands our

regard, independently of the objects to which it is applied, like those

devotees who worship the statue and forget the deity it represents.

Centralization imparts without difficulty an admirable regularity to

the routine of business; provides for the details of the social police

with sagacity; represses the smallest disorder and the most petty

misdemeanors; maintains society in a status quo alike secure from

improvement and decline; and perpetuates a drowsy precision in the

conduct of affairs, which is hailed by the heads of the administration

as a sign of perfect order and public tranquillity: \*s in short, it

excels more in prevention than in action. Its force deserts it when

society is to be disturbed or accelerated in its course; and if once

the co-operation of private citizens is necessary to the furtherance of

its measures, the secret of its impotence is disclosed. Even whilst it

invokes their assistance, it is on the condition that they shall act

exactly as much as the Government chooses, and exactly in the manner it

appoints. They are to take charge of the details, without aspiring to

guide the system; they are to work in a dark and subordinate sphere,

and only to judge the acts in which they have themselves cooperated by

their results. These, however, are not conditions on which the alliance

of the human will is to be obtained; its carriage must be free and its

actions responsible, or (such is the constitution of man) the citizen

had rather remain a passive spectator than a dependent actor in schemes

with which he is unacquainted.

s

[ China appears to me to present the most perfect instance of that

species of well-being which a completely central administration may

furnish to the nations among which it exists. Travellers assure us that

the Chinese have peace without happiness, industry without improvement,

stability without strength, and public order without public morality.

The condition of society is always tolerable, never excellent. I am

convinced that, when China is opened to European observation, it will

be found to contain the most perfect model of a central administration

which exists in the universe.]

It is undeniable that the want of those uniform regulations which

control the conduct of every inhabitant of France is not unfrequently

felt in the United States. Gross instances of social indifference and

neglect are to be met with, and from time to time disgraceful blemishes

are seen in complete contrast with the surrounding civilization. Useful

undertakings which cannot succeed without perpetual attention and

rigorous exactitude are very frequently abandoned in the end; for in

America, as well as in other countries, the people is subject to sudden

impulses and momentary exertions. The European who is accustomed to

find a functionary always at hand to interfere with all he undertakes

has some difficulty in accustoming himself to the complex mechanism of

the administration of the townships. In general it may be affirmed that

the lesser details of the police, which render life easy and

comfortable, are neglected in America; but that the essential

guarantees of man in society are as strong there as elsewhere. In

America the power which conducts the Government is far less regular,

less enlightened, and less learned, but an hundredfold more

authoritative than in Europe. In no country in the world do the

citizens make such exertions for the common weal; and I am acquainted

with no people which has established schools as numerous and as

efficacious, places of public worship better suited to the wants of the

inhabitants, or roads kept in better repair. Uniformity or permanence

of design, the minute arrangement of details, \*t and the perfection of

an ingenious administration, must not be sought for in the United

States; but it will be easy to find, on the other hand, the symptoms of

a power which, if it is somewhat barbarous, is at least robust; and of

an existence which is checkered with accidents indeed, but cheered at

the same time by animation and effort.

t

[ A writer of talent, who, in the comparison which he has drawn between

the finances of France and those of the United States, has proved that

ingenuity cannot always supply the place of a knowledge of facts, very

justly reproaches the Americans for the sort of confusion which exists

in the accounts of the expenditure in the townships; and after giving

the model of a departmental budget in France, he adds:—“We are indebted

to centralization, that admirable invention of a great man, for the

uniform order and method which prevail alike in all the municipal

budgets, from the largest town to the humblest commune.” Whatever may

be my admiration of this result, when I see the communes of France,

with their excellent system of accounts, plunged into the grossest

ignorance of their true interests, and abandoned to so incorrigible an

apathy that they seem to vegetate rather than to live; when, on the

other hand, I observe the activity, the information, and the spirit of

enterprise which keep society in perpetual labor, in those American

townships whose budgets are drawn up with small method and with still

less uniformity, I am struck by the spectacle; for to my mind the end

of a good government is to ensure the welfare of a people, and not to

establish order and regularity in the midst of its misery and its

distress. I am therefore led to suppose that the prosperity of the

American townships and the apparent confusion of their accounts, the

distress of the French communes and the perfection of their budget, may

be attributable to the same cause. At any rate I am suspicious of a

benefit which is united to so many evils, and I am not averse to an

evil which is compensated by so many benefits.]

Granting for an instant that the villages and counties of the United

States would be more usefully governed by a remote authority which they

had never seen than by functionaries taken from the midst of

them—admitting, for the sake of argument, that the country would be

more secure, and the resources of society better employed, if the whole

administration centred in a single arm—still the political advantages

which the Americans derive from their system would induce me to prefer

it to the contrary plan. It profits me but little, after all, that a

vigilant authority should protect the tranquillity of my pleasures and

constantly avert all dangers from my path, without my care or my

concern, if this same authority is the absolute mistress of my liberty

and of my life, and if it so monopolizes all the energy of existence

that when it languishes everything languishes around it, that when it

sleeps everything must sleep, that when it dies the State itself must

perish.

In certain countries of Europe the natives consider themselves as a

kind of settlers, indifferent to the fate of the spot upon which they

live. The greatest changes are effected without their concurrence and

(unless chance may have apprised them of the event) without their

knowledge; nay more, the citizen is unconcerned as to the condition of

his village, the police of his street, the repairs of the church or of

the parsonage; for he looks upon all these things as unconnected with

himself, and as the property of a powerful stranger whom he calls the

Government. He has only a life-interest in these possessions, and he

entertains no notions of ownership or of improvement. This want of

interest in his own affairs goes so far that, if his own safety or that

of his children is endangered, instead of trying to avert the peril, he

will fold his arms, and wait till the nation comes to his assistance.

This same individual, who has so completely sacrificed his own free

will, has no natural propensity to obedience; he cowers, it is true,

before the pettiest officer; but he braves the law with the spirit of a

conquered foe as soon as its superior force is removed: his

oscillations between servitude and license are perpetual. When a nation

has arrived at this state it must either change its customs and its

laws or perish: the source of public virtue is dry, and, though it may

contain subjects, the race of citizens is extinct. Such communities are

a natural prey to foreign conquests, and if they do not disappear from

the scene of life, it is because they are surrounded by other nations

similar or inferior to themselves: it is because the instinctive

feeling of their country’s claims still exists in their hearts; and

because an involuntary pride in the name it bears, or a vague

reminiscence of its bygone fame, suffices to give them the impulse of

self-preservation.

Nor can the prodigious exertions made by tribes in the defence of a

country to which they did not belong be adduced in favor of such a

system; for it will be found that in these cases their main incitement

was religion. The permanence, the glory, or the prosperity of the

nation were become parts of their faith, and in defending the country

they inhabited they defended that Holy City of which they were all

citizens. The Turkish tribes have never taken an active share in the

conduct of the affairs of society, but they accomplished stupendous

enterprises as long as the victories of the Sultan were the triumphs of

the Mohammedan faith. In the present age they are in rapid decay,

because their religion is departing, and despotism only remains.

Montesquieu, who attributed to absolute power an authority peculiar to

itself, did it, as I conceive, an undeserved honor; for despotism,

taken by itself, can produce no durable results. On close inspection we

shall find that religion, and not fear, has ever been the cause of the

long-lived prosperity of an absolute government. Whatever exertions may

be made, no true power can be founded among men which does not depend

upon the free union of their inclinations; and patriotism and religion

are the only two motives in the world which can permanently direct the

whole of a body politic to one end.

Laws cannot succeed in rekindling the ardor of an extinguished faith,

but men may be interested in the fate of their country by the laws. By

this influence the vague impulse of patriotism, which never abandons

the human heart, may be directed and revived; and if it be connected

with the thoughts, the passions, and the daily habits of life, it may

be consolidated into a durable and rational sentiment.

Let it not be said that the time for the experiment is already past;

for the old age of nations is not like the old age of men, and every

fresh generation is a new people ready for the care of the legislator.

It is not the administrative but the political effects of the local

system that I most admire in America. In the United States the

interests of the country are everywhere kept in view; they are an

object of solicitude to the people of the whole Union, and every

citizen is as warmly attached to them as if they were his own. He takes

pride in the glory of his nation; he boasts of its success, to which he

conceives himself to have contributed, and he rejoices in the general

prosperity by which he profits. The feeling he entertains towards the

State is analogous to that which unites him to his family, and it is by

a kind of egotism that he interests himself in the welfare of his

country.

The European generally submits to a public officer because he

represents a superior force; but to an American he represents a right.

In America it may be said that no one renders obedience to man, but to

justice and to law. If the opinion which the citizen entertains of

himself is exaggerated, it is at least salutary; he unhesitatingly

confides in his own powers, which appear to him to be all-sufficient.

When a private individual meditates an undertaking, however directly

connected it may be with the welfare of society, he never thinks of

soliciting the co-operation of the Government, but he publishes his

plan, offers to execute it himself, courts the assistance of other

individuals, and struggles manfully against all obstacles. Undoubtedly

he is often less successful than the State might have been in his

position; but in the end the sum of these private undertakings far

exceeds all that the Government could have done.

As the administrative authority is within the reach of the citizens,

whom it in some degree represents, it excites neither their jealousy

nor their hatred; as its resources are limited, every one feels that he

must not rely solely on its assistance. Thus, when the administration

thinks fit to interfere, it is not abandoned to itself as in Europe;

the duties of the private citizens are not supposed to have lapsed

because the State assists in their fulfilment, but every one is ready,

on the contrary, to guide and to support it. This action of individual

exertions, joined to that of the public authorities, frequently

performs what the most energetic central administration would be unable

to execute. It would be easy to adduce several facts in proof of what I

advance, but I had rather give only one, with which I am more

thoroughly acquainted. \*u In America the means which the authorities

have at their disposal for the discovery of crimes and the arrest of

criminals are few. The State police does not exist, and passports are

unknown. The criminal police of the United States cannot be compared to

that of France; the magistrates and public prosecutors are not

numerous, and the examinations of prisoners are rapid and oral.

Nevertheless in no country does crime more rarely elude punishment. The

reason is, that every one conceives himself to be interested in

furnishing evidence of the act committed, and in stopping the

delinquent. During my stay in the United States I witnessed the

spontaneous formation of committees for the pursuit and prosecution of

a man who had committed a great crime in a certain county. In Europe a

criminal is an unhappy being who is struggling for his life against the

ministers of justice, whilst the population is merely a spectator of

the conflict; in America he is looked upon as an enemy of the human

race, and the whole of mankind is against him.

u

[ See Appendix, I.]

I believe that provincial institutions are useful to all nations, but

nowhere do they appear to me to be more indispensable than amongst a

democratic people. In an aristocracy order can always be maintained in

the midst of liberty, and as the rulers have a great deal to lose order

is to them a first-rate consideration. In like manner an aristocracy

protects the people from the excesses of despotism, because it always

possesses an organized power ready to resist a despot. But a democracy

without provincial institutions has no security against these evils.

How can a populace, unaccustomed to freedom in small concerns, learn to

use it temperately in great affairs? What resistance can be offered to

tyranny in a country where every private individual is impotent, and

where the citizens are united by no common tie? Those who dread the

license of the mob, and those who fear the rule of absolute power,

ought alike to desire the progressive growth of provincial liberties.

On the other hand, I am convinced that democratic nations are most

exposed to fall beneath the yoke of a central administration, for

several reasons, amongst which is the following. The constant tendency

of these nations is to concentrate all the strength of the Government

in the hands of the only power which directly represents the people,

because beyond the people nothing is to be perceived but a mass of

equal individuals confounded together. But when the same power is

already in possession of all the attributes of the Government, it can

scarcely refrain from penetrating into the details of the

administration, and an opportunity of doing so is sure to present

itself in the end, as was the case in France. In the French Revolution

there were two impulses in opposite directions, which must never be

confounded—the one was favorable to liberty, the other to despotism.

Under the ancient monarchy the King was the sole author of the laws,

and below the power of the sovereign certain vestiges of provincial

institutions, half destroyed, were still distinguishable. These

provincial institutions were incoherent, ill compacted, and frequently

absurd; in the hands of the aristocracy they had sometimes been

converted into instruments of oppression. The Revolution declared

itself the enemy of royalty and of provincial institutions at the same

time; it confounded all that had preceded it—despotic power and the

checks to its abuses—in indiscriminate hatred, and its tendency was at

once to overthrow and to centralize. This double character of the

French Revolution is a fact which has been adroitly handled by the

friends of absolute power. Can they be accused of laboring in the cause

of despotism when they are defending that central administration which

was one of the great innovations of the Revolution? \*v In this manner

popularity may be conciliated with hostility to the rights of the

people, and the secret slave of tyranny may be the professed admirer of

freedom.

v

[ See Appendix K.]

I have visited the two nations in which the system of provincial

liberty has been most perfectly established, and I have listened to the

opinions of different parties in those countries. In America I met with

men who secretly aspired to destroy the democratic institutions of the

Union; in England I found others who attacked the aristocracy openly,

but I know of no one who does not regard provincial independence as a

great benefit. In both countries I have heard a thousand different

causes assigned for the evils of the State, but the local system was

never mentioned amongst them. I have heard citizens attribute the power

and prosperity of their country to a multitude of reasons, but they all

placed the advantages of local institutions in the foremost rank. Am I

to suppose that when men who are naturally so divided on religious

opinions and on political theories agree on one point (and that one of

which they have daily experience), they are all in error? The only

nations which deny the utility of provincial liberties are those which

have fewest of them; in other words, those who are unacquainted with

the institution are the only persons who pass a censure upon it.

Chapter VI: Judicial Power In The United States

Chapter Summary

The Anglo-Americans have retained the characteristics of judicial power

which are common to all nations—They have, however, made it a powerful

political organ—How—In what the judicial system of the Anglo-Americans

differs from that of all other nations—Why the American judges have the

right of declaring the laws to be unconstitutional—How they use this

right—Precautions taken by the legislator to prevent its abuse.

Judicial Power In The United States And Its Influence On Political

Society.

I have thought it essential to devote a separate chapter to the

judicial authorities of the United States, lest their great political

importance should be lessened in the reader’s eyes by a merely

incidental mention of them. Confederations have existed in other

countries beside America, and republics have not been established upon

the shores of the New World alone; the representative system of

government has been adopted in several States of Europe, but I am not

aware that any nation of the globe has hitherto organized a judicial

power on the principle now adopted by the Americans. The judicial

organization of the United States is the institution which a stranger

has the greatest difficulty in understanding. He hears the authority of

a judge invoked in the political occurrences of every day, and he

naturally concludes that in the United States the judges are important

political functionaries; nevertheless, when he examines the nature of

the tribunals, they offer nothing which is contrary to the usual habits

and privileges of those bodies, and the magistrates seem to him to

interfere in public affairs of chance, but by a chance which recurs

every day.

When the Parliament of Paris remonstrated, or refused to enregister an

edict, or when it summoned a functionary accused of malversation to its

bar, its political influence as a judicial body was clearly visible;

but nothing of the kind is to be seen in the United States. The

Americans have retained all the ordinary characteristics of judicial

authority, and have carefully restricted its action to the ordinary

circle of its functions.

The first characteristic of judicial power in all nations is the duty

of arbitration. But rights must be contested in order to warrant the

interference of a tribunal; and an action must be brought to obtain the

decision of a judge. As long, therefore, as the law is uncontested, the

judicial authority is not called upon to discuss it, and it may exist

without being perceived. When a judge in a given case attacks a law

relating to that case, he extends the circle of his customary duties,

without however stepping beyond it; since he is in some measure obliged

to decide upon the law in order to decide the case. But if he

pronounces upon a law without resting upon a case, he clearly steps

beyond his sphere, and invades that of the legislative authority.

The second characteristic of judicial power is that it pronounces on

special cases, and not upon general principles. If a judge in deciding

a particular point destroys a general principle, by passing a judgment

which tends to reject all the inferences from that principle, and

consequently to annul it, he remains within the ordinary limits of his

functions. But if he directly attacks a general principle without

having a particular case in view, he leaves the circle in which all

nations have agreed to confine his authority, he assumes a more

important, and perhaps a more useful, influence than that of the

magistrate, but he ceases to be a representative of the judicial power.

The third characteristic of the judicial power is its inability to act

unless it is appealed to, or until it has taken cognizance of an

affair. This characteristic is less general than the other two; but,

notwithstanding the exceptions, I think it may be regarded as

essential. The judicial power is by its nature devoid of action; it

must be put in motion in order to produce a result. When it is called

upon to repress a crime, it punishes the criminal; when a wrong is to

be redressed, it is ready to redress it; when an act requires

interpretation, it is prepared to interpret it; but it does not pursue

criminals, hunt out wrongs, or examine into evidence of its own accord.

A judicial functionary who should open proceedings, and usurp the

censorship of the laws, would in some measure do violence to the

passive nature of his authority.

The Americans have retained these three distinguishing characteristics

of the judicial power; an American judge can only pronounce a decision

when litigation has arisen, he is only conversant with special cases,

and he cannot act until the cause has been duly brought before the

court. His position is therefore perfectly similar to that of the

magistrate of other nations; and he is nevertheless invested with

immense political power. If the sphere of his authority and his means

of action are the same as those of other judges, it may be asked whence

he derives a power which they do not possess. The cause of this

difference lies in the simple fact that the Americans have acknowledged

the right of the judges to found their decisions on the constitution

rather than on the laws. In other words, they have left them at liberty

not to apply such laws as may appear to them to be unconstitutional.

I am aware that a similar right has been claimed—but claimed in vain—by

courts of justice in other countries; but in America it is recognized

by all authorities; and not a party, nor so much as an individual, is

found to contest it. This fact can only be explained by the principles

of the American constitution. In France the constitution is (or at

least is supposed to be) immutable; and the received theory is that no

power has the right of changing any part of it. In England the

Parliament has an acknowledged right to modify the constitution; as,

therefore, the constitution may undergo perpetual changes, it does not

in reality exist; the Parliament is at once a legislative and a

constituent assembly. The political theories of America are more simple

and more rational. An American constitution is not supposed to be

immutable as in France, nor is it susceptible of modification by the

ordinary powers of society as in England. It constitutes a detached

whole, which, as it represents the determination of the whole people,

is no less binding on the legislator than on the private citizen, but

which may be altered by the will of the people in predetermined cases,

according to established rules. In America the constitution may

therefore vary, but as long as it exists it is the origin of all

authority, and the sole vehicle of the predominating force. \*a

a

[ [The fifth article of the original Constitution of the United States

provides the mode in which amendments of the Constitution may be made.

Amendments must be proposed by two-thirds of both Houses of Congress,

and ratified by the Legislatures of three-fourths of the several

States. Fifteen amendments of the Constitution have been made at

different times since 1789, the most important of which are the

Thirteenth, Fourteenth, and Fifteenth, framed and ratified after the

Civil War. The original Constitution of the United States, followed by

these fifteen amendments, is printed at the end of this edition.

—Translator’s Note, 1874.]]

It is easy to perceive in what manner these differences must act upon

the position and the rights of the judicial bodies in the three

countries I have cited. If in France the tribunals were authorized to

disobey the laws on the ground of their being opposed to the

constitution, the supreme power would in fact be placed in their hands,

since they alone would have the right of interpreting a constitution,

the clauses of which can be modified by no authority. They would

therefore take the place of the nation, and exercise as absolute a sway

over society as the inherent weakness of judicial power would allow

them to do. Undoubtedly, as the French judges are incompetent to

declare a law to be unconstitutional, the power of changing the

constitution is indirectly given to the legislative body, since no

legal barrier would oppose the alterations which it might prescribe.

But it is better to grant the power of changing the constitution of the

people to men who represent (however imperfectly) the will of the

people, than to men who represent no one but themselves.

It would be still more unreasonable to invest the English judges with

the right of resisting the decisions of the legislative body, since the

Parliament which makes the laws also makes the constitution; and

consequently a law emanating from the three powers of the State can in

no case be unconstitutional. But neither of these remarks is applicable

to America.

In the United States the constitution governs the legislator as much as

the private citizen; as it is the first of laws it cannot be modified

by a law, and it is therefore just that the tribunals should obey the

constitution in preference to any law. This condition is essential to

the power of the judicature, for to select that legal obligation by

which he is most strictly bound is the natural right of every

magistrate.

In France the constitution is also the first of laws, and the judges

have the same right to take it as the ground of their decisions, but

were they to exercise this right they must perforce encroach on rights

more sacred than their own, namely, on those of society, in whose name

they are acting. In this case the State-motive clearly prevails over

the motives of an individual. In America, where the nation can always

reduce its magistrates to obedience by changing its constitution, no

danger of this kind is to be feared. Upon this point, therefore, the

political and the logical reasons agree, and the people as well as the

judges preserve their privileges.

Whenever a law which the judge holds to be unconstitutional is argued

in a tribunal of the United States he may refuse to admit it as a rule;

this power is the only one which is peculiar to the American

magistrate, but it gives rise to immense political influence. Few laws

can escape the searching analysis of the judicial power for any length

of time, for there are few which are not prejudicial to some private

interest or other, and none which may not be brought before a court of

justice by the choice of parties, or by the necessity of the case. But

from the time that a judge has refused to apply any given law in a

case, that law loses a portion of its moral cogency. The persons to

whose interests it is prejudicial learn that means exist of evading its

authority, and similar suits are multiplied, until it becomes

powerless. One of two alternatives must then be resorted to: the people

must alter the constitution, or the legislature must repeal the law.

The political power which the Americans have intrusted to their courts

of justice is therefore immense, but the evils of this power are

considerably diminished by the obligation which has been imposed of

attacking the laws through the courts of justice alone. If the judge

had been empowered to contest the laws on the ground of theoretical

generalities, if he had been enabled to open an attack or to pass a

censure on the legislator, he would have played a prominent part in the

political sphere; and as the champion or the antagonist of a party, he

would have arrayed the hostile passions of the nation in the conflict.

But when a judge contests a law applied to some particular case in an

obscure proceeding, the importance of his attack is concealed from the

public gaze, his decision bears upon the interest of an individual, and

if the law is slighted it is only collaterally. Moreover, although it

is censured, it is not abolished; its moral force may be diminished,

but its cogency is by no means suspended, and its final destruction can

only be accomplished by the reiterated attacks of judicial

functionaries. It will readily be understood that by connecting the

censorship of the laws with the private interests of members of the

community, and by intimately uniting the prosecution of the law with

the prosecution of an individual, legislation is protected from wanton

assailants, and from the daily aggressions of party spirit. The errors

of the legislator are exposed whenever their evil consequences are most

felt, and it is always a positive and appreciable fact which serves as

the basis of a prosecution.

I am inclined to believe this practice of the American courts to be at

once the most favorable to liberty as well as to public order. If the

judge could only attack the legislator openly and directly, he would

sometimes be afraid to oppose any resistance to his will; and at other

moments party spirit might encourage him to brave it at every turn. The

laws would consequently be attacked when the power from which they

emanate is weak, and obeyed when it is strong. That is to say, when it

would be useful to respect them they would be contested, and when it

would be easy to convert them into an instrument of oppression they

would be respected. But the American judge is brought into the

political arena independently of his own will. He only judges the law

because he is obliged to judge a case. The political question which he

is called upon to resolve is connected with the interest of the

suitors, and he cannot refuse to decide it without abdicating the

duties of his post. He performs his functions as a citizen by

fulfilling the precise duties which belong to his profession as a

magistrate. It is true that upon this system the judicial censorship

which is exercised by the courts of justice over the legislation cannot

extend to all laws indiscriminately, inasmuch as some of them can never

give rise to that exact species of contestation which is termed a

lawsuit; and even when such a contestation is possible, it may happen

that no one cares to bring it before a court of justice. The Americans

have often felt this disadvantage, but they have left the remedy

incomplete, lest they should give it an efficacy which might in some

cases prove dangerous. Within these limits the power vested in the

American courts of justice of pronouncing a statute to be

unconstitutional forms one of the most powerful barriers which has ever

been devised against the tyranny of political assemblies.

Other Powers Granted To American Judges

The United States all the citizens have the right of indicting public

functionaries before the ordinary tribunals—How they use this

right—Art. 75 of the French Constitution of the An VIII—The Americans

and the English cannot understand the purport of this clause.

It is perfectly natural that in a free country like America all the

citizens should have the right of indicting public functionaries before

the ordinary tribunals, and that all the judges should have the power

of punishing public offences. The right granted to the courts of

justice of judging the agents of the executive government, when they

have violated the laws, is so natural a one that it cannot be looked

upon as an extraordinary privilege. Nor do the springs of government

appear to me to be weakened in the United States by the custom which

renders all public officers responsible to the judges of the land. The

Americans seem, on the contrary, to have increased by this means that

respect which is due to the authorities, and at the same time to have

rendered those who are in power more scrupulous of offending public

opinion. I was struck by the small number of political trials which

occur in the United States, but I had no difficulty in accounting for

this circumstance. A lawsuit, of whatever nature it may be, is always a

difficult and expensive undertaking. It is easy to attack a public man

in a journal, but the motives which can warrant an action at law must

be serious. A solid ground of complaint must therefore exist to induce

an individual to prosecute a public officer, and public officers are

careful not to furnish these grounds of complaint when they are afraid

of being prosecuted.

This does not depend upon the republican form of American institutions,

for the same facts present themselves in England. These two nations do

not regard the impeachment of the principal officers of State as a

sufficient guarantee of their independence. But they hold that the

right of minor prosecutions, which are within the reach of the whole

community, is a better pledge of freedom than those great judicial

actions which are rarely employed until it is too late.

In the Middle Ages, when it was very difficult to overtake offenders,

the judges inflicted the most dreadful tortures on the few who were

arrested, which by no means diminished the number of crimes. It has

since been discovered that when justice is more certain and more mild,

it is at the same time more efficacious. The English and the Americans

hold that tyranny and oppression are to be treated like any other

crime, by lessening the penalty and facilitating conviction.

In the year VIII of the French Republic a constitution was drawn up in

which the following clause was introduced: “Art. 75. All the agents of

the government below the rank of ministers can only be prosecuted for

offences relating to their several functions by virtue of a decree of

the Conseil d’Etat; in which the case the prosecution takes place

before the ordinary tribunals.” This clause survived the “Constitution

de l’An VIII,” and it is still maintained in spite of the just

complaints of the nation. I have always found the utmost difficulty in

explaining its meaning to Englishmen or Americans. They were at once

led to conclude that the Conseil d’Etat in France was a great tribunal,

established in the centre of the kingdom, which exercised a preliminary

and somewhat tyrannical jurisdiction in all political causes. But when

I told them that the Conseil d’Etat was not a judicial body, in the

common sense of the term, but an administrative council composed of men

dependent on the Crown, so that the king, after having ordered one of

his servants, called a Prefect, to commit an injustice, has the power

of commanding another of his servants, called a Councillor of State, to

prevent the former from being punished; when I demonstrated to them

that the citizen who has been injured by the order of the sovereign is

obliged to solicit from the sovereign permission to obtain redress,

they refused to credit so flagrant an abuse, and were tempted to accuse

me of falsehood or of ignorance. It frequently happened before the

Revolution that a Parliament issued a warrant against a public officer

who had committed an offence, and sometimes the proceedings were

stopped by the authority of the Crown, which enforced compliance with

its absolute and despotic will. It is painful to perceive how much

lower we are sunk than our forefathers, since we allow things to pass

under the color of justice and the sanction of the law which violence

alone could impose upon them.

Chapter VII: Political Jurisdiction In The United States

Chapter Summary

Definition of political jurisdiction—What is understood by political

jurisdiction in France, in England, and in the United States—In America

the political judge can only pass sentence on public officers—He more

frequently passes a sentence of removal from office than a

penalty—Political jurisdiction as it exists in the United States is,

notwithstanding its mildness, and perhaps in consequence of that

mildness, a most powerful instrument in the hands of the majority.

Political Jurisdiction In The United States

I understand, by political jurisdiction, that temporary right of

pronouncing a legal decision with which a political body may be

invested.

In absolute governments no utility can accrue from the introduction of

extraordinary forms of procedure; the prince in whose name an offender

is prosecuted is as much the sovereign of the courts of justice as of

everything else, and the idea which is entertained of his power is of

itself a sufficient security. The only thing he has to fear is, that

the external formalities of justice should be neglected, and that his

authority should be dishonored from a wish to render it more absolute.

But in most free countries, in which the majority can never exercise

the same influence upon the tribunals as an absolute monarch, the

judicial power has occasionally been vested for a time in the

representatives of the nation. It has been thought better to introduce

a temporary confusion between the functions of the different

authorities than to violate the necessary principle of the unity of

government.

England, France, and the United States have established this political

jurisdiction by law; and it is curious to examine the different

adaptations which these three great nations have made of the principle.

In England and in France the House of Lords and the Chambre des Paris

\*a constitute the highest criminal court of their respective nations,

and although they do not habitually try all political offences, they

are competent to try them all. Another political body enjoys the right

of impeachment before the House of Lords: the only difference which

exists between the two countries in this respect is, that in England

the Commons may impeach whomsoever they please before the Lords, whilst

in France the Deputies can only employ this mode of prosecution against

the ministers of the Crown.

a

[ [As it existed under the constitutional monarchy down to 1848.]]

In both countries the Upper House may make use of all the existing

penal laws of the nation to punish the delinquents.

In the United States, as well as in Europe, one branch of the

legislature is authorized to impeach and another to judge: the House of

Representatives arraigns the offender, and the Senate awards his

sentence. But the Senate can only try such persons as are brought

before it by the House of Representatives, and those persons must

belong to the class of public functionaries. Thus the jurisdiction of

the Senate is less extensive than that of the Peers of France, whilst

the right of impeachment by the Representatives is more general than

that of the Deputies. But the great difference which exists between

Europe and America is, that in Europe political tribunals are empowered

to inflict all the dispositions of the penal code, while in America,

when they have deprived the offender of his official rank, and have

declared him incapable of filling any political office for the future,

their jurisdiction terminates and that of the ordinary tribunals

begins.

Suppose, for instance, that the President of the United States has

committed the crime of high treason; the House of Representatives

impeaches him, and the Senate degrades him; he must then be tried by a

jury, which alone can deprive him of his liberty or his life. This

accurately illustrates the subject we are treating. The political

jurisdiction which is established by the laws of Europe is intended to

try great offenders, whatever may be their birth, their rank, or their

powers in the State; and to this end all the privileges of the courts

of justice are temporarily extended to a great political assembly. The

legislator is then transformed into the magistrate; he is called upon

to admit, to distinguish, and to punish the offence; and as he

exercises all the authority of a judge, the law restricts him to the

observance of all the duties of that high office, and of all the

formalities of justice. When a public functionary is impeached before

an English or a French political tribunal, and is found guilty, the

sentence deprives him ipso facto of his functions, and it may pronounce

him to be incapable of resuming them or any others for the future. But

in this case the political interdict is a consequence of the sentence,

and not the sentence itself. In Europe the sentence of a political

tribunal is to be regarded as a judicial verdict rather than as an

administrative measure. In the United States the contrary takes place;

and although the decision of the Senate is judicial in its form, since

the Senators are obliged to comply with the practices and formalities

of a court of justice; although it is judicial in respect to the

motives on which it is founded, since the Senate is in general obliged

to take an offence at common law as the basis of its sentence;

nevertheless the object of the proceeding is purely administrative. If

it had been the intention of the American legislator to invest a

political body with great judicial authority, its action would not have

been limited to the circle of public functionaries, since the most

dangerous enemies of the State may be in the possession of no functions

at all; and this is especially true in republics, where party influence

is the first of authorities, and where the strength of many a reader is

increased by his exercising no legal power.

If it had been the intention of the American legislator to give society

the means of repressing State offences by exemplary punishment,

according to the practice of ordinary justice, the resources of the

penal code would all have been placed at the disposal of the political

tribunals. But the weapon with which they are intrusted is an imperfect

one, and it can never reach the most dangerous offenders, since men who

aim at the entire subversion of the laws are not likely to murmur at a

political interdict.

The main object of the political jurisdiction which obtains in the

United States is, therefore, to deprive the ill-disposed citizen of an

authority which he has used amiss, and to prevent him from ever

acquiring it again. This is evidently an administrative measure

sanctioned by the formalities of a judicial decision. In this matter

the Americans have created a mixed system; they have surrounded the act

which removes a public functionary with the securities of a political

trial; and they have deprived all political condemnations of their

severest penalties. Every link of the system may easily be traced from

this point; we at once perceive why the American constitutions subject

all the civil functionaries to the jurisdiction of the Senate, whilst

the military, whose crimes are nevertheless more formidable, are

exempted from that tribunal. In the civil service none of the American

functionaries can be said to be removable; the places which some of

them occupy are inalienable, and the others are chosen for a term which

cannot be shortened. It is therefore necessary to try them all in order

to deprive them of their authority. But military officers are dependent

on the chief magistrate of the State, who is himself a civil

functionary, and the decision which condemns him is a blow upon them

all.

If we now compare the American and the European systems, we shall meet

with differences no less striking in the different effects which each

of them produces or may produce. In France and in England the

jurisdiction of political bodies is looked upon as an extraordinary

resource, which is only to be employed in order to rescue society from

unwonted dangers. It is not to be denied that these tribunals, as they

are constituted in Europe, are apt to violate the conservative

principle of the balance of power in the State, and to threaten

incessantly the lives and liberties of the subject. The same political

jurisdiction in the United States is only indirectly hostile to the

balance of power; it cannot menace the lives of the citizens, and it

does not hover, as in Europe, over the heads of the community, since

those only who have submitted to its authority on accepting office are

exposed to the severity of its investigations. It is at the same time

less formidable and less efficacious; indeed, it has not been

considered by the legislators of the United States as a remedy for the

more violent evils of society, but as an ordinary means of conducting

the government. In this respect it probably exercises more real

influence on the social body in America than in Europe. We must not be

misled by the apparent mildness of the American legislation in all that

relates to political jurisdiction. It is to be observed, in the first

place, that in the United States the tribunal which passes sentence is

composed of the same elements, and subject to the same influences, as

the body which impeaches the offender, and that this uniformity gives

an almost irresistible impulse to the vindictive passions of parties.

If political judges in the United States cannot inflict such heavy

penalties as those of Europe, there is the less chance of their

acquitting a prisoner; and the conviction, if it is less formidable, is

more certain. The principal object of the political tribunals of Europe

is to punish the offender; the purpose of those in America is to

deprive him of his authority. A political condemnation in the United

States may, therefore, be looked upon as a preventive measure; and

there is no reason for restricting the judges to the exact definitions

of criminal law. Nothing can be more alarming than the excessive

latitude with which political offences are described in the laws of

America. Article II., Section 4, of the Constitution of the United

States runs thus:—“The President, Vice-President, and all civil

officers of the United States shall be removed from office on

impeachment for, and conviction of, treason, bribery, or other high

crimes and misdemeanors.” Many of the Constitutions of the States are

even less explicit. “Public officers,” says the Constitution of

Massachusetts, \*b “shall be impeached for misconduct or

maladministration;” the Constitution of Virginia declares that all the

civil officers who shall have offended against the State, by

maladministration, corruption, or other high crimes, may be impeached

by the House of Delegates; in some constitutions no offences are

specified, in order to subject the public functionaries to an unlimited

responsibility. \*c But I will venture to affirm that it is precisely

their mildness which renders the American laws most formidable in this

respect. We have shown that in Europe the removal of a functionary and

his political interdiction are the consequences of the penalty he is to

undergo, and that in America they constitute the penalty itself. The

consequence is that in Europe political tribunals are invested with

rights which they are afraid to use, and that the fear of punishing too

much hinders them from punishing at all. But in America no one

hesitates to inflict a penalty from which humanity does not recoil. To

condemn a political opponent to death, in order to deprive him of his

power, is to commit what all the world would execrate as a horrible

assassination; but to declare that opponent unworthy to exercise that

authority, to deprive him of it, and to leave him uninjured in life and

limb, may be judged to be the fair issue of the struggle. But this

sentence, which it is so easy to pronounce, is not the less fatally

severe to the majority of those upon whom it is inflicted. Great

criminals may undoubtedly brave its intangible rigor, but ordinary

offenders will dread it as a condemnation which destroys their position

in the world, casts a blight upon their honor, and condemns them to a

shameful inactivity worse than death. The influence exercised in the

United States upon the progress of society by the jurisdiction of

political bodies may not appear to be formidable, but it is only the

more immense. It does not directly coerce the subject, but it renders

the majority more absolute over those in power; it does not confer an

unbounded authority on the legislator which can be exerted at some

momentous crisis, but it establishes a temperate and regular influence,

which is at all times available. If the power is decreased, it can, on

the other hand, be more conveniently employed and more easily abused.

By preventing political tribunals from inflicting judicial punishments

the Americans seem to have eluded the worst consequences of legislative

tyranny, rather than tyranny itself; and I am not sure that political

jurisdiction, as it is constituted in the United States, is not the

most formidable weapon which has ever been placed in the rude grasp of

a popular majority. When the American republics begin to degenerate it

will be easy to verify the truth of this observation, by remarking

whether the number of political impeachments augments.\*d

b

[ Chap. I. sect. ii. Section 8.]

c

[ See the constitutions of Illinois, Maine, Connecticut, and Georgia.]

d

[ See Appendix, N.

[The impeachment of President Andrew Johnson in 1868—which was resorted

to by his political opponents solely as a means of turning him out of

office, for it could not be contended that he had been guilty of high

crimes and misdemeanors, and he was in fact honorably acquitted and

reinstated in office—is a striking confirmation of the truth of this

remark.—Translator’s Note, 1874.]]

Chapter VIII: The Federal Constitution—Part I

I have hitherto considered each State as a separate whole, and I have

explained the different springs which the people sets in motion, and

the different means of action which it employs. But all the States

which I have considered as independent are forced to submit, in certain

cases, to the supreme authority of the Union. The time is now come for

me to examine separately the supremacy with which the Union has been

invested, and to cast a rapid glance over the Federal Constitution.

Chapter Summary

Origin of the first Union—Its weakness—Congress appeals to the

constituent authority—Interval of two years between this appeal and the

promulgation of the new Constitution.

History Of The Federal Constitution

The thirteen colonies which simultaneously threw off the yoke of

England towards the end of the last century professed, as I have

already observed, the same religion, the same language, the same

customs, and almost the same laws; they were struggling against a

common enemy; and these reasons were sufficiently strong to unite them

one to another, and to consolidate them into one nation. But as each of

them had enjoyed a separate existence and a government within its own

control, the peculiar interests and customs which resulted from this

system were opposed to a compact and intimate union which would have

absorbed the individual importance of each in the general importance of

all. Hence arose two opposite tendencies, the one prompting the

Anglo-Americans to unite, the other to divide their strength. As long

as the war with the mother-country lasted the principle of union was

kept alive by necessity; and although the laws which constituted it

were defective, the common tie subsisted in spite of their

imperfections. \*a But no sooner was peace concluded than the faults of

the legislation became manifest, and the State seemed to be suddenly

dissolved. Each colony became an independent republic, and assumed an

absolute sovereignty. The federal government, condemned to impotence by

its constitution, and no longer sustained by the presence of a common

danger, witnessed the outrages offered to its flag by the great nations

of Europe, whilst it was scarcely able to maintain its ground against

the Indian tribes, and to pay the interest of the debt which had been

contracted during the war of independence. It was already on the verge

of destruction, when it officially proclaimed its inability to conduct

the government, and appealed to the constituent authority of the

nation. \*b If America ever approached (for however brief a time) that

lofty pinnacle of glory to which the fancy of its inhabitants is wont

to point, it was at the solemn moment at which the power of the nation

abdicated, as it were, the empire of the land. All ages have furnished

the spectacle of a people struggling with energy to win its

independence; and the efforts of the Americans in throwing off the

English yoke have been considerably exaggerated. Separated from their

enemies by three thousand miles of ocean, and backed by a powerful

ally, the success of the United States may be more justly attributed to

their geographical position than to the valor of their armies or the

patriotism of their citizens. It would be ridiculous to compare the

American was to the wars of the French Revolution, or the efforts of

the Americans to those of the French when they were attacked by the

whole of Europe, without credit and without allies, yet capable of

opposing a twentieth part of their population to the world, and of

bearing the torch of revolution beyond their frontiers whilst they

stifled its devouring flame within the bosom of their country. But it

is a novelty in the history of society to see a great people turn a

calm and scrutinizing eye upon itself, when apprised by the legislature

that the wheels of government are stopped; to see it carefully examine

the extent of the evil, and patiently wait for two whole years until a

remedy was discovered, which it voluntarily adopted without having

wrung a tear or a drop of blood from mankind. At the time when the

inadequacy of the first constitution was discovered America possessed

the double advantage of that calm which had succeeded the effervescence

of the revolution, and of those great men who had led the revolution to

a successful issue. The assembly which accepted the task of composing

the second constitution was small; \*c but George Washington was its

President, and it contained the choicest talents and the noblest hearts

which had ever appeared in the New World. This national commission,

after long and mature deliberation, offered to the acceptance of the

people the body of general laws which still rules the Union. All the

States adopted it successively. \*d The new Federal Government commenced

its functions in 1789, after an interregnum of two years. The

Revolution of America terminated when that of France began.

a

[ See the articles of the first confederation formed in 1778. This

constitution was not adopted by all the States until 1781. See also the

analysis given of this constitution in “The Federalist” from No. 15 to

No. 22, inclusive, and Story’s “Commentaries on the Constitution of the

United States,” pp. 85-115.]

b

[ Congress made this declaration on February 21, 1787.]

c

[ It consisted of fifty-five members; Washington, Madison, Hamilton,

and the two Morrises were amongst the number.]

d

[ It was not adopted by the legislative bodies, but representatives

were elected by the people for this sole purpose; and the new

constitution was discussed at length in each of these assemblies.]

Summary Of The Federal Constitution

Division of authority between the Federal Government and the States—The

Government of the States is the rule, the Federal Government the

exception.

The first question which awaited the Americans was intricate, and by no

means easy of solution: the object was so to divide the authority of

the different States which composed the Union that each of them should

continue to govern itself in all that concerned its internal

prosperity, whilst the entire nation, represented by the Union, should

continue to form a compact body, and to provide for the general

exigencies of the people. It was as impossible to determine beforehand,

with any degree of accuracy, the share of authority which each of two

governments was to enjoy, as to foresee all the incidents in the

existence of a nation.

The obligations and the claims of the Federal Government were simple

and easily definable, because the Union had been formed with the

express purpose of meeting the general exigencies of the people; but

the claims and obligations of the States were, on the other hand,

complicated and various, because those Governments had penetrated into

all the details of social life. The attributes of the Federal

Government were therefore carefully enumerated and all that was not

included amongst them was declared to constitute a part of the

privileges of the several Governments of the States. Thus the

government of the States remained the rule, and that of the

Confederation became the exception. \*e

e

[ See the Amendment to the Federal Constitution; “Federalist,” No. 32;

Story, p. 711; Kent’s “Commentaries,” vol. i. p. 364.

It is to be observed that whenever the exclusive right of regulating

certain matters is not reserved to Congress by the Constitution, the

States may take up the affair until it is brought before the National

Assembly. For instance, Congress has the right of making a general law

on bankruptcy, which, however, it neglects to do. Each State is then at

liberty to make a law for itself. This point has been established by

discussion in the law-courts, and may be said to belong more properly

to jurisprudence.]

But as it was foreseen that, in practice, questions might arise as to

the exact limits of this exceptional authority, and that it would be

dangerous to submit these questions to the decision of the ordinary

courts of justice, established in the States by the States themselves,

a high Federal court was created, \*f which was destined, amongst other

functions, to maintain the balance of power which had been established

by the Constitution between the two rival Governments. \*g

f

[ The action of this court is indirect, as we shall hereafter show.]

g

[ It is thus that “The Federalist,” No. 45, explains the division of

supremacy between the Union and the States: “The powers delegated by

the Constitution to the Federal Government are few and defined. Those

which are to remain in the State Governments are numerous and

indefinite. The former will be exercised principally on external

objects, as war, peace, negotiation, and foreign commerce. The powers

reserved to the several States will extend to all the objects which, in

the ordinary course of affairs, concern the internal order and

prosperity of the State.” I shall often have occasion to quote “The

Federalist” in this work. When the bill which has since become the

Constitution of the United States was submitted to the approval of the

people, and the discussions were still pending, three men, who had

already acquired a portion of that celebrity which they have since

enjoyed—John Jay, Hamilton, and Madison—formed an association with the

intention of explaining to the nation the advantages of the measure

which was proposed. With this view they published a series of articles

in the shape of a journal, which now form a complete treatise. They

entitled their journal “The Federalist,” a name which has been retained

in the work. “The Federalist” is an excellent book, which ought to be

familiar to the statesmen of all countries, although it especially

concerns America.]

Prerogative Of The Federal Government

Power of declaring war, making peace, and levying general taxes vested

in the Federal Government—What part of the internal policy of the

country it may direct—The Government of the Union in some respects more

central than the King’s Government in the old French monarchy.

The external relations of a people may be compared to those of private

individuals, and they cannot be advantageously maintained without the

agency of a single head of a Government. The exclusive right of making

peace and war, of concluding treaties of commerce, of raising armies,

and equipping fleets, was granted to the Union. \*h The necessity of a

national Government was less imperiously felt in the conduct of the

internal policy of society; but there are certain general interests

which can only be attended to with advantage by a general authority.

The Union was invested with the power of controlling the monetary

system, of directing the post office, and of opening the great roads

which were to establish a communication between the different parts of

the country. \*i The independence of the Government of each State was

formally recognized in its sphere; nevertheless, the Federal Government

was authorized to interfere in the internal affairs of the States \*j in

a few predetermined cases, in which an indiscreet abuse of their

independence might compromise the security of the Union at large. Thus,

whilst the power of modifying and changing their legislation at

pleasure was preserved in all the republics, they were forbidden to

enact ex post facto laws, or to create a class of nobles in their

community. \*k Lastly, as it was necessary that the Federal Government

should be able to fulfil its engagements, it was endowed with an

unlimited power of levying taxes. \*l

h

[ See Constitution, sect. 8; “Federalist,” Nos. 41 and 42; Kent’s

“Commentaries,” vol. i. p. 207; Story, pp. 358-382; Ibid. pp. 409-426.]

i

[ Several other privileges of the same kind exist, such as that which

empowers the Union to legislate on bankruptcy, to grant patents, and

other matters in which its intervention is clearly necessary.]

j

[ Even in these cases its interference is indirect. The Union

interferes by means of the tribunals, as will be hereafter shown.]

k

[ Federal Constitution, sect. 10, art. I.]

l

[ Constitution, sects. 8, 9, and 10; “Federalist,” Nos. 30-36,

inclusive, and 41-44; Kent’s “Commentaries,” vol. i. pp. 207 and 381;

Story, pp. 329 and 514.]

In examining the balance of power as established by the Federal

Constitution; in remarking on the one hand the portion of sovereignty

which has been reserved to the several States, and on the other the

share of power which the Union has assumed, it is evident that the

Federal legislators entertained the clearest and most accurate notions

on the nature of the centralization of government. The United States

form not only a republic, but a confederation; nevertheless the

authority of the nation is more central than it was in several of the

monarchies of Europe when the American Constitution was formed. Take,

for instance, the two following examples.

Thirteen supreme courts of justice existed in France, which, generally

speaking, had the right of interpreting the law without appeal; and

those provinces which were styled pays d’etats were authorized to

refuse their assent to an impost which had been levied by the sovereign

who represented the nation. In the Union there is but one tribunal to

interpret, as there is one legislature to make the laws; and an impost

voted by the representatives of the nation is binding upon all the

citizens. In these two essential points, therefore, the Union exercises

more central authority than the French monarchy possessed, although the

Union is only an assemblage of confederate republics.

In Spain certain provinces had the right of establishing a system of

custom-house duties peculiar to themselves, although that privilege

belongs, by its very nature, to the national sovereignty. In America

the Congress alone has the right of regulating the commercial relations

of the States. The government of the Confederation is therefore more

centralized in this respect than the kingdom of Spain. It is true that

the power of the Crown in France or in Spain was always able to obtain

by force whatever the Constitution of the country denied, and that the

ultimate result was consequently the same; but I am here discussing the

theory of the Constitution.

Federal Powers

After having settled the limits within which the Federal Government was

to act, the next point was to determine the powers which it was to

exert.

Legislative Powers \*m

m

[ [In this chapter the author points out the essence of the conflict

between the seceding States and the Union which caused the Civil War of

1861.]]

Division of the Legislative Body into two branches—Difference in the

manner of forming the two Houses—The principle of the independence of

the States predominates in the formation of the Senate—The principle of

the sovereignty of the nation in the composition of the House of

Representatives—Singular effects of the fact that a Constitution can

only be logical in the early stages of a nation.

The plan which had been laid down beforehand for the Constitutions of

the several States was followed, in many points, in the organization of

the powers of the Union. The Federal legislature of the Union was

composed of a Senate and a House of Representatives. A spirit of

conciliation prescribed the observance of distinct principles in the

formation of these two assemblies. I have already shown that two

contrary interests were opposed to each other in the establishment of

the Federal Constitution. These two interests had given rise to two

opinions. It was the wish of one party to convert the Union into a

league of independent States, or a sort of congress, at which the

representatives of the several peoples would meet to discuss certain

points of their common interests. The other party desired to unite the

inhabitants of the American colonies into one sole nation, and to

establish a Government which should act as the sole representative of

the nation, as far as the limited sphere of its authority would permit.

The practical consequences of these two theories were exceedingly

different.

The question was, whether a league was to be established instead of a

national Government; whether the majority of the State, instead of the

majority of the inhabitants of the Union, was to give the law: for

every State, the small as well as the great, would then remain in the

full enjoyment of its independence, and enter the Union upon a footing

of perfect equality. If, however, the inhabitants of the United States

were to be considered as belonging to one and the same nation, it would

be just that the majority of the citizens of the Union should prescribe

the law. Of course the lesser States could not subscribe to the

application of this doctrine without, in fact, abdicating their

existence in relation to the sovereignty of the Confederation; since

they would have passed from the condition of a co-equal and

co-legislative authority to that of an insignificant fraction of a

great people. But if the former system would have invested them with an

excessive authority, the latter would have annulled their influence

altogether. Under these circumstances the result was, that the strict

rules of logic were evaded, as is usually the case when interests are

opposed to arguments. A middle course was hit upon by the legislators,

which brought together by force two systems theoretically

irreconcilable.

The principle of the independence of the States prevailed in the

formation of the Senate, and that of the sovereignty of the nation

predominated in the composition of the House of Representatives. It was

decided that each State should send two senators to Congress, and a

number of representatives proportioned to its population. \*n It results

from this arrangement that the State of New York has at the present day

forty representatives and only two senators; the State of Delaware has

two senators and only one representative; the State of Delaware is

therefore equal to the State of New York in the Senate, whilst the

latter has forty times the influence of the former in the House of

Representatives. Thus, if the minority of the nation preponderates in

the Senate,. it may paralyze the decisions of the majority represented

in the other House, which is contrary to the spirit of constitutional

government.

n

[ Every ten years Congress fixes anew the number of representatives

which each State is to furnish. The total number was 69 in 1789, and

240 in 1833. (See “American Almanac,” 1834, p. 194.) The Constitution

decided that there should not be more than one representative for every

30,000 persons; but no minimum was fixed on. The Congress has not

thought fit to augment the number of representatives in proportion to

the increase of population. The first Act which was passed on the

subject (April 14, 1792: see “Laws of the United States,” by Story,

vol. i. p. 235) decided that there should be one representative for

every 33,000 inhabitants. The last Act, which was passed in 1832, fixes

the proportion at one for 48,000. The population represented is

composed of all the free men and of three-fifths of the slaves.

[The last Act of apportionment, passed February 2, 1872, fixes the

representation at one to 134,684 inhabitants. There are now (1875) 283

members of the lower House of Congress, and 9 for the States at large,

making in all 292 members. The old States have of course lost the

representatives which the new States have gained.—Translator’s Note.]]

These facts show how rare and how difficult it is rationally and

logically to combine all the several parts of legislation. In the

course of time different interests arise, and different principles are

sanctioned by the same people; and when a general constitution is to be

established, these interests and principles are so many natural

obstacles to the rigorous application of any political system, with all

its consequences. The early stages of national existence are the only

periods at which it is possible to maintain the complete logic of

legislation; and when we perceive a nation in the enjoyment of this

advantage, before we hasten to conclude that it is wise, we should do

well to remember that it is young. When the Federal Constitution was

formed, the interests of independence for the separate States, and the

interest of union for the whole people, were the only two conflicting

interests which existed amongst the Anglo-Americans, and a compromise

was necessarily made between them.

It is, however, just to acknowledge that this part of the Constitution

has not hitherto produced those evils which might have been feared. All

the States are young and contiguous; their customs, their ideas, and

their exigencies are not dissimilar; and the differences which result

from their size or inferiority do not suffice to set their interests at

variance. The small States have consequently never been induced to

league themselves together in the Senate to oppose the designs of the

larger ones; and indeed there is so irresistible an authority in the

legitimate expression of the will of a people that the Senate could

offer but a feeble opposition to the vote of the majority of the House

of Representatives.

It must not be forgotten, on the other hand, that it was not in the

power of the American legislators to reduce to a single nation the

people for whom they were making laws. The object of the Federal

Constitution was not to destroy the independence of the States, but to

restrain it. By acknowledging the real authority of these secondary

communities (and it was impossible to deprive them of it), they

disavowed beforehand the habitual use of constraint in enforcing g the

decisions of the majority. Upon this principle the introduction of the

influence of the States into the mechanism of the Federal Government

was by no means to be wondered at, since it only attested the existence

of an acknowledged power, which was to be humored and not forcibly

checked.

A Further Difference Between The Senate And The House Of

Representatives

The Senate named by the provincial legislators, the Representatives by

the people—Double election of the former; single election of the

latter—Term of the different offices—Peculiar functions of each House.

The Senate not only differs from the other House in the principle which

it represents, but also in the mode of its election, in the term for

which it is chosen, and in the nature of its functions. The House of

Representatives is named by the people, the Senate by the legislators

of each State; the former is directly elected, the latter is elected by

an elected body; the term for which the representatives are chosen is

only two years, that of the senators is six. The functions of the House

of Representatives are purely legislative, and the only share it takes

in the judicial power is in the impeachment of public officers. The

Senate co-operates in the work of legislation, and tries those

political offences which the House of Representatives submits to its

decision. It also acts as the great executive council of the nation;

the treaties which are concluded by the President must be ratified by

the Senate, and the appointments he may make must be definitely

approved by the same body. \*o

o

[ See “The Federalist,” Nos. 52-56, inclusive; Story, pp. 199-314;

Constitution of the United States, sects. 2 and 3.] The Executive Power

\*p

p

[ See “The Federalist,” Nos. 67-77; Constitution of the United States,

art. 2; Story, p. 315, pp. 615-780; Kent’s “Commentaries,” p. 255.]

Dependence of the President—He is elective and responsible—He is free

to act in his own sphere under the inspection, but not under the

direction, of the Senate—His salary fixed at his entry into

office—Suspensive veto.

The American legislators undertook a difficult task in attempting to

create an executive power dependent on the majority of the people, and

nevertheless sufficiently strong to act without restraint in its own

sphere. It was indispensable to the maintenance of the republican form

of government that the representative of the executive power should be

subject to the will of the nation.

The President is an elective magistrate. His honor, his property, his

liberty, and his life are the securities which the people has for the

temperate use of his power. But in the exercise of his authority he

cannot be said to be perfectly independent; the Senate takes cognizance

of his relations with foreign powers, and of the distribution of public

appointments, so that he can neither be bribed nor can he employ the

means of corruption. The legislators of the Union acknowledged that the

executive power would be incompetent to fulfil its task with dignity

and utility, unless it enjoyed a greater degree of stability and of

strength than had been granted to it in the separate States.

The President is chosen for four years, and he may be reelected; so

that the chances of a prolonged administration may inspire him with

hopeful undertakings for the public good, and with the means of

carrying them into execution. The President was made the sole

representative of the executive power of the Union, and care was taken

not to render his decisions subordinate to the vote of a council—a

dangerous measure, which tends at the same time to clog the action of

the Government and to diminish its responsibility. The Senate has the

right of annulling g certain acts of the President; but it cannot

compel him to take any steps, nor does it participate in the exercise

of the executive power.

The action of the legislature on the executive power may be direct; and

we have just shown that the Americans carefully obviated this

influence; but it may, on the other hand, be indirect. Public

assemblies which have the power of depriving an officer of state of his

salary encroach upon his independence; and as they are free to make the

laws, it is to be feared lest they should gradually appropriate to

themselves a portion of that authority which the Constitution had

vested in his hands. This dependence of the executive power is one of

the defects inherent in republican constitutions. The Americans have

not been able to counteract the tendency which legislative assemblies

have to get possession of the government, but they have rendered this

propensity less irresistible. The salary of the President is fixed, at

the time of his entering upon office, for the whole period of his

magistracy. The President is, moreover, provided with a suspensive

veto, which allows him to oppose the passing of such laws as might

destroy the portion of independence which the Constitution awards him.

The struggle between the President and the legislature must always be

an unequal one, since the latter is certain of bearing down all

resistance by persevering in its plans; but the suspensive veto forces

it at least to reconsider the matter, and, if the motion be persisted

in, it must then be backed by a majority of two-thirds of the whole

house. The veto is, in fact, a sort of appeal to the people. The

executive power, which, without this security, might have been secretly

oppressed, adopts this means of pleading its cause and stating its

motives. But if the legislature is certain of overpowering all

resistance by persevering in its plans, I reply, that in the

constitutions of all nations, of whatever kind they may be, a certain

point exists at which the legislator is obliged to have recourse to the

good sense and the virtue of his fellow-citizens. This point is more

prominent and more discoverable in republics, whilst it is more remote

and more carefully concealed in monarchies, but it always exists

somewhere. There is no country in the world in which everything can be

provided for by the laws, or in which political institutions can prove

a substitute for common sense and public morality.

Differences Between The Position Of The President Of The United States

And That Of A Constitutional King Of France

Executive power in the Northern States as limited and as partial as the

supremacy which it represents—Executive power in France as universal as

the supremacy it represents—The King a branch of the legislature—The

President the mere executor of the law—Other differences resulting from

the duration of the two powers—The President checked in the exercise of

the executive authority—The King independent in its

exercise—Notwithstanding these discrepancies France is more akin to a

republic than the Union to a monarchy—Comparison of the number of

public officers depending upon the executive power in the two

countries.

The executive power has so important an influence on the destinies of

nations that I am inclined to pause for an instant at this portion of

my subject, in order more clearly to explain the part it sustains in

America. In order to form an accurate idea of the position of the

President of the United States, it may not be irrelevant to compare it

to that of one of the constitutional kings of Europe. In this

comparison I shall pay but little attention to the external signs of

power, which are more apt to deceive the eye of the observer than to

guide his researches. When a monarchy is being gradually transformed

into a republic, the executive power retains the titles, the honors,

the etiquette, and even the funds of royalty long after its authority

has disappeared. The English, after having cut off the head of one king

and expelled another from his throne, were accustomed to accost the

successor of those princes upon their knees. On the other hand, when a

republic falls under the sway of a single individual, the demeanor of

the sovereign is simple and unpretending, as if his authority was not

yet paramount. When the emperors exercised an unlimited control over

the fortunes and the lives of their fellow-citizens, it was customary

to call them Caesar in conversation, and they were in the habit of

supping without formality at their friends’ houses. It is therefore

necessary to look below the surface.

The sovereignty of the United States is shared between the Union and

the States, whilst in France it is undivided and compact: hence arises

the first and the most notable difference which exists between the

President of the United States and the King of France. In the United

States the executive power is as limited and partial as the sovereignty

of the Union in whose name it acts; in France it is as universal as the

authority of the State. The Americans have a federal and the French a

national Government.

Chapter VIII: The Federal Constitution—Part II

This cause of inferiority results from the nature of things, but it is

not the only one; the second in importance is as follows: Sovereignty

may be defined to be the right of making laws: in France, the King

really exercises a portion of the sovereign power, since the laws have

no weight till he has given his assent to them; he is, moreover, the

executor of all they ordain. The President is also the executor of the

laws, but he does not really co-operate in their formation, since the

refusal of his assent does not annul them. He is therefore merely to be

considered as the agent of the sovereign power. But not only does the

King of France exercise a portion of the sovereign power, he also

contributes to the nomination of the legislature, which exercises the

other portion. He has the privilege of appointing the members of one

chamber, and of dissolving the other at his pleasure; whereas the

President of the United States has no share in the formation of the

legislative body, and cannot dissolve any part of it. The King has the

same right of bringing forward measures as the Chambers; a right which

the President does not possess. The King is represented in each

assembly by his ministers, who explain his intentions, support his

opinions, and maintain the principles of the Government. The President

and his ministers are alike excluded from Congress; so that his

influence and his opinions can only penetrate indirectly into that

great body. The King of France is therefore on an equal footing with

the legislature, which can no more act without him than he can without

it. The President exercises an authority inferior to, and depending

upon, that of the legislature.

Even in the exercise of the executive power, properly so called—the

point upon which his position seems to be most analogous to that of the

King of France—the President labors under several causes of

inferiority. The authority of the King, in France, has, in the first

place, the advantage of duration over that of the President, and

durability is one of the chief elements of strength; nothing is either

loved or feared but what is likely to endure. The President of the

United States is a magistrate elected for four years; the King, in

France, is an hereditary sovereign. In the exercise of the executive

power the President of the United States is constantly subject to a

jealous scrutiny. He may make, but he cannot conclude, a treaty; he may

designate, but he cannot appoint, a public officer. \*q The King of

France is absolute within the limits of his authority. The President of

the United States is responsible for his actions; but the person of the

King is declared inviolable by the French Charter. \*r

q

[ The Constitution had left it doubtful whether the President was

obliged to consult the Senate in the removal as well as in the

appointment of Federal officers. “The Federalist” (No. 77) seemed to

establish the affirmative; but in 1789 Congress formally decided that,

as the President was responsible for his actions, he ought not to be

forced to employ agents who had forfeited his esteem. See Kent’s

“Commentaries”, vol. i. p. 289.]

r

[ [This comparison applied to the Constitutional King of France and to

the powers he held under the Charter of 1830, till the overthrow of the

monarchy in 1848.—Translator’s Note.]]

Nevertheless, the supremacy of public opinion is no less above the head

of the one than of the other. This power is less definite, less

evident, and less sanctioned by the laws in France than in America, but

in fact it exists. In America, it acts by elections and decrees; in

France it proceeds by revolutions; but notwithstanding the different

constitutions of these two countries, public opinion is the predominant

authority in both of them. The fundamental principle of legislation—a

principle essentially republican—is the same in both countries,

although its consequences may be different, and its results more or

less extensive. Whence I am led to conclude that France with its King

is nearer akin to a republic than the Union with its President is to a

monarchy.

In what I have been saying I have only touched upon the main points of

distinction; and if I could have entered into details, the contrast

would have been rendered still more striking. I have remarked that the

authority of the President in the United States is only exercised

within the limits of a partial sovereignty, whilst that of the King in

France is undivided. I might have gone on to show that the power of the

King’s government in France exceeds its natural limits, however

extensive they may be, and penetrates in a thousand different ways into

the administration of private interests. Amongst the examples of this

influence may be quoted that which results from the great number of

public functionaries, who all derive their appointments from the

Government. This number now exceeds all previous limits; it amounts to

138,000 \*s nominations, each of which may be considered as an element

of power. The President of the United States has not the exclusive

right of making any public appointments, and their whole number

scarcely exceeds 12,000. \*t

s

[ The sums annually paid by the State to these officers amount to

200,000,000 fr. ($40,000,000).]

t

[ This number is extracted from the “National Calendar” for 1833. The

“National Calendar” is an American almanac which contains the names of

all the Federal officers. It results from this comparison that the King

of France has eleven times as many places at his disposal as the

President, although the population of France is not much more than

double that of the Union.

[I have not the means of ascertaining the number of appointments now at

the disposal of the President of the United States, but his patronage

and the abuse of it have largely increased since 1833.—Translator’s

Note, 1875.]]

Accidental Causes Which May Increase The Influence Of The Executive

Government

External security of the Union—Army of six thousand men—Few ships—The

President has no opportunity of exercising his great prerogatives—In

the prerogatives he exercises he is weak.

If the executive government is feebler in America than in France, the

cause is more attributable to the circumstances than to the laws of the

country.

It is chiefly in its foreign relations that the executive power of a

nation is called upon to exert its skill and its vigor. If the

existence of the Union were perpetually threatened, and if its chief

interests were in daily connection with those of other powerful

nations, the executive government would assume an increased importance

in proportion to the measures expected of it, and those which it would

carry into effect. The President of the United States is the

commander-in-chief of the army, but of an army composed of only six

thousand men; he commands the fleet, but the fleet reckons but few

sail; he conducts the foreign relations of the Union, but the United

States are a nation without neighbors. Separated from the rest of the

world by the ocean, and too weak as yet to aim at the dominion of the

seas, they have no enemies, and their interests rarely come into

contact with those of any other nation of the globe.

The practical part of a Government must not be judged by the theory of

its constitution. The President of the United States is in the

possession of almost royal prerogatives, which he has no opportunity of

exercising; and those privileges which he can at present use are very

circumscribed. The laws allow him to possess a degree of influence

which circumstances do not permit him to employ.

On the other hand, the great strength of the royal prerogative in

France arises from circumstances far more than from the laws. There the

executive government is constantly struggling against prodigious

obstacles, and exerting all its energies to repress them; so that it

increases by the extent of its achievements, and by the importance of

the events it controls, without modifying its constitution. If the laws

had made it as feeble and as circumscribed as it is in the Union, its

influence would very soon become still more preponderant.

Why The President Of The United States Does Not Require The Majority Of

The Two Houses In Order To Carry On The Government It is an established

axiom in Europe that a constitutional King cannot persevere in a system

of government which is opposed by the two other branches of the

legislature. But several Presidents of the United States have been

known to lose the majority in the legislative body without being

obliged to abandon the supreme power, and without inflicting a serious

evil upon society. I have heard this fact quoted as an instance of the

independence and the power of the executive government in America: a

moment’s reflection will convince us, on the contrary, that it is a

proof of its extreme weakness.

A King in Europe requires the support of the legislature to enable him

to perform the duties imposed upon him by the Constitution, because

those duties are enormous. A constitutional King in Europe is not

merely the executor of the law, but the execution of its provisions

devolves so completely upon him that he has the power of paralyzing its

influence if it opposes his designs. He requires the assistance of the

legislative assemblies to make the law, but those assemblies stand in

need of his aid to execute it: these two authorities cannot subsist

without each other, and the mechanism of government is stopped as soon

as they are at variance.

In America the President cannot prevent any law from being passed, nor

can he evade the obligation of enforcing it. His sincere and zealous

co-operation is no doubt useful, but it is not indispensable, in the

carrying on of public affairs. All his important acts are directly or

indirectly submitted to the legislature, and of his own free authority

he can do but little. It is therefore his weakness, and not his power,

which enables him to remain in opposition to Congress. In Europe,

harmony must reign between the Crown and the other branches of the

legislature, because a collision between them may prove serious; in

America, this harmony is not indispensable, because such a collision is

impossible.

Election Of The President

Dangers of the elective system increase in proportion to the extent of

the prerogative—This system possible in America because no powerful

executive authority is required—What circumstances are favorable to the

elective system—Why the election of the President does not cause a

deviation from the principles of the Government—Influence of the

election of the President on secondary functionaries.

The dangers of the system of election applied to the head of the

executive government of a great people have been sufficiently

exemplified by experience and by history, and the remarks I am about to

make refer to America alone. These dangers may be more or less

formidable in proportion to the place which the executive power

occupies, and to the importance it possesses in the State; and they may

vary according to the mode of election and the circumstances in which

the electors are placed. The most weighty argument against the election

of a chief magistrate is, that it offers so splendid a lure to private

ambition, and is so apt to inflame men in the pursuit of power, that

when legitimate means are wanting force may not unfrequently seize what

right denied.

It is clear that the greater the privileges of the executive authority

are, the greater is the temptation; the more the ambition of the

candidates is excited, the more warmly are their interests espoused by

a throng of partisans who hope to share the power when their patron has

won the prize. The dangers of the elective system increase, therefore,

in the exact ratio of the influence exercised by the executive power in

the affairs of State. The revolutions of Poland were not solely

attributable to the elective system in general, but to the fact that

the elected monarch was the sovereign of a powerful kingdom. Before we

can discuss the absolute advantages of the elective system we must make

preliminary inquiries as to whether the geographical position, the

laws, the habits, the manners, and the opinions of the people amongst

whom it is to be introduced will admit of the establishment of a weak

and dependent executive government; for to attempt to render the

representative of the State a powerful sovereign, and at the same time

elective, is, in my opinion, to entertain two incompatible designs. To

reduce hereditary royalty to the condition of an elective authority,

the only means that I am acquainted with are to circumscribe its sphere

of action beforehand, gradually to diminish its prerogatives, and to

accustom the people to live without its protection. Nothing, however,

is further from the designs of the republicans of Europe than this

course: as many of them owe their hatred of tyranny to the sufferings

which they have personally undergone, it is oppression, and not the

extent of the executive power, which excites their hostility, and they

attack the former without perceiving how nearly it is connected with

the latter.

Hitherto no citizen has shown any disposition to expose his honor and

his life in order to become the President of the United States; because

the power of that office is temporary, limited, and subordinate. The

prize of fortune must be great to encourage adventurers in so desperate

a game. No candidate has as yet been able to arouse the dangerous

enthusiasm or the passionate sympathies of the people in his favor, for

the very simple reason that when he is at the head of the Government he

has but little power, but little wealth, and but little glory to share

amongst his friends; and his influence in the State is too small for

the success or the ruin of a faction to depend upon the elevation of an

individual to power.

The great advantage of hereditary monarchies is, that as the private

interest of a family is always intimately connected with the interests

of the State, the executive government is never suspended for a single

instant; and if the affairs of a monarchy are not better conducted than

those of a republic, at least there is always some one to conduct them,

well or ill, according to his capacity. In elective States, on the

contrary, the wheels of government cease to act, as it were, of their

own accord at the approach of an election, and even for some time

previous to that event. The laws may indeed accelerate the operation of

the election, which may be conducted with such simplicity and rapidity

that the seat of power will never be left vacant; but, notwithstanding

these precautions, a break necessarily occurs in the minds of the

people.

At the approach of an election the head of the executive government is

wholly occupied by the coming struggle; his future plans are doubtful;

he can undertake nothing new, and the he will only prosecute with

indifference those designs which another will perhaps terminate. “I am

so near the time of my retirement from office,” said President

Jefferson on the 21st of January, 1809 (six weeks before the election),

“that I feel no passion, I take no part, I express no sentiment. It

appears to me just to leave to my successor the commencement of those

measures which he will have to prosecute, and for which he will be

responsible.”

On the other hand, the eyes of the nation are centred on a single

point; all are watching the gradual birth of so important an event. The

wider the influence of the executive power extends, the greater and the

more necessary is its constant action, the more fatal is the term of

suspense; and a nation which is accustomed to the government, or, still

more, one used to the administrative protection of a powerful executive

authority would be infallibly convulsed by an election of this kind. In

the United States the action of the Government may be slackened with

impunity, because it is always weak and circumscribed. \*u

u

[ [This, however, may be a great danger. The period during which Mr.

Buchanan retained office, after the election of Mr. Lincoln, from

November, 1860, to March, 1861, was that which enabled the seceding

States of the South to complete their preparations for the Civil War,

and the Executive Government was paralyzed. No greater evil could

befall a nation.—Translator’s Note.]]

One of the principal vices of the elective system is that it always

introduces a certain degree of instability into the internal and

external policy of the State. But this disadvantage is less sensibly

felt if the share of power vested in the elected magistrate is small.

In Rome the principles of the Government underwent no variation,

although the Consuls were changed every year, because the Senate, which

was an hereditary assembly, possessed the directing authority. If the

elective system were adopted in Europe, the condition of most of the

monarchical States would be changed at every new election. In America

the President exercises a certain influence on State affairs, but he

does not conduct them; the preponderating power is vested in the

representatives of the whole nation. The political maxims of the

country depend therefore on the mass of the people, not on the

President alone; and consequently in America the elective system has no

very prejudicial influence on the fixed principles of the Government.

But the want of fixed principles is an evil so inherent in the elective

system that it is still extremely perceptible in the narrow sphere to

which the authority of the President extends.

The Americans have admitted that the head of the executive power, who

has to bear the whole responsibility of the duties he is called upon to

fulfil, ought to be empowered to choose his own agents, and to remove

them at pleasure: the legislative bodies watch the conduct of the

President more than they direct it. The consequence of this arrangement

is, that at every new election the fate of all the Federal public

officers is in suspense. Mr. Quincy Adams, on his entry into office,

discharged the majority of the individuals who had been appointed by

his predecessor: and I am not aware that General Jackson allowed a

single removable functionary employed in the Federal service to retain

his place beyond the first year which succeeded his election. It is

sometimes made a subject of complaint that in the constitutional

monarchies of Europe the fate of the humbler servants of an

Administration depends upon that of the Ministers. But in elective

Governments this evil is far greater. In a constitutional monarchy

successive ministries are rapidly formed; but as the principal

representative of the executive power does not change, the spirit of

innovation is kept within bounds; the changes which take place are in

the details rather than in the principles of the administrative system;

but to substitute one system for another, as is done in America every

four years, by law, is to cause a sort of revolution. As to the

misfortunes which may fall upon individuals in consequence of this

state of things, it must be allowed that the uncertain situation of the

public officers is less fraught with evil consequences in America than

elsewhere. It is so easy to acquire an independent position in the

United States that the public officer who loses his place may be

deprived of the comforts of life, but not of the means of subsistence.

I remarked at the beginning of this chapter that the dangers of the

elective system applied to the head of the State are augmented or

decreased by the peculiar circumstances of the people which adopts it.

However the functions of the executive power may be restricted, it must

always exercise a great influence upon the foreign policy of the

country, for a negotiation cannot be opened or successfully carried on

otherwise than by a single agent. The more precarious and the more

perilous the position of a people becomes, the more absolute is the

want of a fixed and consistent external policy, and the more dangerous

does the elective system of the Chief Magistrate become. The policy of

the Americans in relation to the whole world is exceedingly simple; for

it may almost be said that no country stands in need of them, nor do

they require the co-operation of any other people. Their independence

is never threatened. In their present condition, therefore, the

functions of the executive power are no less limited by circumstances

than by the laws; and the President may frequently change his line of

policy without involving the State in difficulty or destruction.

Whatever the prerogatives of the executive power may be, the period

which immediately precedes an election and the moment of its duration

must always be considered as a national crisis, which is perilous in

proportion to the internal embarrassments and the external dangers of

the country. Few of the nations of Europe could escape the calamities

of anarchy or of conquest every time they might have to elect a new

sovereign. In America society is so constituted that it can stand

without assistance upon its own basis; nothing is to be feared from the

pressure of external dangers, and the election of the President is a

cause of agitation, but not of ruin.

Mode Of Election

Skill of the American legislators shown in the mode of election adopted

by them—Creation of a special electoral body—Separate votes of these

electors—Case in which the House of Representatives is called upon to

choose the President—Results of the twelve elections which have taken

place since the Constitution has been established.

Besides the dangers which are inherent in the system, many other

difficulties may arise from the mode of election, which may be obviated

by the precaution of the legislator. When a people met in arms on some

public spot to choose its head, it was exposed to all the chances of

civil war resulting from so martial a mode of proceeding, besides the

dangers of the elective system in itself. The Polish laws, which

subjected the election of the sovereign to the veto of a single

individual, suggested the murder of that individual or prepared the way

to anarchy.

In the examination of the institutions and the political as well as

social condition of the United States, we are struck by the admirable

harmony of the gifts of fortune and the efforts of man. The nation

possessed two of the main causes of internal peace; it was a new

country, but it was inhabited by a people grown old in the exercise of

freedom. America had no hostile neighbors to dread; and the American

legislators, profiting by these favorable circumstances, created a weak

and subordinate executive power which could without danger be made

elective.

It then only remained for them to choose the least dangerous of the

various modes of election; and the rules which they laid down upon this

point admirably correspond to the securities which the physical and

political constitution of the country already afforded. Their object

was to find the mode of election which would best express the choice of

the people with the least possible excitement and suspense. It was

admitted in the first place that the simple majority should be

decisive; but the difficulty was to obtain this majority without an

interval of delay which it was most important to avoid. It rarely

happens that an individual can at once collect the majority of the

suffrages of a great people; and this difficulty is enhanced in a

republic of confederate States, where local influences are apt to

preponderate. The means by which it was proposed to obviate this second

obstacle was to delegate the electoral powers of the nation to a body

of representatives. This mode of election rendered a majority more

probable; for the fewer the electors are, the greater is the chance of

their coming to a final decision. It also offered an additional

probability of a judicious choice. It then remained to be decided

whether this right of election was to be entrusted to a legislative

body, the habitual representative assembly of the nation, or whether an

electoral assembly should be formed for the express purpose of

proceeding to the nomination of a President. The Americans chose the

latter alternative, from a belief that the individuals who were

returned to make the laws were incompetent to represent the wishes of

the nation in the election of its chief magistrate; and that, as they

are chosen for more than a year, the constituency they represent might

have changed its opinion in that time. It was thought that if the

legislature was empowered to elect the head of the executive power, its

members would, for some time before the election, be exposed to the

manoeuvres of corruption and the tricks of intrigue; whereas the

special electors would, like a jury, remain mixed up with the crowd

till the day of action, when they would appear for the sole purpose of

giving their votes.

It was therefore established that every State should name a certain

number of electors, \*v who in their turn should elect the President;

and as it had been observed that the assemblies to which the choice of

a chief magistrate had been entrusted in elective countries inevitably

became the centres of passion and of cabal; that they sometimes usurped

an authority which did not belong to them; and that their proceedings,

or the uncertainty which resulted from them, were sometimes prolonged

so much as to endanger the welfare of the State, it was determined that

the electors should all vote upon the same day, without being convoked

to the same place. \*w This double election rendered a majority

probable, though not certain; for it was possible that as many

differences might exist between the electors as between their

constituents. In this case it was necessary to have recourse to one of

three measures; either to appoint new electors, or to consult a second

time those already appointed, or to defer the election to another

authority. The first two of these alternatives, independently of the

uncertainty of their results, were likely to delay the final decision,

and to perpetuate an agitation which must always be accompanied with

danger. The third expedient was therefore adopted, and it was agreed

that the votes should be transmitted sealed to the President of the

Senate, and that they should be opened and counted in the presence of

the Senate and the House of Representatives. If none of the candidates

has a majority, the House of Representatives then proceeds immediately

to elect a President, but with the condition that it must fix upon one

of the three candidates who have the highest numbers. \*x

v

[ As many as it sends members to Congress. The number of electors at

the election of 1833 was 288. (See “The National Calendar,” 1833.)]

w

[ The electors of the same State assemble, but they transmit to the

central government the list of their individual votes, and not the mere

result of the vote of the majority.] [Footnote x: In this case it is

the majority of the States, and not the majority of the members, which

decides the question; so that New York has not more influence in the

debate than Rhode Island. Thus the citizens of the Union are first

consulted as members of one and the same community; and, if they cannot

agree, recourse is had to the division of the States, each of which has

a separate and independent vote. This is one of the singularities of

the Federal Constitution which can only be explained by the jar of

conflicting interests.]

Thus it is only in case of an event which cannot often happen, and

which can never be foreseen, that the election is entrusted to the

ordinary representatives of the nation; and even then they are obliged

to choose a citizen who has already been designated by a powerful

minority of the special electors. It is by this happy expedient that

the respect which is due to the popular voice is combined with the

utmost celerity of execution and those precautions which the peace of

the country demands. But the decision of the question by the House of

Representatives does not necessarily offer an immediate solution of the

difficulty, for the majority of that assembly may still be doubtful,

and in this case the Constitution prescribes no remedy. Nevertheless,

by restricting the number of candidates to three, and by referring the

matter to the judgment of an enlightened public body, it has smoothed

all the obstacles \*y which are not inherent in the elective system.

y

[ Jefferson, in 1801, was not elected until the thirty-sixth time of

balloting.]

In the forty-four years which have elapsed since the promulgation of

the Federal Constitution the United States have twelve times chosen a

President. Ten of these elections took place simultaneously by the

votes of the special electors in the different States. The House of

Representatives has only twice exercised its conditional privilege of

deciding in cases of uncertainty; the first time was at the election of

Mr. Jefferson in 1801; the second was in 1825, when Mr. Quincy Adams

was named. \*z

z

[ [General Grant is now (1874) the eighteenth President of the United

States.]]

Crises Of The Election

The Election may be considered as a national crisis—Why?—Passions of

the people—Anxiety of the President—Calm which succeeds the agitation

of the election.

I have shown what the circumstances are which favored the adoption of

the elective system in the United States, and what precautions were

taken by the legislators to obviate its dangers. The Americans are

habitually accustomed to all kinds of elections, and they know by

experience the utmost degree of excitement which is compatible with

security. The vast extent of the country and the dissemination of the

inhabitants render a collision between parties less probable and less

dangerous there than elsewhere. The political circumstances under which

the elections have hitherto been carried on have presented no real

embarrassments to the nation.

Nevertheless, the epoch of the election of a President of the United

States may be considered as a crisis in the affairs of the nation. The

influence which he exercises on public business is no doubt feeble and

indirect; but the choice of the President, which is of small importance

to each individual citizen, concerns the citizens collectively; and

however trifling an interest may be, it assumes a great degree of

importance as soon as it becomes general. The President possesses but

few means of rewarding his supporters in comparison to the kings of

Europe, but the places which are at his disposal are sufficiently

numerous to interest, directly or indirectly, several thousand electors

in his success. Political parties in the United States are led to rally

round an individual, in order to acquire a more tangible shape in the

eyes of the crowd, and the name of the candidate for the Presidency is

put forward as the symbol and personification of their theories. For

these reasons parties are strongly interested in gaining the election,

not so much with a view to the triumph of their principles under the

auspices of the President-elect as to show by the majority which

returned him, the strength of the supporters of those principles.

For a long while before the appointed time is at hand the election

becomes the most important and the all-engrossing topic of discussion.

The ardor of faction is redoubled; and all the artificial passions

which the imagination can create in the bosom of a happy and peaceful

land are agitated and brought to light. The President, on the other

hand, is absorbed by the cares of self-defence. He no longer governs

for the interest of the State, but for that of his re-election; he does

homage to the majority, and instead of checking its passions, as his

duty commands him to do, he frequently courts its worst caprices. As

the election draws near, the activity of intrigue and the agitation of

the populace increase; the citizens are divided into hostile camps,

each of which assumes the name of its favorite candidate; the whole

nation glows with feverish excitement; the election is the daily theme

of the public papers, the subject of private conversation, the end of

every thought and every action, the sole interest of the present. As

soon as the choice is determined, this ardor is dispelled; and as a

calmer season returns, the current of the State, which had nearly

broken its banks, sinks to its usual level: \*a but who can refrain from

astonishment at the causes of the storm.

a

[ [Not always. The election of President Lincoln was the signal of

civil war.—Translator’s Note.]]

Chapter VIII: The Federal Constitution—Part III

Re-election Of The President

When the head of the executive power is re-eligible, it is the State

which is the source of intrigue and corruption—The desire of being

re-elected the chief aim of a President of the United

States—Disadvantage of the system peculiar to America—The natural evil

of democracy is that it subordinates all authority to the slightest

desires of the majority—The re-election of the President encourages

this evil.

It may be asked whether the legislators of the United States did right

or wrong in allowing the re-election of the President. It seems at

first sight contrary to all reason to prevent the head of the executive

power from being elected a second time. The influence which the talents

and the character of a single individual may exercise upon the fate of

a whole people, in critical circumstances or arduous times, is well

known: a law preventing the re-election of the chief magistrate would

deprive the citizens of the surest pledge of the prosperity and the

security of the commonwealth; and, by a singular inconsistency, a man

would be excluded from the government at the very time when he had

shown his ability in conducting its affairs.

But if these arguments are strong, perhaps still more powerful reasons

may be advanced against them. Intrigue and corruption are the natural

defects of elective government; but when the head of the State can be

re-elected these evils rise to a great height, and compromise the very

existence of the country. When a simple candidate seeks to rise by

intrigue, his manoeuvres must necessarily be limited to a narrow

sphere; but when the chief magistrate enters the lists, he borrows the

strength of the government for his own purposes. In the former case the

feeble resources of an individual are in action; in the latter, the

State itself, with all its immense influence, is busied in the work of

corruption and cabal. The private citizen, who employs the most immoral

practices to acquire power, can only act in a manner indirectly

prejudicial to the public prosperity. But if the representative of the

executive descends into the combat, the cares of government dwindle

into second-rate importance, and the success of his election is his

first concern. All laws and all the negotiations he undertakes are to

him nothing more than electioneering schemes; places become the reward

of services rendered, not to the nation, but to its chief; and the

influence of the government, if not injurious to the country, is at

least no longer beneficial to the community for which it was created.

It is impossible to consider the ordinary course of affairs in the

United States without perceiving that the desire of being re-elected is

the chief aim of the President; that his whole administration, and even

his most indifferent measures, tend to this object; and that, as the

crisis approaches, his personal interest takes the place of his

interest in the public good. The principle of re-eligibility renders

the corrupt influence of elective government still more extensive and

pernicious.

In America it exercises a peculiarly fatal influence on the sources of

national existence. Every government seems to be afflicted by some evil

which is inherent in its nature, and the genius of the legislator is

shown in eluding its attacks. A State may survive the influence of a

host of bad laws, and the mischief they cause is frequently

exaggerated; but a law which encourages the growth of the canker within

must prove fatal in the end, although its bad consequences may not be

immediately perceived.

The principle of destruction in absolute monarchies lies in the

excessive and unreasonable extension of the prerogative of the crown;

and a measure tending to remove the constitutional provisions which

counterbalance this influence would be radically bad, even if its

immediate consequences were unattended with evil. By a parity of

reasoning, in countries governed by a democracy, where the people is

perpetually drawing all authority to itself, the laws which increase or

accelerate its action are the direct assailants of the very principle

of the government.

The greatest proof of the ability of the American legislators is, that

they clearly discerned this truth, and that they had the courage to act

up to it. They conceived that a certain authority above the body of the

people was necessary, which should enjoy a degree of independence,

without, however, being entirely beyond the popular control; an

authority which would be forced to comply with the permanent

determinations of the majority, but which would be able to resist its

caprices, and to refuse its most dangerous demands. To this end they

centred the whole executive power of the nation in a single arm; they

granted extensive prerogatives to the President, and they armed him

with the veto to resist the encroachments of the legislature.

But by introducing the principle of re-election they partly destroyed

their work; and they rendered the President but little inclined to

exert the great power they had vested in his hands. If ineligible a

second time, the President would be far from independent of the people,

for his responsibility would not be lessened; but the favor of the

people would not be so necessary to him as to induce him to court it by

humoring its desires. If re-eligible (and this is more especially true

at the present day, when political morality is relaxed, and when great

men are rare), the President of the United States becomes an easy tool

in the hands of the majority. He adopts its likings and its

animosities, he hastens to anticipate its wishes, he forestalls its

complaints, he yields to its idlest cravings, and instead of guiding

it, as the legislature intended that he should do, he is ever ready to

follow its bidding. Thus, in order not to deprive the State of the

talents of an individual, those talents have been rendered almost

useless; and to reserve an expedient for extraordinary perils, the

country has been exposed to daily dangers.

Federal Courts \*b

b

[ See chap. VI, entitled “Judicial Power in the United States.” This

chapter explains the general principles of the American theory of

judicial institutions. See also the Federal Constitution, Art. 3. See

“The Federalists,” Nos. 78-83, inclusive; and a work entitled

“Constitutional Law,” being a view of the practice and jurisdiction of

the courts of the United States, by Thomas Sergeant. See Story, pp.

134, 162, 489, 511, 581, 668; and the organic law of September 24,

1789, in the “Collection of the Laws of the United States,” by Story,

vol. i. p. 53.]

Political importance of the judiciary in the United States—Difficulty

of treating this subject—Utility of judicial power in

confederations—What tribunals could be introduced into the

Union—Necessity of establishing federal courts of justice—Organization

of the national judiciary—The Supreme Court—In what it differs from all

known tribunals.

I have inquired into the legislative and executive power of the Union,

and the judicial power now remains to be examined; but in this place I

cannot conceal my fears from the reader. Their judicial institutions

exercise a great influence on the condition of the Anglo-Americans, and

they occupy a prominent place amongst what are probably called

political institutions: in this respect they are peculiarly deserving

of our attention. But I am at a loss to explain the political action of

the American tribunals without entering into some technical details of

their constitution and their forms of proceeding; and I know not how to

descend to these minutiae without wearying the curiosity of the reader

by the natural aridity of the subject, or without risking to fall into

obscurity through a desire to be succinct. I can scarcely hope to

escape these various evils; for if I appear too lengthy to a man of the

world, a lawyer may on the other hand complain of my brevity. But these

are the natural disadvantages of my subject, and more especially of the

point which I am about to discuss.

The great difficulty was, not to devise the Constitution to the Federal

Government, but to find out a method of enforcing its laws. Governments

have in general but two means of overcoming the opposition of the

people they govern, viz., the physical force which is at their own

disposal, and the moral force which they derive from the decisions of

the courts of justice.

A government which should have no other means of exacting obedience

than open war must be very near its ruin, for one of two alternatives

would then probably occur: if its authority was small and its character

temperate, it would not resort to violence till the last extremity, and

it would connive at a number of partial acts of insubordination, in

which case the State would gradually fall into anarchy; if it was

enterprising and powerful, it would perpetually have recourse to its

physical strength, and would speedily degenerate into a military

despotism. So that its activity would not be less prejudicial to the

community than its inaction.

The great end of justice is to substitute the notion of right for that

of violence, and to place a legal barrier between the power of the

government and the use of physical force. The authority which is

awarded to the intervention of a court of justice by the general

opinion of mankind is so surprisingly great that it clings to the mere

formalities of justice, and gives a bodily influence to the shadow of

the law. The moral force which courts of justice possess renders the

introduction of physical force exceedingly rare, and is very frequently

substituted for it; but if the latter proves to be indispensable, its

power is doubled by the association of the idea of law.

A federal government stands in greater need of the support of judicial

institutions than any other, because it is naturally weak and exposed

to formidable opposition. \*c If it were always obliged to resort to

violence in the first instance, it could not fulfil its task. The

Union, therefore, required a national judiciary to enforce the

obedience of the citizens to the laws, and to repeal the attacks which

might be directed against them. The question then remained as to what

tribunals were to exercise these privileges; were they to be entrusted

to the courts of justice which were already organized in every State?

or was it necessary to create federal courts? It may easily be proved

that the Union could not adapt the judicial power of the States to its

wants. The separation of the judiciary from the administrative power of

the State no doubt affects the security of every citizen and the

liberty of all. But it is no less important to the existence of the

nation that these several powers should have the same origin, should

follow the same principles, and act in the same sphere; in a word, that

they should be correlative and homogeneous. No one, I presume, ever

suggested the advantage of trying offences committed in France by a

foreign court of justice, in order to secure the impartiality of the

judges. The Americans form one people in relation to their Federal

Government; but in the bosom of this people divers political bodies

have been allowed to subsist which are dependent on the national

Government in a few points, and independent in all the rest; which have

all a distinct origin, maxims peculiar to themselves, and special means

of carrying on their affairs. To entrust the execution of the laws of

the Union to tribunals instituted by these political bodies would be to

allow foreign judges to preside over the nation. Nay, more; not only is

each State foreign to the Union at large, but it is in perpetual

opposition to the common interests, since whatever authority the Union

loses turns to the advantage of the States. Thus to enforce the laws of

the Union by means of the tribunals of the States would be to allow not

only foreign but partial judges to preside over the nation.

c

[ Federal laws are those which most require courts of justice, and

those at the same time which have most rarely established them. The

reason is that confederations have usually been formed by independent

States, which entertained no real intention of obeying the central

Government, and which very readily ceded the right of command to the

federal executive, and very prudently reserved the right of

non-compliance to themselves.]

But the number, still more than the mere character, of the tribunals of

the States rendered them unfit for the service of the nation. When the

Federal Constitution was formed there were already thirteen courts of

justice in the United States which decided causes without appeal. That

number is now increased to twenty-four. To suppose that a State can

subsist when its fundamental laws may be subjected to four-and-twenty

different interpretations at the same time is to advance a proposition

alike contrary to reason and to experience.

The American legislators therefore agreed to create a federal judiciary

power to apply the laws of the Union, and to determine certain

questions affecting general interests, which were carefully determined

beforehand. The entire judicial power of the Union was centred in one

tribunal, which was denominated the Supreme Court of the United States.

But, to facilitate the expedition of business, inferior courts were

appended to it, which were empowered to decide causes of small

importance without appeal, and with appeal causes of more magnitude.

The members of the Supreme Court are named neither by the people nor

the legislature, but by the President of the United States, acting with

the advice of the Senate. In order to render them independent of the

other authorities, their office was made inalienable; and it was

determined that their salary, when once fixed, should not be altered by

the legislature. \*d It was easy to proclaim the principle of a Federal

judiciary, but difficulties multiplied when the extent of its

jurisdiction was to be determined.

d

[ The Union was divided into districts, in each of which a resident

Federal judge was appointed, and the court in which he presided was

termed a “District Court.” Each of the judges of the Supreme Court

annually visits a certain portion of the Republic, in order to try the

most important causes upon the spot; the court presided over by this

magistrate is styled a “Circuit Court.” Lastly, all the most serious

cases of litigation are brought before the Supreme Court, which holds a

solemn session once a year, at which all the judges of the Circuit

Courts must attend. The jury was introduced into the Federal Courts in

the same manner, and in the same cases, as into the courts of the

States.

It will be observed that no analogy exists between the Supreme Court of

the United States and the French Cour de Cassation, since the latter

only hears appeals on questions of law. The Supreme Court decides upon

the evidence of the fact as well as upon the law of the case, whereas

the Cour de Cassation does not pronounce a decision of its own, but

refers the cause to the arbitration of another tribunal. See the law of

September 24, 1789, “Laws of the United States,” by Story, vol. i. p.

53.]

Means Of Determining The Jurisdiction Of The Federal Courts Difficulty

of determining the jurisdiction of separate courts of justice in

confederations—The courts of the Union obtained the right of fixing

their own jurisdiction—In what respect this rule attacks the portion of

sovereignty reserved to the several States—The sovereignty of these

States restricted by the laws, and the interpretation of the

laws—Consequently, the danger of the several States is more apparent

than real.

As the Constitution of the United States recognized two distinct powers

in presence of each other, represented in a judicial point of view by

two distinct classes of courts of justice, the utmost care which could

be taken in defining their separate jurisdictions would have been

insufficient to prevent frequent collisions between those tribunals.

The question then arose to whom the right of deciding the competency of

each court was to be referred.

In nations which constitute a single body politic, when a question is

debated between two courts relating to their mutual jurisdiction, a

third tribunal is generally within reach to decide the difference; and

this is effected without difficulty, because in these nations the

questions of judicial competency have no connection with the privileges

of the national supremacy. But it was impossible to create an arbiter

between a superior court of the Union and the superior court of a

separate State which would not belong to one of these two classes. It

was, therefore, necessary to allow one of these courts to judge its own

cause, and to take or to retain cognizance of the point which was

contested. To grant this privilege to the different courts of the

States would have been to destroy the sovereignty of the Union de facto

after having established it de jure; for the interpretation of the

Constitution would soon have restored that portion of independence to

the States of which the terms of that act deprived them. The object of

the creation of a Federal tribunal was to prevent the courts of the

States from deciding questions affecting the national interests in

their own department, and so to form a uniform body of jurisprudene for

the interpretation of the laws of the Union. This end would not have

been accomplished if the courts of the several States had been

competent to decide upon cases in their separate capacities from which

they were obliged to abstain as Federal tribunals. The Supreme Court of

the United States was therefore invested with the right of determining

all questions of jurisdiction. \*e

e

[ In order to diminish the number of these suits, it was decided that

in a great many Federal causes the courts of the States should be

empowered to decide conjointly with those of the Union, the losing

party having then a right of appeal to the Supreme Court of the United

States. The Supreme Court of Virginia contested the right of the

Supreme Court of the United States to judge an appeal from its

decisions, but unsuccessfully. See “Kent’s Commentaries,” vol. i. p.

300, pp. 370 et seq.; Story’s “Commentaries,” p. 646; and “The Organic

Law of the United States,” vol. i. p. 35.]

This was a severe blow upon the independence of the States, which was

thus restricted not only by the laws, but by the interpretation of

them; by one limit which was known, and by another which was dubious;

by a rule which was certain, and a rule which was arbitrary. It is true

the Constitution had laid down the precise limits of the Federal

supremacy, but whenever this supremacy is contested by one of the

States, a Federal tribunal decides the question. Nevertheless, the

dangers with which the independence of the States was threatened by

this mode of proceeding are less serious than they appeared to be. We

shall see hereafter that in America the real strength of the country is

vested in the provincial far more than in the Federal Government. The

Federal judges are conscious of the relative weakness of the power in

whose name they act, and they are more inclined to abandon a right of

jurisdiction in cases where it is justly their own than to assert a

privilege to which they have no legal claim.

Different Cases Of Jurisdiction

The matter and the party are the first conditions of the Federal

jurisdiction—Suits in which ambassadors are engaged—Suits of the

Union—Of a separate State—By whom tried—Causes resulting from the laws

of the Union—Why judged by the Federal tribunals—Causes relating to the

performance of contracts tried by the Federal courts—Consequence of

this arrangement.

After having appointed the means of fixing the competency of the

Federal courts, the legislators of the Union defined the cases which

should come within their jurisdiction. It was established, on the one

hand, that certain parties must always be brought before the Federal

courts, without any regard to the special nature of the cause; and, on

the other, that certain causes must always be brought before the same

courts, without any regard to the quality of the parties in the suit.

These distinctions were therefore admitted to be the basis of the

Federal jurisdiction.

Ambassadors are the representatives of nations in a state of amity with

the Union, and whatever concerns these personages concerns in some

degree the whole Union. When an ambassador is a party in a suit, that

suit affects the welfare of the nation, and a Federal tribunal is

naturally called upon to decide it.

The Union itself may be invoked in legal proceedings, and in this case

it would be alike contrary to the customs of all nations and to common

sense to appeal to a tribunal representing any other sovereignty than

its own; the Federal courts, therefore, take cognizance of these

affairs.

When two parties belonging to two different States are engaged in a

suit, the case cannot with propriety be brought before a court of

either State. The surest expedient is to select a tribunal like that of

the Union, which can excite the suspicions of neither party, and which

offers the most natural as well as the most certain remedy.

When the two parties are not private individuals, but States, an

important political consideration is added to the same motive of

equity. The quality of the parties in this case gives a national

importance to all their disputes; and the most trifling litigation of

the States may be said to involve the peace of the whole Union. \*f

f

[ The Constitution also says that the Federal courts shall decide

“controversies between a State and the citizens of another State.” And

here a most important question of a constitutional nature arose, which

was, whether the jurisdiction given by the Constitution in cases in

which a State is a party extended to suits brought against a State as

well as by it, or was exclusively confined to the latter. The question

was most elaborately considered in the case of Chisholm v. Georgia, and

was decided by the majority of the Supreme Court in the affirmative.

The decision created general alarm among the States, and an amendment

was proposed and ratified by which the power was entirely taken away,

so far as it regards suits brought against a State. See Story’s

“Commentaries,” p. 624, or in the large edition Section 1677.]

The nature of the cause frequently prescribes the rule of competency.

Thus all the questions which concern maritime commerce evidently fall

under the cognizance of the Federal tribunals. \*g Almost all these

questions are connected with the interpretation of the law of nations,

and in this respect they essentially interest the Union in relation to

foreign powers. Moreover, as the sea is not included within the limits

of any peculiar jurisdiction, the national courts can only hear causes

which originate in maritime affairs.

g

[ As for instance, all cases of piracy.]

The Constitution comprises under one head almost all the cases which by

their very nature come within the limits of the Federal courts. The

rule which it lays down is simple, but pregnant with an entire system

of ideas, and with a vast multitude of facts. It declares that the

judicial power of the Supreme Court shall extend to all cases in law

and equity arising under the laws of the United States.

Two examples will put the intention of the legislator in the clearest

light:

The Constitution prohibits the States from making laws on the value and

circulation of money: If, notwithstanding this prohibition, a State

passes a law of this kind, with which the interested parties refuse to

comply because it is contrary to the Constitution, the case must come

before a Federal court, because it arises under the laws of the United

States. Again, if difficulties arise in the levying of import duties

which have been voted by Congress, the Federal court must decide the

case, because it arises under the interpretation of a law of the United

States.

This rule is in perfect accordance with the fundamental principles of

the Federal Constitution. The Union, as it was established in 1789,

possesses, it is true, a limited supremacy; but it was intended that

within its limits it should form one and the same people. \*h Within

those limits the Union is sovereign. When this point is established and

admitted, the inference is easy; for if it be acknowledged that the

United States constitute one and the same people within the bounds

prescribed by their Constitution, it is impossible to refuse them the

rights which belong to other nations. But it has been allowed, from the

origin of society, that every nation has the right of deciding by its

own courts those questions which concern the execution of its own laws.

To this it is answered that the Union is in so singular a position that

in relation to some matters it constitutes a people, and that in

relation to all the rest it is a nonentity. But the inference to be

drawn is, that in the laws relating to these matters the Union

possesses all the rights of absolute sovereignty. The difficulty is to

know what these matters are; and when once it is resolved (and we have

shown how it was resolved, in speaking of the means of determining the

jurisdiction of the Federal courts) no further doubt can arise; for as

soon as it is established that a suit is Federal—that is to say, that

it belongs to the share of sovereignty reserved by the Constitution of

the Union—the natural consequence is that it should come within the

jurisdiction of a Federal court.

h

[ This principle was in some measure restricted by the introduction of

the several States as independent powers into the Senate, and by

allowing them to vote separately in the House of Representatives when

the President is elected by that body. But these are exceptions, and

the contrary principle is the rule.]

Whenever the laws of the United States are attacked, or whenever they

are resorted to in self-defence, the Federal courts must be appealed

to. Thus the jurisdiction of the tribunals of the Union extends and

narrows its limits exactly in the same ratio as the sovereignty of the

Union augments or decreases. We have shown that the principal aim of

the legislators of 1789 was to divide the sovereign authority into two

parts. In the one they placed the control of all the general interests

of the Union, in the other the control of the special interests of its

component States. Their chief solicitude was to arm the Federal

Government with sufficient power to enable it to resist, within its

sphere, the encroachments of the several States. As for these

communities, the principle of independence within certain limits of

their own was adopted in their behalf; and they were concealed from the

inspection, and protected from the control, of the central Government.

In speaking of the division of authority, I observed that this latter

principle had not always been held sacred, since the States are

prevented from passing certain laws which apparently belong to their

own particular sphere of interest. When a State of the Union passes a

law of this kind, the citizens who are injured by its execution can

appeal to the Federal courts.

Thus the jurisdiction of the Federal courts extends not only to all the

cases which arise under the laws of the Union, but also to those which

arise under laws made by the several States in opposition to the

Constitution. The States are prohibited from making ex post facto laws

in criminal cases, and any person condemned by virtue of a law of this

kind can appeal to the judicial power of the Union. The States are

likewise prohibited from making laws which may have a tendency to

impair the obligations of contracts. \*i If a citizen thinks that an

obligation of this kind is impaired by a law passed in his State, he

may refuse to obey it, and may appeal to the Federal courts. \*j

i

[ It is perfectly clear, says Mr. Story (“Commentaries,” p. 503, or in

the large edition Section 1379), that any law which enlarges, abridges,

or in any manner changes the intention of the parties, resulting from

the stipulations in the contract, necessarily impairs it. He gives in

the same place a very long and careful definition of what is understood

by a contract in Federal jurisprudence. A grant made by the State to a

private individual, and accepted by him, is a contract, and cannot be

revoked by any future law. A charter granted by the State to a company

is a contract, and equally binding to the State as to the grantee. The

clause of the Constitution here referred to insures, therefore, the

existence of a great part of acquired rights, but not of all. Property

may legally be held, though it may not have passed into the possessor’s

hands by means of a contract; and its possession is an acquired right,

not guaranteed by the Federal Constitution.]

j

[ A remarkable instance of this is given by Mr. Story (p. 508, or in

the large edition Section 1388): “Dartmouth College in New Hampshire

had been founded by a charter granted to certain individuals before the

American Revolution, and its trustees formed a corporation under this

charter. The legislature of New Hampshire had, without the consent of

this corporation, passed an act changing the organization of the

original provincial charter of the college, and transferring all the

rights, privileges, and franchises from the old charter trustees to new

trustees appointed under the act. The constitutionality of the act was

contested, and, after solemn arguments, it was deliberately held by the

Supreme Court that the provincial charter was a contract within the

meaning of the Constitution (Art. I. Section 10), and that the

emendatory act was utterly void, as impairing the obligation of that

charter. The college was deemed, like other colleges of private

foundation, to be a private eleemosynary institution, endowed by its

charter with a capacity to take property unconnected with the

Government. Its funds were bestowed upon the faith of the charter, and

those funds consisted entirely of private donations. It is true that

the uses were in some sense public, that is, for the general benefit,

and not for the mere benefit of the corporators; but this did not make

the corporation a public corporation. It was a private institution for

general charity. It was not distinguishable in principle from a private

donation, vested in private trustees, for a public charity, or for a

particular purpose of beneficence. And the State itself, if it had

bestowed funds upon a charity of the same nature, could not resume

those funds.”]

This provision appears to me to be the most serious attack upon the

independence of the States. The rights awarded to the Federal

Government for purposes of obvious national importance are definite and

easily comprehensible; but those with which this last clause invests it

are not either clearly appreciable or accurately defined. For there are

vast numbers of political laws which influence the existence of

obligations of contracts, which may thus furnish an easy pretext for

the aggressions of the central authority.

Chapter VIII: The Federal Constitution—Part IV

Procedure Of The Federal Courts

Natural weakness of the judiciary power in confederations—Legislators

ought to strive as much as possible to bring private individuals, and

not States, before the Federal Courts—How the Americans have succeeded

in this—Direct prosecution of private individuals in the Federal

Courts—Indirect prosecution of the States which violate the laws of the

Union—The decrees of the Supreme Court enervate but do not destroy the

provincial laws.

I have shown what the privileges of the Federal courts are, and it is

no less important to point out the manner in which they are exercised.

The irresistible authority of justice in countries in which the

sovereignty in undivided is derived from the fact that the tribunals of

those countries represent the entire nation at issue with the

individual against whom their decree is directed, and the idea of power

is thus introduced to corroborate the idea of right. But this is not

always the case in countries in which the sovereignty is divided; in

them the judicial power is more frequently opposed to a fraction of the

nation than to an isolated individual, and its moral authority and

physical strength are consequently diminished. In federal States the

power of the judge is naturally decreased, and that of the justiciable

parties is augmented. The aim of the legislator in confederate States

ought therefore to be to render the position of the courts of justice

analogous to that which they occupy in countries where the sovereignty

is undivided; in other words, his efforts ought constantly to tend to

maintain the judicial power of the confederation as the representative

of the nation, and the justiciable party as the representative of an

individual interest.

Every government, whatever may be its constitution, requires the means

of constraining its subjects to discharge their obligations, and of

protecting its privileges from their assaults. As far as the direct

action of the Government on the community is concerned, the

Constitution of the United States contrived, by a master-stroke of

policy, that the federal courts, acting in the name of the laws, should

only take cognizance of parties in an individual capacity. For, as it

had been declared that the Union consisted of one and the same people

within the limits laid down by the Constitution, the inference was that

the Government created by this Constitution, and acting within these

limits, was invested with all the privileges of a national government,

one of the principal of which is the right of transmitting its

injunctions directly to the private citizen. When, for instance, the

Union votes an impost, it does not apply to the States for the levying

of it, but to every American citizen in proportion to his assessment.

The Supreme Court, which is empowered to enforce the execution of this

law of the Union, exerts its influence not upon a refractory State, but

upon the private taxpayer; and, like the judicial power of other

nations, it is opposed to the person of an individual. It is to be

observed that the Union chose its own antagonist; and as that

antagonist is feeble, he is naturally worsted.

But the difficulty increases when the proceedings are not brought

forward by but against the Union. The Constitution recognizes the

legislative power of the States; and a law so enacted may impair the

privileges of the Union, in which case a collision in unavoidable

between that body and the State which has passed the law: and it only

remains to select the least dangerous remedy, which is very clearly

deducible from the general principles I have before established. \*k

k

[ See Chapter VI. on “Judicial Power in America.”]

It may be conceived that, in the case under consideration, the Union

might have used the State before a Federal court, which would have

annulled the act, and by this means it would have adopted a natural

course of proceeding; but the judicial power would have been placed in

open hostility to the State, and it was desirable to avoid this

predicament as much as possible. The Americans hold that it is nearly

impossible that a new law should not impair the interests of some

private individual by its provisions: these private interests are

assumed by the American legislators as the ground of attack against

such measures as may be prejudicial to the Union, and it is to these

cases that the protection of the Supreme Court is extended.

Suppose a State vends a certain portion of its territory to a company,

and that a year afterwards it passes a law by which the territory is

otherwise disposed of, and that clause of the Constitution which

prohibits laws impairing the obligation of contracts violated. When the

purchaser under the second act appears to take possession, the

possessor under the first act brings his action before the tribunals of

the Union, and causes the title of the claimant to be pronounced null

and void. \*l Thus, in point of fact, the judicial power of the Union is

contesting the claims of the sovereignty of a State; but it only acts

indirectly and upon a special application of detail: it attacks the law

in its consequences, not in its principle, and it rather weakens than

destroys it.

l

[ See Kent’s “Commentaries,” vol. i. p. 387.]

The last hypothesis that remained was that each State formed a

corporation enjoying a separate existence and distinct civil rights,

and that it could therefore sue or be sued before a tribunal. Thus a

State could bring an action against another State. In this instance the

Union was not called upon to contest a provincial law, but to try a

suit in which a State was a party. This suit was perfectly similar to

any other cause, except that the quality of the parties was different;

and here the danger pointed out at the beginning of this chapter exists

with less chance of being avoided. The inherent disadvantage of the

very essence of Federal constitutions is that they engender parties in

the bosom of the nation which present powerful obstacles to the free

course of justice.

High Rank Of The Supreme Court Amongst The Great Powers Of State No

nation ever constituted so great a judicial power as the

Americans—Extent of its prerogative—Its political influence—The

tranquillity and the very existence of the Union depend on the

discretion of the seven Federal Judges.

When we have successively examined in detail the organization of the

Supreme Court, and the entire prerogatives which it exercises, we shall

readily admit that a more imposing judicial power was never constituted

by any people. The Supreme Court is placed at the head of all known

tribunals, both by the nature of its rights and the class of

justiciable parties which it controls.

In all the civilized countries of Europe the Government has always

shown the greatest repugnance to allow the cases to which it was itself

a party to be decided by the ordinary course of justice. This

repugnance naturally attains its utmost height in an absolute

Government; and, on the other hand, the privileges of the courts of

justice are extended with the increasing liberties of the people: but

no European nation has at present held that all judicial controversies,

without regard to their origin, can be decided by the judges of common

law.

In America this theory has been actually put in practice, and the

Supreme Court of the United States is the sole tribunal of the nation.

Its power extends to all the cases arising under laws and treaties made

by the executive and legislative authorities, to all cases of admiralty

and maritime jurisdiction, and in general to all points which affect

the law of nations. It may even be affirmed that, although its

constitution is essentially judicial, its prerogatives are almost

entirely political. Its sole object is to enforce the execution of the

laws of the Union; and the Union only regulates the relations of the

Government with the citizens, and of the nation with Foreign Powers:

the relations of citizens amongst themselves are almost exclusively

regulated by the sovereignty of the States.

A second and still greater cause of the preponderance of this court may

be adduced. In the nations of Europe the courts of justice are only

called upon to try the controversies of private individuals; but the

Supreme Court of the United States summons sovereign powers to its bar.

When the clerk of the court advances on the steps of the tribunal, and

simply says, “The State of New York versus the State of Ohio,” it is

impossible not to feel that the Court which he addresses is no ordinary

body; and when it is recollected that one of these parties represents

one million, and the other two millions of men, one is struck by the

responsibility of the seven judges whose decision is about to satisfy

or to disappoint so large a number of their fellow-citizens.

The peace, the prosperity, and the very existence of the Union are

vested in the hands of the seven judges. Without their active

co-operation the Constitution would be a dead letter: the Executive

appeals to them for assistance against the encroachments of the

legislative powers; the Legislature demands their protection from the

designs of the Executive; they defend the Union from the disobedience

of the States, the States from the exaggerated claims of the Union, the

public interest against the interests of private citizens, and the

conservative spirit of order against the fleeting innovations of

democracy. Their power is enormous, but it is clothed in the authority

of public opinion. They are the all-powerful guardians of a people

which respects law, but they would be impotent against popular neglect

or popular contempt. The force of public opinion is the most

intractable of agents, because its exact limits cannot be defined; and

it is not less dangerous to exceed than to remain below the boundary

prescribed.

The Federal judges must not only be good citizens, and men possessed of

that information and integrity which are indispensable to magistrates,

but they must be statesmen—politicians, not unread in the signs of the

times, not afraid to brave the obstacles which can be subdued, nor slow

to turn aside such encroaching elements as may threaten the supremacy

of the Union and the obedience which is due to the laws.

The President, who exercises a limited power, may err without causing

great mischief in the State. Congress may decide amiss without

destroying the Union, because the electoral body in which Congress

originates may cause it to retract its decision by changing its

members. But if the Supreme Court is ever composed of imprudent men or

bad citizens, the Union may be plunged into anarchy or civil war.

The real cause of this danger, however, does not lie in the

constitution of the tribunal, but in the very nature of Federal

Governments. We have observed that in confederate peoples it is

especially necessary to consolidate the judicial authority, because in

no other nations do those independent persons who are able to cope with

the social body exist in greater power or in a better condition to

resist the physical strength of the Government. But the more a power

requires to be strengthened, the more extensive and independent it must

be made; and the dangers which its abuse may create are heightened by

its independence and its strength. The source of the evil is not,

therefore, in the constitution of the power, but in the constitution of

those States which render its existence necessary.

In What Respects The Federal Constitution Is Superior To That Of The

States

In what respects the Constitution of the Union can be compared to that

of the States—Superiority of the Constitution of the Union attributable

to the wisdom of the Federal legislators—Legislature of the Union less

dependent on the people than that of the States—Executive power more

independent in its sphere—Judicial power less subjected to the

inclinations of the majority—Practical consequence of these facts—The

dangers inherent in a democratic government eluded by the Federal

legislators, and increased by the legislators of the States.

The Federal Constitution differs essentially from that of the States in

the ends which it is intended to accomplish, but in the means by which

these ends are promoted a greater analogy exists between them. The

objects of the Governments are different, but their forms are the same;

and in this special point of view there is some advantage in comparing

them together.

I am of opinion that the Federal Constitution is superior to all the

Constitutions of the States, for several reasons.

The present Constitution of the Union was formed at a later period than

those of the majority of the States, and it may have derived some

ameliorations from past experience. But we shall be led to acknowledge

that this is only a secondary cause of its superiority, when we

recollect that eleven new States \*n have been added to the American

Confederation since the promulgation of the Federal Constitution, and

that these new republics have always rather exaggerated than avoided

the defects which existed in the former Constitutions.

n

[ [The number of States has now risen to 46 (1874), besides the

District of Columbia.]]

The chief cause of the superiority of the Federal Constitution lay in

the character of the legislators who composed it. At the time when it

was formed the dangers of the Confederation were imminent, and its ruin

seemed inevitable. In this extremity the people chose the men who most

deserved the esteem, rather than those who had gained the affections,

of the country. I have already observed that distinguished as almost

all the legislators of the Union were for their intelligence, they were

still more so for their patriotism. They had all been nurtured at a

time when the spirit of liberty was braced by a continual struggle

against a powerful and predominant authority. When the contest was

terminated, whilst the excited passions of the populace persisted in

warring with dangers which had ceased to threaten them, these men

stopped short in their career; they cast a calmer and more penetrating

look upon the country which was now their own; they perceived that the

war of independence was definitely ended, and that the only dangers

which America had to fear were those which might result from the abuse

of the freedom she had won. They had the courage to say what they

believed to be true, because they were animated by a warm and sincere

love of liberty; and they ventured to propose restrictions, because

they were resolutely opposed to destruction. \*o

o

[ At this time Alexander Hamilton, who was one of the principal

founders of the Constitution, ventured to express the following

sentiments in “The Federalist,” No. 71:—

“There are some who would be inclined to regard the servile pliancy of

the Executive to a prevailing current, either in the community or in

the Legislature, as its best recommendation. But such men entertain

very crude notions, as well of the purposes for which government was

instituted as of the true means by which the public happiness may be

promoted. The Republican principle demands that the deliberative sense

of the community should govern the conduct of those to whom they

entrust the management of their affairs; but it does not require an

unqualified complaisance to every sudden breeze of passion, or to every

transient impulse which the people may receive from the arts of men who

flatter their prejudices to betray their interests. It is a just

observation, that the people commonly intend the public good. This

often applies to their very errors. But their good sense would despise

the adulator who should pretend that they always reason right about the

means of promoting it. They know from experience that they sometimes

err; and the wonder is that they so seldom err as they do, beset, as

they continually are, by the wiles of parasites and sycophants; by the

snares of the ambitious, the avaricious, the desperate; by the

artifices of men who possess their confidence more than they deserve

it, and of those who seek to possess rather than to deserve it. When

occasions present themselves in which the interests of the people are

at variance with their inclinations, it is the duty of persons whom

they have appointed to be the guardians of those interests to withstand

the temporary delusion, in order to give them time and opportunity for

more cool and sedate reflection. Instances might be cited in which a

conduct of this kind has saved the people from very fatal consequences

of their own mistakes, and has procured lasting monuments of their

gratitude to the men who had courage and magnanimity enough to serve

them at the peril of their displeasure.”]

The greater number of the Constitutions of the States assign one year

for the duration of the House of Representatives, and two years for

that of the Senate; so that members of the legislative body are

constantly and narrowly tied down by the slightest desires of their

constituents. The legislators of the Union were of opinion that this

excessive dependence of the Legislature tended to alter the nature of

the main consequences of the representative system, since it vested the

source, not only of authority, but of government, in the people. They

increased the length of the time for which the representatives were

returned, in order to give them freer scope for the exercise of their

own judgment.

The Federal Constitution, as well as the Constitutions of the different

States, divided the legislative body into two branches. But in the

States these two branches were composed of the same elements, and

elected in the same manner. The consequence was that the passions and

inclinations of the populace were as rapidly and as energetically

represented in one chamber as in the other, and that laws were made

with all the characteristics of violence and precipitation. By the

Federal Constitution the two houses originate in like manner in the

choice of the people; but the conditions of eligibility and the mode of

election were changed, to the end that, if, as is the case in certain

nations, one branch of the Legislature represents the same interests as

the other, it may at least represent a superior degree of intelligence

and discretion. A mature age was made one of the conditions of the

senatorial dignity, and the Upper House was chosen by an elected

assembly of a limited number of members.

To concentrate the whole social force in the hands of the legislative

body is the natural tendency of democracies; for as this is the power

which emanates the most directly from the people, it is made to

participate most fully in the preponderating authority of the

multitude, and it is naturally led to monopolize every species of

influence. This concentration is at once prejudicial to a

well-conducted administration, and favorable to the despotism of the

majority. The legislators of the States frequently yielded to these

democratic propensities, which were invariably and courageously

resisted by the founders of the Union.

In the States the executive power is vested in the hands of a

magistrate, who is apparently placed upon a level with the Legislature,

but who is in reality nothing more than the blind agent and the passive

instrument of its decisions. He can derive no influence from the

duration of his functions, which terminate with the revolving year, or

from the exercise of prerogatives which can scarcely be said to exist.

The Legislature can condemn him to inaction by intrusting the execution

of the laws to special committees of its own members, and can annul his

temporary dignity by depriving him of his salary. The Federal

Constitution vests all the privileges and all the responsibility of the

executive power in a single individual. The duration of the Presidency

is fixed at four years; the salary of the individual who fills that

office cannot be altered during the term of his functions; he is

protected by a body of official dependents, and armed with a suspensive

veto. In short, every effort was made to confer a strong and

independent position upon the executive authority within the limits

which had been prescribed to it.

In the Constitutions of all the States the judicial power is that which

remains the most independent of the legislative authority;

nevertheless, in all the States the Legislature has reserved to itself

the right of regulating the emoluments of the judges, a practice which

necessarily subjects these magistrates to its immediate influence. In

some States the judges are only temporarily appointed, which deprives

them of a great portion of their power and their freedom. In others the

legislative and judicial powers are entirely confounded; thus the

Senate of New York, for instance, constitutes in certain cases the

Superior Court of the State. The Federal Constitution, on the other

hand, carefully separates the judicial authority from all external

influences; and it provides for the independence of the judges, by

declaring that their salary shall not be altered, and that their

functions shall be inalienable.

The practical consequences of these different systems may easily be

perceived. An attentive observer will soon remark that the business of

the Union is incomparably better conducted than that of any individual

State. The conduct of the Federal Government is more fair and more

temperate than that of the States, its designs are more fraught with

wisdom, its projects are more durable and more skilfully combined, its

measures are put into execution with more vigor and consistency.

I recapitulate the substance of this chapter in a few words: The

existence of democracies is threatened by two dangers, viz., the

complete subjection of the legislative body to the caprices of the

electoral body, and the concentration of all the powers of the

Government in the legislative authority. The growth of these evils has

been encouraged by the policy of the legislators of the States, but it

has been resisted by the legislators of the Union by every means which

lay within their control.

Characteristics Which Distinguish The Federal Constitution Of The

United States Of America From All Other Federal Constitutions American

Union appears to resemble all other confederations—Nevertheless its

effects are different—Reason of this—Distinctions between the Union and

all other confederations—The American Government not a federal but an

imperfect national Government.

The United States of America do not afford either the first or the only

instance of confederate States, several of which have existed in modern

Europe, without adverting to those of antiquity. Switzerland, the

Germanic Empire, and the Republic of the United Provinces either have

been or still are confederations. In studying the constitutions of

these different countries, the politician is surprised to observe that

the powers with which they invested the Federal Government are nearly

identical with the privileges awarded by the American Constitution to

the Government of the United States. They confer upon the central power

the same rights of making peace and war, of raising money and troops,

and of providing for the general exigencies and the common interests of

the nation. Nevertheless the Federal Government of these different

peoples has always been as remarkable for its weakness and inefficiency

as that of the Union is for its vigorous and enterprising spirit.

Again, the first American Confederation perished through the excessive

weakness of its Government; and this weak Government was,

notwithstanding, in possession of rights even more extensive than those

of the Federal Government of the present day. But the more recent

Constitution of the United States contains certain principles which

exercise a most important influence, although they do not at once

strike the observer.

This Constitution, which may at first sight be confounded with the

federal constitutions which preceded it, rests upon a novel theory,

which may be considered as a great invention in modern political

science. In all the confederations which had been formed before the

American Constitution of 1789 the allied States agreed to obey the

injunctions of a Federal Government; but they reserved to themselves

the right of ordaining and enforcing the execution of the laws of the

Union. The American States which combined in 1789 agreed that the

Federal Government should not only dictate the laws, but that it should

execute it own enactments. In both cases the right is the same, but the

exercise of the right is different; and this alteration produced the

most momentous consequences.

In all the confederations which had been formed before the American

Union the Federal Government demanded its supplies at the hands of the

separate Governments; and if the measure it prescribed was onerous to

any one of those bodies means were found to evade its claims: if the

State was powerful, it had recourse to arms; if it was weak, it

connived at the resistance which the law of the Union, its sovereign,

met with, and resorted to inaction under the plea of inability. Under

these circumstances one of the two alternatives has invariably

occurred; either the most preponderant of the allied peoples has

assumed the privileges of the Federal authority and ruled all the

States in its name, \*p or the Federal Government has been abandoned by

its natural supporters, anarchy has arisen between the confederates,

and the Union has lost all powers of action. \*q

p

[ This was the case in Greece, when Philip undertook to execute the

decree of the Amphictyons; in the Low Countries, where the province of

Holland always gave the law; and, in our own time, in the Germanic

Confederation, in which Austria and Prussia assume a great degree of

influence over the whole country, in the name of the Diet.]

q

[ Such has always been the situation of the Swiss Confederation, which

would have perished ages ago but for the mutual jealousies of its

neighbors.]

In America the subjects of the Union are not States, but private

citizens: the national Government levies a tax, not upon the State of

Massachusetts, but upon each inhabitant of Massachusetts. All former

confederate governments presided over communities, but that of the

Union rules individuals; its force is not borrowed, but self-derived;

and it is served by its own civil and military officers, by its own

army, and its own courts of justice. It cannot be doubted that the

spirit of the nation, the passions of the multitude, and the provincial

prejudices of each State tend singularly to diminish the authority of a

Federal authority thus constituted, and to facilitate the means of

resistance to its mandates; but the comparative weakness of a

restricted sovereignty is an evil inherent in the Federal system. In

America, each State has fewer opportunities of resistance and fewer

temptations to non-compliance; nor can such a design be put in

execution (if indeed it be entertained) without an open violation of

the laws of the Union, a direct interruption of the ordinary course of

justice, and a bold declaration of revolt; in a word, without taking a

decisive step which men hesitate to adopt.

In all former confederations the privileges of the Union furnished more

elements of discord than of power, since they multiplied the claims of

the nation without augmenting the means of enforcing them: and in

accordance with this fact it may be remarked that the real weakness of

federal governments has almost always been in the exact ratio of their

nominal power. Such is not the case in the American Union, in which, as

in ordinary governments, the Federal Government has the means of

enforcing all it is empowered to demand.

The human understanding more easily invents new things than new words,

and we are thence constrained to employ a multitude of improper and

inadequate expressions. When several nations form a permanent league

and establish a supreme authority, which, although it has not the same

influence over the members of the community as a national government,

acts upon each of the Confederate States in a body, this Government,

which is so essentially different from all others, is denominated a

Federal one. Another form of society is afterwards discovered, in which

several peoples are fused into one and the same nation with regard to

certain common interests, although they remain distinct, or at least

only confederate, with regard to all their other concerns. In this case

the central power acts directly upon those whom it governs, whom it

rules, and whom it judges, in the same manner, as, but in a more

limited circle than, a national government. Here the term Federal

Government is clearly no longer applicable to a state of things which

must be styled an incomplete national Government: a form of government

has been found out which is neither exactly national nor federal; but

no further progress has been made, and the new word which will one day

designate this novel invention does not yet exist.

The absence of this new species of confederation has been the cause

which has brought all Unions to Civil War, to subjection, or to a

stagnant apathy, and the peoples which formed these leagues have been

either too dull to discern, or too pusillanimous to apply this great

remedy. The American Confederation perished by the same defects.

But the Confederate States of America had been long accustomed to form

a portion of one empire before they had won their independence; they

had not contracted the habit of governing themselves, and their

national prejudices had not taken deep root in their minds. Superior to

the rest of the world in political knowledge, and sharing that

knowledge equally amongst themselves, they were little agitated by the

passions which generally oppose the extension of federal authority in a

nation, and those passions were checked by the wisdom of the chief

citizens. The Americans applied the remedy with prudent firmness as

soon as they were conscious of the evil; they amended their laws, and

they saved their country.

Chapter VIII: The Federal Constitution—Part V

Advantages Of The Federal System In General, And Its Special Utility In

America.

Happiness and freedom of small nations—Power of great nations—Great

empires favorable to the growth of civilization—Strength often the

first element of national prosperity—Aim of the Federal system to unite

the twofold advantages resulting from a small and from a large

territory—Advantages derived by the United States from this system—The

law adapts itself to the exigencies of the population; population does

not conform to the exigencies of the law—Activity, amelioration, love

and enjoyment of freedom in the American communities—Public spirit of

the Union the abstract of provincial patriotism—Principles and things

circulate freely over the territory of the United States—The Union is

happy and free as a little nation, and respected as a great empire.

In small nations the scrutiny of society penetrates into every part,

and the spirit of improvement enters into the most trifling details; as

the ambition of the people is necessarily checked by its weakness, all

the efforts and resources of the citizens are turned to the internal

benefit of the community, and are not likely to evaporate in the

fleeting breath of glory. The desires of every individual are limited,

because extraordinary faculties are rarely to be met with. The gifts of

an equal fortune render the various conditions of life uniform, and the

manners of the inhabitants are orderly and simple. Thus, if one

estimate the gradations of popular morality and enlightenment, we shall

generally find that in small nations there are more persons in easy

circumstances, a more numerous population, and a more tranquil state of

society, than in great empires.

When tyranny is established in the bosom of a small nation, it is more

galling than elsewhere, because, as it acts within a narrow circle,

every point of that circle is subject to its direct influence. It

supplies the place of those great designs which it cannot entertain by

a violent or an exasperating interference in a multitude of minute

details; and it leaves the political world, to which it properly

belongs, to meddle with the arrangements of domestic life. Tastes as

well as actions are to be regulated at its pleasure; and the families

of the citizens as well as the affairs of the State are to be governed

by its decisions. This invasion of rights occurs, however, but seldom,

and freedom is in truth the natural state of small communities. The

temptations which the Government offers to ambition are too weak, and

the resources of private individuals are too slender, for the sovereign

power easily to fall within the grasp of a single citizen; and should

such an event have occurred, the subjects of the State can without

difficulty overthrow the tyrant and his oppression by a simultaneous

effort.

Small nations have therefore ever been the cradle of political liberty;

and the fact that many of them have lost their immunities by extending

their dominion shows that the freedom they enjoyed was more a

consequence of the inferior size than of the character of the people.

The history of the world affords no instance of a great nation

retaining the form of republican government for a long series of years,

\*r and this has led to the conclusion that such a state of things is

impracticable. For my own part, I cannot but censure the imprudence of

attempting to limit the possible and to judge the future on the part of

a being who is hourly deceived by the most palpable realities of life,

and who is constantly taken by surprise in the circumstances with which

he is most familiar. But it may be advanced with confidence that the

existence of a great republic will always be exposed to far greater

perils than that of a small one.

r

[ I do not speak of a confederation of small republics, but of a great

consolidated Republic.]

All the passions which are most fatal to republican institutions spread

with an increasing territory, whilst the virtues which maintain their

dignity do not augment in the same proportion. The ambition of the

citizens increases with the power of the State; the strength of parties

with the importance of the ends they have in view; but that devotion to

the common weal which is the surest check on destructive passions is

not stronger in a large than in a small republic. It might, indeed, be

proved without difficulty that it is less powerful and less sincere.

The arrogance of wealth and the dejection of wretchedness, capital

cities of unwonted extent, a lax morality, a vulgar egotism, and a

great confusion of interests, are the dangers which almost invariably

arise from the magnitude of States. But several of these evils are

scarcely prejudicial to a monarchy, and some of them contribute to

maintain its existence. In monarchical States the strength of the

government is its own; it may use, but it does not depend on, the

community, and the authority of the prince is proportioned to the

prosperity of the nation; but the only security which a republican

government possesses against these evils lies in the support of the

majority. This support is not, however, proportionably greater in a

large republic than it is in a small one; and thus, whilst the means of

attack perpetually increase both in number and in influence, the power

of resistance remains the same, or it may rather be said to diminish,

since the propensities and interests of the people are diversified by

the increase of the population, and the difficulty of forming a compact

majority is constantly augmented. It has been observed, moreover, that

the intensity of human passions is heightened, not only by the

importance of the end which they propose to attain, but by the

multitude of individuals who are animated by them at the same time.

Every one has had occasion to remark that his emotions in the midst of

a sympathizing crowd are far greater than those which he would have

felt in solitude. In great republics the impetus of political passion

is irresistible, not only because it aims at gigantic purposes, but

because it is felt and shared by millions of men at the same time.

It may therefore be asserted as a general proposition that nothing is

more opposed to the well-being and the freedom of man than vast

empires. Nevertheless it is important to acknowledge the peculiar

advantages of great States. For the very reason which renders the

desire of power more intense in these communities than amongst ordinary

men, the love of glory is also more prominent in the hearts of a class

of citizens, who regard the applause of a great people as a reward

worthy of their exertions, and an elevating encouragement to man. If we

would learn why it is that great nations contribute more powerfully to

the spread of human improvement than small States, we shall discover an

adequate cause in the rapid and energetic circulation of ideas, and in

those great cities which are the intellectual centres where all the

rays of human genius are reflected and combined. To this it may be

added that most important discoveries demand a display of national

power which the Government of a small State is unable to make; in great

nations the Government entertains a greater number of general notions,

and is more completely disengaged from the routine of precedent and the

egotism of local prejudice; its designs are conceived with more talent,

and executed with more boldness.

In time of peace the well-being of small nations is undoubtedly more

general and more complete, but they are apt to suffer more acutely from

the calamities of war than those great empires whose distant frontiers

may for ages avert the presence of the danger from the mass of the

people, which is therefore more frequently afflicted than ruined by the

evil.

But in this matter, as in many others, the argument derived from the

necessity of the case predominates over all others. If none but small

nations existed, I do not doubt that mankind would be more happy and

more free; but the existence of great nations is unavoidable.

This consideration introduces the element of physical strength as a

condition of national prosperity. It profits a people but little to be

affluent and free if it is perpetually exposed to be pillaged or

subjugated; the number of its manufactures and the extent of its

commerce are of small advantage if another nation has the empire of the

seas and gives the law in all the markets of the globe. Small nations

are often impoverished, not because they are small, but because they

are weak; the great empires prosper less because they are great than

because they are strong. Physical strength is therefore one of the

first conditions of the happiness and even of the existence of nations.

Hence it occurs that, unless very peculiar circumstances intervene,

small nations are always united to large empires in the end, either by

force or by their own consent: yet I am unacquainted with a more

deplorable spectacle than that of a people unable either to defend or

to maintain its independence.

The Federal system was created with the intention of combining the

different advantages which result from the greater and the lesser

extent of nations; and a single glance over the United States of

America suffices to discover the advantages which they have derived

from its adoption.

In great centralized nations the legislator is obliged to impart a

character of uniformity to the laws which does not always suit the

diversity of customs and of districts; as he takes no cognizance of

special cases, he can only proceed upon general principles; and the

population is obliged to conform to the exigencies of the legislation,

since the legislation cannot adapt itself to the exigencies and the

customs of the population, which is the cause of endless trouble and

misery. This disadvantage does not exist in confederations. Congress

regulates the principal measures of the national Government, and all

the details of the administration are reserved to the provincial

legislatures. It is impossible to imagine how much this division of

sovereignty contributes to the well-being of each of the States which

compose the Union. In these small communities, which are never agitated

by the desire of aggrandizement or the cares of self-defence, all

public authority and private energy is employed in internal

amelioration. The central government of each State, which is in

immediate juxtaposition to the citizens, is daily apprised of the wants

which arise in society; and new projects are proposed every year, which

are discussed either at town meetings or by the legislature of the

State, and which are transmitted by the press to stimulate the zeal and

to excite the interest of the citizens. This spirit of amelioration is

constantly alive in the American republics, without compromising their

tranquillity; the ambition of power yields to the less refined and less

dangerous love of comfort. It is generally believed in America that the

existence and the permanence of the republican form of government in

the New World depend upon the existence and the permanence of the

Federal system; and it is not unusual to attribute a large share of the

misfortunes which have befallen the new States of South America to the

injudicious erection of great republics, instead of a divided and

confederate sovereignty.

It is incontestably true that the love and the habits of republican

government in the United States were engendered in the townships and in

the provincial assemblies. In a small State, like that of Connecticut

for instance, where cutting a canal or laying down a road is a

momentous political question, where the State has no army to pay and no

wars to carry on, and where much wealth and much honor cannot be

bestowed upon the chief citizens, no form of government can be more

natural or more appropriate than that of a republic. But it is this

same republican spirit, it is these manners and customs of a free

people, which are engendered and nurtured in the different States, to

be afterwards applied to the country at large. The public spirit of the

Union is, so to speak, nothing more than an abstract of the patriotic

zeal of the provinces. Every citizen of the United States transfuses

his attachment to his little republic in the common store of American

patriotism. In defending the Union he defends the increasing prosperity

of his own district, the right of conducting its affairs, and the hope

of causing measures of improvement to be adopted which may be favorable

to his own interest; and these are motives which are wont to stir men

more readily than the general interests of the country and the glory of

the nation.

On the other hand, if the temper and the manners of the inhabitants

especially fitted them to promote the welfare of a great republic, the

Federal system smoothed the obstacles which they might have

encountered. The confederation of all the American States presents none

of the ordinary disadvantages resulting from great agglomerations of

men. The Union is a great republic in extent, but the paucity of

objects for which its Government provides assimilates it to a small

State. Its acts are important, but they are rare. As the sovereignty of

the Union is limited and incomplete, its exercise is not incompatible

with liberty; for it does not excite those insatiable desires of fame

and power which have proved so fatal to great republics. As there is no

common centre to the country, vast capital cities, colossal wealth,

abject poverty, and sudden revolutions are alike unknown; and political

passion, instead of spreading over the land like a torrent of

desolation, spends its strength against the interests and the

individual passions of every State.

Nevertheless, all commodities and ideas circulate throughout the Union

as freely as in a country inhabited by one people. Nothing checks the

spirit of enterprise. Government avails itself of the assistance of all

who have talents or knowledge to serve it. Within the frontiers of the

Union the profoundest peace prevails, as within the heart of some great

empire; abroad, it ranks with the most powerful nations of the earth;

two thousand miles of coast are open to the commerce of the world; and

as it possesses the keys of the globe, its flags is respected in the

most remote seas. The Union is as happy and as free as a small people,

and as glorious and as strong as a great nation.

Why The Federal System Is Not Adapted To All Peoples, And How The

Anglo-Americans Were Enabled To Adopt It.

Every Federal system contains defects which baffle the efforts of the

legislator—The Federal system is complex—It demands a daily exercise of

discretion on the part of the citizens—Practical knowledge of

government common amongst the Americans—Relative weakness of the

Government of the Union, another defect inherent in the Federal

system—The Americans have diminished without remedying it—The

sovereignty of the separate States apparently weaker, but really

stronger, than that of the Union—Why?—Natural causes of union must

exist between confederate peoples besides the laws—What these causes

are amongst the Anglo-Americans—Maine and Georgia, separated by a

distance of a thousand miles, more naturally united than Normandy and

Brittany—War, the main peril of confederations—This proved even by the

example of the United States—The Union has no great wars to

fear—Why?—Dangers to which Europeans would be exposed if they adopted

the Federal system of the Americans.

When a legislator succeeds, after persevering efforts, in exercising an

indirect influence upon the destiny of nations, his genius is lauded by

mankind, whilst, in point of fact, the geographical position of the

country which he is unable to change, a social condition which arose

without his co-operation, manners and opinions which he cannot trace to

their source, and an origin with which he is unacquainted, exercise so

irresistible an influence over the courses of society that he is

himself borne away by the current, after an ineffectual resistance.

Like the navigator, he may direct the vessel which bears him along, but

he can neither change its structure, nor raise the winds, nor lull the

waters which swell beneath him.

I have shown the advantages which the Americans derive from their

federal system; it remains for me to point out the circumstances which

rendered that system practicable, as its benefits are not to be enjoyed

by all nations. The incidental defects of the Federal system which

originate in the laws may be corrected by the skill of the legislator,

but there are further evils inherent in the system which cannot be

counteracted by the peoples which adopt it. These nations must

therefore find the strength necessary to support the natural

imperfections of their Government.

The most prominent evil of all Federal systems is the very complex

nature of the means they employ. Two sovereignties are necessarily in

presence of each other. The legislator may simplify and equalize the

action of these two sovereignties, by limiting each of them to a sphere

of authority accurately defined; but he cannot combine them into one,

or prevent them from coming into collision at certain points. The

Federal system therefore rests upon a theory which is necessarily

complicated, and which demands the daily exercise of a considerable

share of discretion on the part of those it governs.

A proposition must be plain to be adopted by the understanding of a

people. A false notion which is clear and precise will always meet with

a greater number of adherents in the world than a true principle which

is obscure or involved. Hence it arises that parties, which are like

small communities in the heart of the nation, invariably adopt some

principle or some name as a symbol, which very inadequately represents

the end they have in view and the means which are at their disposal,

but without which they could neither act nor subsist. The governments

which are founded upon a single principle or a single feeling which is

easily defined are perhaps not the best, but they are unquestionably

the strongest and the most durable in the world.

In examining the Constitution of the United States, which is the most

perfect federal constitution that ever existed, one is startled, on the

other hand, at the variety of information and the excellence of

discretion which it presupposes in the people whom it is meant to

govern. The government of the Union depends entirely upon legal

fictions; the Union is an ideal nation which only exists in the mind,

and whose limits and extent can only be discerned by the understanding.

When once the general theory is comprehended, numberless difficulties

remain to be solved in its application; for the sovereignty of the

Union is so involved in that of the States that it is impossible to

distinguish its boundaries at the first glance. The whole structure of

the Government is artificial and conventional; and it would be ill

adapted to a people which has not been long accustomed to conduct its

own affairs, or to one in which the science of politics has not

descended to the humblest classes of society. I have never been more

struck by the good sense and the practical judgment of the Americans

than in the ingenious devices by which they elude the numberless

difficulties resulting from their Federal Constitution. I scarcely ever

met with a plain American citizen who could not distinguish, with

surprising facility, the obligations created by the laws of Congress

from those created by the laws of his own State; and who, after having

discriminated between the matters which come under the cognizance of

the Union and those which the local legislature is competent to

regulate, could not point out the exact limit of the several

jurisdictions of the Federal courts and the tribunals of the State.

The Constitution of the United States is like those exquisite

productions of human industry which ensure wealth and renown to their

inventors, but which are profitless in any other hands. This truth is

exemplified by the condition of Mexico at the present time. The

Mexicans were desirous of establishing a federal system, and they took

the Federal Constitution of their neighbors, the Anglo-Americans, as

their model, and copied it with considerable accuracy. \*s But although

they had borrowed the letter of the law, they were unable to create or

to introduce the spirit and the sense which give it life. They were

involved in ceaseless embarrassments between the mechanism of their

double government; the sovereignty of the States and that of the Union

perpetually exceeded their respective privileges, and entered into

collision; and to the present day Mexico is alternately the victim of

anarchy and the slave of military despotism.

s

[ See the Mexican Constitution of 1824.]

The second and the most fatal of all the defects I have alluded to, and

that which I believe to be inherent in the federal system, is the

relative weakness of the government of the Union. The principle upon

which all confederations rest is that of a divided sovereignty. The

legislator may render this partition less perceptible, he may even

conceal it for a time from the public eye, but he cannot prevent it

from existing, and a divided sovereignty must always be less powerful

than an entire supremacy. The reader has seen in the remarks I have

made on the Constitution of the United States that the Americans have

displayed singular ingenuity in combining the restriction of the power

of the Union within the narrow limits of a federal government with the

semblance and, to a certain extent, with the force of a national

government. By this means the legislators of the Union have succeeded

in diminishing, though not in counteracting the natural danger of

confederations.

It has been remarked that the American Government does not apply itself

to the States, but that it immediately transmits its injunctions to the

citizens, and compels them as isolated individuals to comply with its

demands. But if the Federal law were to clash with the interests and

the prejudices of a State, it might be feared that all the citizens of

that State would conceive themselves to be interested in the cause of a

single individual who should refuse to obey. If all the citizens of the

State were aggrieved at the same time and in the same manner by the

authority of the Union, the Federal Government would vainly attempt to

subdue them individually; they would instinctively unite in a common

defence, and they would derive a ready-prepared organization from the

share of sovereignty which the institution of their State allows them

to enjoy. Fiction would give way to reality, and an organized portion

of the territory might then contest the central authority. \*t The same

observation holds good with regard to the Federal jurisdiction. If the

courts of the Union violated an important law of a State in a private

case, the real, if not the apparent, contest would arise between the

aggrieved State represented by a citizen and the Union represented by

its courts of justice. \*u

t

[ [This is precisely what occurred in 1862, and the following paragraph

describes correctly the feelings and notions of the South. General Lee

held that his primary allegiance was due, not to the Union, but to

Virginia.]]

u

[ For instance, the Union possesses by the Constitution the right of

selling unoccupied lands for its own profit. Supposing that the State

of Ohio should claim the same right in behalf of certain territories

lying within its boundaries, upon the plea that the Constitution refers

to those lands alone which do not belong to the jurisdiction of any

particular State, and consequently should choose to dispose of them

itself, the litigation would be carried on in the names of the

purchasers from the State of Ohio and the purchasers from the Union,

and not in the names of Ohio and the Union. But what would become of

this legal fiction if the Federal purchaser was confirmed in his right

by the courts of the Union, whilst the other competitor was ordered to

retain possession by the tribunals of the State of Ohio?]

He would have but a partial knowledge of the world who should imagine

that it is possible, by the aid of legal fictions, to prevent men from

finding out and employing those means of gratifying their passions

which have been left open to them; and it may be doubted whether the

American legislators, when they rendered a collision between the two

sovereigns less probable, destroyed the cause of such a misfortune. But

it may even be affirmed that they were unable to ensure the

preponderance of the Federal element in a case of this kind. The Union

is possessed of money and of troops, but the affections and the

prejudices of the people are in the bosom of the States. The

sovereignty of the Union is an abstract being, which is connected with

but few external objects; the sovereignty of the States is hourly

perceptible, easily understood, constantly active; and if the former is

of recent creation, the latter is coeval with the people itself. The

sovereignty of the Union is factitious, that of the States is natural,

and derives its existence from its own simple influence, like the

authority of a parent. The supreme power of the nation only affects a

few of the chief interests of society; it represents an immense but

remote country, and claims a feeling of patriotism which is vague and

ill defined; but the authority of the States controls every individual

citizen at every hour and in all circumstances; it protects his

property, his freedom, and his life; and when we recollect the

traditions, the customs, the prejudices of local and familiar

attachment with which it is connected, we cannot doubt of the

superiority of a power which is interwoven with every circumstance that

renders the love of one’s native country instinctive in the human

heart.

Since legislators are unable to obviate such dangerous collisions as

occur between the two sovereignties which coexist in the federal

system, their first object must be, not only to dissuade the

confederate States from warfare, but to encourage such institutions as

may promote the maintenance of peace. Hence it results that the Federal

compact cannot be lasting unless there exists in the communities which

are leagued together a certain number of inducements to union which

render their common dependence agreeable, and the task of the

Government light, and that system cannot succeed without the presence

of favorable circumstances added to the influence of good laws. All the

peoples which have ever formed a confederation have been held together

by a certain number of common interests, which served as the

intellectual ties of association.

But the sentiments and the principles of man must be taken into

consideration as well as his immediate interests. A certain uniformity

of civilization is not less necessary to the durability of a

confederation than a uniformity of interests in the States which

compose it. In Switzerland the difference which exists between the

Canton of Uri and the Canton of Vaud is equal to that between the

fifteenth and the nineteenth centuries; and, properly speaking,

Switzerland has never possessed a federal government. The union between

these two cantons only subsists upon the map, and their discrepancies

would soon be perceived if an attempt were made by a central authority

to prescribe the same laws to the whole territory.

One of the circumstances which most powerfully contribute to support

the Federal Government in America is that the States have not only

similar interests, a common origin, and a common tongue, but that they

are also arrived at the same stage of civilization; which almost always

renders a union feasible. I do not know of any European nation, how

small soever it may be, which does not present less uniformity in its

different provinces than the American people, which occupies a

territory as extensive as one-half of Europe. The distance from the

State of Maine to that of Georgia is reckoned at about one thousand

miles; but the difference between the civilization of Maine and that of

Georgia is slighter than the difference between the habits of Normandy

and those of Brittany. Maine and Georgia, which are placed at the

opposite extremities of a great empire, are consequently in the natural

possession of more real inducements to form a confederation than

Normandy and Brittany, which are only separated by a bridge.

The geographical position of the country contributed to increase the

facilities which the American legislators derived from the manners and

customs of the inhabitants; and it is to this circumstance that the

adoption and the maintenance of the Federal system are mainly

attributable.

The most important occurrence which can mark the annals of a people is

the breaking out of a war. In war a people struggles with the energy of

a single man against foreign nations in the defence of its very

existence. The skill of a government, the good sense of the community,

and the natural fondness which men entertain for their country, may

suffice to maintain peace in the interior of a district, and to favor

its internal prosperity; but a nation can only carry on a great war at

the cost of more numerous and more painful sacrifices; and to suppose

that a great number of men will of their own accord comply with these

exigencies of the State is to betray an ignorance of mankind. All the

peoples which have been obliged to sustain a long and serious warfare

have consequently been led to augment the power of their government.

Those which have not succeeded in this attempt have been subjugated. A

long war almost always places nations in the wretched alternative of

being abandoned to ruin by defeat or to despotism by success. War

therefore renders the symptoms of the weakness of a government most

palpable and most alarming; and I have shown that the inherent defeat

of federal governments is that of being weak.

The Federal system is not only deficient in every kind of centralized

administration, but the central government itself is imperfectly

organized, which is invariably an influential cause of inferiority when

the nation is opposed to other countries which are themselves governed

by a single authority. In the Federal Constitution of the United

States, by which the central government possesses more real force, this

evil is still extremely sensible. An example will illustrate the case

to the reader.

The Constitution confers upon Congress the right of calling forth

militia to execute the laws of the Union, suppress insurrections, and

repel invasions; and another article declares that the President of the

United States is the commander-in-chief of the militia. In the war of

1812 the President ordered the militia of the Northern States to march

to the frontiers; but Connecticut and Massachusetts, whose interests

were impaired by the war, refused to obey the command. They argued that

the Constitution authorizes the Federal Government to call forth the

militia in case of insurrection or invasion, but that in the present

instance there was neither invasion nor insurrection. They added, that

the same Constitution which conferred upon the Union the right of

calling forth the militia reserved to the States that of naming the

officers; and that consequently (as they understood the clause) no

officer of the Union had any right to command the militia, even during

war, except the President in person; and in this case they were ordered

to join an army commanded by another individual. These absurd and

pernicious doctrines received the sanction not only of the governors

and the legislative bodies, but also of the courts of justice in both

States; and the Federal Government was constrained to raise elsewhere

the troops which it required. \*v

v

[ Kent’s “Commentaries,” vol. i. p. 244. I have selected an example

which relates to a time posterior to the promulgation of the present

Constitution. If I had gone back to the days of the Confederation, I

might have given still more striking instances. The whole nation was at

that time in a state of enthusiastic excitement; the Revolution was

represented by a man who was the idol of the people; but at that very

period Congress had, to say the truth, no resources at all at its

disposal. Troops and supplies were perpetually wanting. The

best-devised projects failed in the execution, and the Union, which was

constantly on the verge of destruction, was saved by the weakness of

its enemies far more than by its own strength. [All doubt as to the

powers of the Federal Executive was, however, removed by its efforts in

the Civil War, and those powers were largely extended.]]

The only safeguard which the American Union, with all the relative

perfection of its laws, possesses against the dissolution which would

be produced by a great war, lies in its probable exemption from that

calamity. Placed in the centre of an immense continent, which offers a

boundless field for human industry, the Union is almost as much

insulated from the world as if its frontiers were girt by the ocean.

Canada contains only a million of inhabitants, and its population is

divided into two inimical nations. The rigor of the climate limits the

extension of its territory, and shuts up its ports during the six

months of winter. From Canada to the Gulf of Mexico a few savage tribes

are to be met with, which retire, perishing in their retreat, before

six thousand soldiers. To the South, the Union has a point of contact

with the empire of Mexico; and it is thence that serious hostilities

may one day be expected to arise. But for a long while to come the

uncivilized state of the Mexican community, the depravity of its

morals, and its extreme poverty, will prevent that country from ranking

high amongst nations. \*w As for the Powers of Europe, they are too

distant to be formidable.

w

[ [War broke out between the United States and Mexico in 1846, and

ended in the conquest of an immense territory, including California.]]

The great advantage of the United States does not, then, consist in a

Federal Constitution which allows them to carry on great wars, but in a

geographical position which renders such enterprises extremely

improbable.

No one can be more inclined than I am myself to appreciate the

advantages of the federal system, which I hold to be one of the

combinations most favorable to the prosperity and freedom of man. I

envy the lot of those nations which have been enabled to adopt it; but

I cannot believe that any confederate peoples could maintain a long or

an equal contest with a nation of similar strength in which the

government should be centralized. A people which should divide its

sovereignty into fractional powers, in the presence of the great

military monarchies of Europe, would, in my opinion, by that very act,

abdicate its power, and perhaps its existence and its name. But such is

the admirable position of the New World that man has no other enemy

than himself; and that, in order to be happy and to be free, it

suffices to seek the gifts of prosperity and the knowledge of freedom.

Chapter IX: Why The People May Strictly Be Said To Govern In The

United

States

I have hitherto examined the institutions of the United States; I have

passed their legislation in review, and I have depicted the present

characteristics of political society in that country. But a sovereign

power exists above these institutions and beyond these characteristic

features which may destroy or modify them at its pleasure—I mean that

of the people. It remains to be shown in what manner this power, which

regulates the laws, acts: its propensities and its passions remain to

be pointed out, as well as the secret springs which retard, accelerate,

or direct its irresistible course; and the effects of its unbounded

authority, with the destiny which is probably reserved for it.

In America the people appoints the legislative and the executive power,

and furnishes the jurors who punish all offences against the laws. The

American institutions are democratic, not only in their principle but

in all their consequences; and the people elects its representatives

directly, and for the most part annually, in order to ensure their

dependence. The people is therefore the real directing power; and

although the form of government is representative, it is evident that

the opinions, the prejudices, the interests, and even the passions of

the community are hindered by no durable obstacles from exercising a

perpetual influence on society. In the United States the majority

governs in the name of the people, as is the case in all the countries

in which the people is supreme. The majority is principally composed of

peaceful citizens who, either by inclination or by interest, are

sincerely desirous of the welfare of their country. But they are

surrounded by the incessant agitation of parties, which attempt to gain

their co-operation and to avail themselves of their support.

Chapter X: Parties In The United States

Chapter Summary

Great distinction to be made between parties—Parties which are to each

other as rival nations—Parties properly so called—Difference between

great and small parties—Epochs which produce them—Their

characteristics—America has had great parties—They are

extinct—Federalists—Republicans—Defeat of the Federalists—Difficulty of

creating parties in the United States—What is done with this

intention—Aristocratic or democratic character to be met with in all

parties—Struggle of General Jackson against the Bank.

Parties In The United States

A great distinction must be made between parties. Some countries are so

large that the different populations which inhabit them have

contradictory interests, although they are the subjects of the same

Government, and they may thence be in a perpetual state of opposition.

In this case the different fractions of the people may more properly be

considered as distinct nations than as mere parties; and if a civil war

breaks out, the struggle is carried on by rival peoples rather than by

factions in the State.

But when the citizens entertain different opinions upon subjects which

affect the whole country alike, such, for instance, as the principles

upon which the government is to be conducted, then distinctions arise

which may correctly be styled parties. Parties are a necessary evil in

free governments; but they have not at all times the same character and

the same propensities.

At certain periods a nation may be oppressed by such insupportable

evils as to conceive the design of effecting a total change in its

political constitution; at other times the mischief lies still deeper,

and the existence of society itself is endangered. Such are the times

of great revolutions and of great parties. But between these epochs of

misery and of confusion there are periods during which human society

seems to rest, and mankind to make a pause. This pause is, indeed, only

apparent, for time does not stop its course for nations any more than

for men; they are all advancing towards a goal with which they are

unacquainted; and we only imagine them to be stationary when their

progress escapes our observation, as men who are going at a foot-pace

seem to be standing still to those who run.

But however this may be, there are certain epochs at which the changes

that take place in the social and political constitution of nations are

so slow and so insensible that men imagine their present condition to

be a final state; and the human mind, believing itself to be firmly

based upon certain foundations, does not extend its researches beyond

the horizon which it descries. These are the times of small parties and

of intrigue.

The political parties which I style great are those which cling to

principles more than to their consequences; to general, and not to

especial cases; to ideas, and not to men. These parties are usually

distinguished by a nobler character, by more generous passions, more

genuine convictions, and a more bold and open conduct than the others.

In them private interest, which always plays the chief part in

political passions, is more studiously veiled under the pretext of the

public good; and it may even be sometimes concealed from the eyes of

the very persons whom it excites and impels.

Minor parties are, on the other hand, generally deficient in political

faith. As they are not sustained or dignified by a lofty purpose, they

ostensibly display the egotism of their character in their actions.

They glow with a factitious zeal; their language is vehement, but their

conduct is timid and irresolute. The means they employ are as wretched

as the end at which they aim. Hence it arises that when a calm state of

things succeeds a violent revolution, the leaders of society seem

suddenly to disappear, and the powers of the human mind to lie

concealed. Society is convulsed by great parties, by minor ones it is

agitated; it is torn by the former, by the latter it is degraded; and

if these sometimes save it by a salutary perturbation, those invariably

disturb it to no good end.

America has already lost the great parties which once divided the

nation; and if her happiness is considerably increased, her morality

has suffered by their extinction. When the War of Independence was

terminated, and the foundations of the new Government were to be laid

down, the nation was divided between two opinions—two opinions which

are as old as the world, and which are perpetually to be met with under

all the forms and all the names which have ever obtained in free

communities—the one tending to limit, the other to extend indefinitely,

the power of the people. The conflict of these two opinions never

assumed that degree of violence in America which it has frequently

displayed elsewhere. Both parties of the Americans were, in fact,

agreed upon the most essential points; and neither of them had to

destroy a traditionary constitution, or to overthrow the structure of

society, in order to ensure its own triumph. In neither of them,

consequently, were a great number of private interests affected by

success or by defeat; but moral principles of a high order, such as the

love of equality and of independence, were concerned in the struggle,

and they sufficed to kindle violent passions.

The party which desired to limit the power of the people endeavored to

apply its doctrines more especially to the Constitution of the Union,

whence it derived its name of Federal. The other party, which affected

to be more exclusively attached to the cause of liberty, took that of

Republican. America is a land of democracy, and the Federalists were

always in a minority; but they reckoned on their side almost all the

great men who had been called forth by the War of Independence, and

their moral influence was very considerable. Their cause was, moreover,

favored by circumstances. The ruin of the Confederation had impressed

the people with a dread of anarchy, and the Federalists did not fail to

profit by this transient disposition of the multitude. For ten or

twelve years they were at the head of affairs, and they were able to

apply some, though not all, of their principles; for the hostile

current was becoming from day to day too violent to be checked or

stemmed. In 1801 the Republicans got possession of the Government;

Thomas Jefferson was named President; and he increased the influence of

their party by the weight of his celebrity, the greatness of his

talents, and the immense extent of his popularity.

The means by which the Federalists had maintained their position were

artificial, and their resources were temporary; it was by the virtues

or the talents of their leaders that they had risen to power. When the

Republicans attained to that lofty station, their opponents were

overwhelmed by utter defeat. An immense majority declared itself

against the retiring party, and the Federalists found themselves in so

small a minority that they at once despaired of their future success.

From that moment the Republican or Democratic party \*a has proceeded

from conquest to conquest, until it has acquired absolute supremacy in

the country. The Federalists, perceiving that they were vanquished

without resource, and isolated in the midst of the nation, fell into

two divisions, of which one joined the victorious Republicans, and the

other abandoned its rallying-point and its name. Many years have

already elapsed since they ceased to exist as a party.

a

[ [It is scarcely necessary to remark that in more recent times the

signification of these terms has changed. The Republicans are the

representatives of the old Federalists, and the Democrats of the old

Republicans.—Trans. Note (1861).]] The accession of the Federalists to

power was, in my opinion, one of the most fortunate incidents which

accompanied the formation of the great American Union; they resisted

the inevitable propensities of their age and of the country. But

whether their theories were good or bad, they had the effect of being

inapplicable, as a system, to the society which they professed to

govern, and that which occurred under the auspices of Jefferson must

therefore have taken place sooner or later. But their Government gave

the new republic time to acquire a certain stability, and afterwards to

support the rapid growth of the very doctrines which they had combated.

A considerable number of their principles were in point of fact

embodied in the political creed of their opponents; and the Federal

Constitution which subsists at the present day is a lasting monument of

their patriotism and their wisdom.

Great political parties are not, then, to be met with in the United

States at the present time. Parties, indeed, may be found which

threaten the future tranquillity of the Union; but there are none which

seem to contest the present form of Government or the present course of

society. The parties by which the Union is menaced do not rest upon

abstract principles, but upon temporal interests. These interests,

disseminated in the provinces of so vast an empire, may be said to

constitute rival nations rather than parties. Thus, upon a recent

occasion, the North contended for the system of commercial prohibition,

and the South took up arms in favor of free trade, simply because the

North is a manufacturing and the South an agricultural district; and

that the restrictive system which was profitable to the one was

prejudicial to the other. \*b

b

[ [The divisions of North and South have since acquired a far greater

degree of intensity, and the South, though conquered, still presents a

formidable spirit of opposition to Northern government.—Translator’s

Note, 1875.]]

In the absence of great parties, the United States abound with lesser

controversies; and public opinion is divided into a thousand minute

shades of difference upon questions of very little moment. The pains

which are taken to create parties are inconceivable, and at the present

day it is no easy task. In the United States there is no religious

animosity, because all religion is respected, and no sect is

predominant; there is no jealousy of rank, because the people is

everything, and none can contest its authority; lastly, there is no

public indigence to supply the means of agitation, because the physical

position of the country opens so wide a field to industry that man is

able to accomplish the most surprising undertakings with his own native

resources. Nevertheless, ambitious men are interested in the creation

of parties, since it is difficult to eject a person from authority upon

the mere ground that his place is coveted by others. The skill of the

actors in the political world lies therefore in the art of creating

parties. A political aspirant in the United States begins by

discriminating his own interest, and by calculating upon those

interests which may be collected around and amalgamated with it; he

then contrives to discover some doctrine or some principle which may

suit the purposes of this new association, and which he adopts in order

to bring forward his party and to secure his popularity; just as the

imprimatur of a King was in former days incorporated with the volume

which it authorized, but to which it nowise belonged. When these

preliminaries are terminated, the new party is ushered into the

political world.

All the domestic controversies of the Americans at first appear to a

stranger to be so incomprehensible and so puerile that he is at a loss

whether to pity a people which takes such arrant trifles in good

earnest, or to envy the happiness which enables it to discuss them. But

when he comes to study the secret propensities which govern the

factions of America, he easily perceives that the greater part of them

are more or less connected with one or the other of those two divisions

which have always existed in free communities. The deeper we penetrate

into the working of these parties, the more do we perceive that the

object of the one is to limit, and that of the other to extend, the

popular authority. I do not assert that the ostensible end, or even

that the secret aim, of American parties is to promote the rule of

aristocracy or democracy in the country; but I affirm that aristocratic

or democratic passions may easily be detected at the bottom of all

parties, and that, although they escape a superficial observation, they

are the main point and the very soul of every faction in the United

States.

To quote a recent example. When the President attacked the Bank, the

country was excited and parties were formed; the well-informed classes

rallied round the Bank, the common people round the President. But it

must not be imagined that the people had formed a rational opinion upon

a question which offers so many difficulties to the most experienced

statesmen. The Bank is a great establishment which enjoys an

independent existence, and the people, accustomed to make and unmake

whatsoever it pleases, is startled to meet with this obstacle to its

authority. In the midst of the perpetual fluctuation of society the

community is irritated by so permanent an institution, and is led to

attack it in order to see whether it can be shaken and controlled, like

all the other institutions of the country.

Remains Of The Aristocratic Party In The United States

Secret opposition of wealthy individuals to democracy—Their

retirement—Their taste for exclusive pleasures and for luxury at

home—Their simplicity abroad—Their affected condescension towards the

people.

It sometimes happens in a people amongst which various opinions prevail

that the balance of the several parties is lost, and one of them

obtains an irresistible preponderance, overpowers all obstacles,

harasses its opponents, and appropriates all the resources of society

to its own purposes. The vanquished citizens despair of success and

they conceal their dissatisfaction in silence and in general apathy.

The nation seems to be governed by a single principle, and the

prevailing party assumes the credit of having restored peace and

unanimity to the country. But this apparent unanimity is merely a cloak

to alarming dissensions and perpetual opposition.

This is precisely what occurred in America; when the democratic party

got the upper hand, it took exclusive possession of the conduct of

affairs, and from that time the laws and the customs of society have

been adapted to its caprices. At the present day the more affluent

classes of society are so entirely removed from the direction of

political affairs in the United States that wealth, far from conferring

a right to the exercise of power, is rather an obstacle than a means of

attaining to it. The wealthy members of the community abandon the

lists, through unwillingness to contend, and frequently to contend in

vain, against the poorest classes of their fellow citizens. They

concentrate all their enjoyments in the privacy of their homes, where

they occupy a rank which cannot be assumed in public; and they

constitute a private society in the State, which has its own tastes and

its own pleasures. They submit to this state of things as an

irremediable evil, but they are careful not to show that they are

galled by its continuance; it is even not uncommon to hear them laud

the delights of a republican government, and the advantages of

democratic institutions when they are in public. Next to hating their

enemies, men are most inclined to flatter them.

Mark, for instance, that opulent citizen, who is as anxious as a Jew of

the Middle Ages to conceal his wealth. His dress is plain, his demeanor

unassuming; but the interior of his dwelling glitters with luxury, and

none but a few chosen guests whom he haughtily styles his equals are

allowed to penetrate into this sanctuary. No European noble is more

exclusive in his pleasures, or more jealous of the smallest advantages

which his privileged station confers upon him. But the very same

individual crosses the city to reach a dark counting-house in the

centre of traffic, where every one may accost him who pleases. If he

meets his cobbler upon the way, they stop and converse; the two

citizens discuss the affairs of the State in which they have an equal

interest, and they shake hands before they part.

But beneath this artificial enthusiasm, and these obsequious attentions

to the preponderating power, it is easy to perceive that the wealthy

members of the community entertain a hearty distaste to the democratic

institutions of their country. The populace is at once the object of

their scorn and of their fears. If the maladministration of the

democracy ever brings about a revolutionary crisis, and if monarchical

institutions ever become practicable in the United States, the truth of

what I advance will become obvious.

The two chief weapons which parties use in order to ensure success are

the public press and the formation of associations.

Chapter XI: Liberty Of The Press In The United States

Chapter Summary

Difficulty of restraining the liberty of the press—Particular reasons

which some nations have to cherish this liberty—The liberty of the

press a necessary consequence of the sovereignty of the people as it is

understood in America—Violent language of the periodical press in the

United States—Propensities of the periodical press—Illustrated by the

United States—Opinion of the Americans upon the repression of the abuse

of the liberty of the press by judicial prosecutions—Reasons for which

the press is less powerful in America than in France.

Liberty Of The Press In The United States

The influence of the liberty of the press does not affect political

opinions alone, but it extends to all the opinions of men, and it

modifies customs as well as laws. In another part of this work I shall

attempt to determinate the degree of influence which the liberty of the

press has exercised upon civil society in the United States, and to

point out the direction which it has given to the ideas, as well as the

tone which it has imparted to the character and the feelings, of the

Anglo-Americans, but at present I purpose simply to examine the effects

produced by the liberty of the press in the political world.

I confess that I do not entertain that firm and complete attachment to

the liberty of the press which things that are supremely good in their

very nature are wont to excite in the mind; and I approve of it more

from a recollection of the evils it prevents than from a consideration

of the advantages it ensures.

If any one could point out an intermediate and yet a tenable position

between the complete independence and the entire subjection of the

public expression of opinion, I should perhaps be inclined to adopt it;

but the difficulty is to discover this position. If it is your

intention to correct the abuses of unlicensed printing and to restore

the use of orderly language, you may in the first instance try the

offender by a jury; but if the jury acquits him, the opinion which was

that of a single individual becomes the opinion of the country at

large. Too much and too little has therefore hitherto been done. If you

proceed, you must bring the delinquent before a court of permanent

judges. But even here the cause must be heard before it can be decided;

and the very principles which no book would have ventured to avow are

blazoned forth in the pleadings, and what was obscurely hinted at in a

single composition is then repeated in a multitude of other

publications. The language in which a thought is embodied is the mere

carcass of the thought, and not the idea itself; tribunals may condemn

the form, but the sense and spirit of the work is too subtle for their

authority. Too much has still been done to recede, too little to attain

your end; you must therefore proceed. If you establish a censorship of

the press, the tongue of the public speaker will still make itself

heard, and you have only increased the mischief. The powers of thought

do not rely, like the powers of physical strength, upon the number of

their mechanical agents, nor can a host of authors be reckoned like the

troops which compose an army; on the contrary, the authority of a

principle is often increased by the smallness of the number of men by

whom it is expressed. The words of a strong-minded man, which penetrate

amidst the passions of a listening assembly, have more power than the

vociferations of a thousand orators; and if it be allowed to speak

freely in any public place, the consequence is the same as if free

speaking was allowed in every village. The liberty of discourse must

therefore be destroyed as well as the liberty of the press; this is the

necessary term of your efforts; but if your object was to repress the

abuses of liberty, they have brought you to the feet of a despot. You

have been led from the extreme of independence to the extreme of

subjection without meeting with a single tenable position for shelter

or repose.

There are certain nations which have peculiar reasons for cherishing

the liberty of the press, independently of the general motives which I

have just pointed out. For in certain countries which profess to enjoy

the privileges of freedom every individual agent of the Government may

violate the laws with impunity, since those whom he oppresses cannot

prosecute him before the courts of justice. In this case the liberty of

the press is not merely a guarantee, but it is the only guarantee, of

their liberty and their security which the citizens possess. If the

rulers of these nations propose to abolish the independence of the

press, the people would be justified in saying: Give us the right of

prosecuting your offences before the ordinary tribunals, and perhaps we

may then waive our right of appeal to the tribunal of public opinion.

But in the countries in which the doctrine of the sovereignty of the

people ostensibly prevails, the censorship of the press is not only

dangerous, but it is absurd. When the right of every citizen to

co-operate in the government of society is acknowledged, every citizen

must be presumed to possess the power of discriminating between the

different opinions of his contemporaries, and of appreciating the

different facts from which inferences may be drawn. The sovereignty of

the people and the liberty of the press may therefore be looked upon as

correlative institutions; just as the censorship of the press and

universal suffrage are two things which are irreconcilably opposed, and

which cannot long be retained among the institutions of the same

people. Not a single individual of the twelve millions who inhabit the

territory of the United States has as yet dared to propose any

restrictions to the liberty of the press. The first newspaper over

which I cast my eyes, upon my arrival in America, contained the

following article:

In all this affair the language of Jackson has been that of a heartless

despot, solely occupied with the preservation of his own authority.

Ambition is his crime, and it will be his punishment too: intrigue is

his native element, and intrigue will confound his tricks, and will

deprive him of his power: he governs by means of corruption, and his

immoral practices will redound to his shame and confusion. His conduct

in the political arena has been that of a shameless and lawless

gamester. He succeeded at the time, but the hour of retribution

approaches, and he will be obliged to disgorge his winnings, to throw

aside his false dice, and to end his days in some retirement, where he

may curse his madness at his leisure; for repentance is a virtue with

which his heart is likely to remain forever unacquainted.

It is not uncommonly imagined in France that the virulence of the press

originates in the uncertain social condition, in the political

excitement, and the general sense of consequent evil which prevail in

that country; and it is therefore supposed that as soon as society has

resumed a certain degree of composure the press will abandon its

present vehemence. I am inclined to think that the above causes explain

the reason of the extraordinary ascendency it has acquired over the

nation, but that they do not exercise much influence upon the tone of

its language. The periodical press appears to me to be actuated by

passions and propensities independent of the circumstances in which it

is placed, and the present position of America corroborates this

opinion.

America is perhaps, at this moment, the country of the whole world

which contains the fewest germs of revolution; but the press is not

less destructive in its principles than in France, and it displays the

same violence without the same reasons for indignation. In America, as

in France, it constitutes a singular power, so strangely composed of

mingled good and evil that it is at the same time indispensable to the

existence of freedom, and nearly incompatible with the maintenance of

public order. Its power is certainly much greater in France than in the

United States; though nothing is more rare in the latter country than

to hear of a prosecution having been instituted against it. The reason

of this is perfectly simple: the Americans, having once admitted the

doctrine of the sovereignty of the people, apply it with perfect

consistency. It was never their intention to found a permanent state of

things with elements which undergo daily modifications; and there is

consequently nothing criminal in an attack upon the existing laws,

provided it be not attended with a violent infraction of them. They are

moreover of opinion that courts of justice are unable to check the

abuses of the press; and that as the subtilty of human language

perpetually eludes the severity of judicial analysis, offences of this

nature are apt to escape the hand which attempts to apprehend them.

They hold that to act with efficacy upon the press it would be

necessary to find a tribunal, not only devoted to the existing order of

things, but capable of surmounting the influence of public opinion; a

tribunal which should conduct its proceedings without publicity, which

should pronounce its decrees without assigning its motives, and punish

the intentions even more than the language of an author. Whosoever

should have the power of creating and maintaining a tribunal of this

kind would waste his time in prosecuting the liberty of the press; for

he would be the supreme master of the whole community, and he would be

as free to rid himself of the authors as of their writings. In this

question, therefore, there is no medium between servitude and extreme

license; in order to enjoy the inestimable benefits which the liberty

of the press ensures, it is necessary to submit to the inevitable evils

which it engenders. To expect to acquire the former and to escape the

latter is to cherish one of those illusions which commonly mislead

nations in their times of sickness, when, tired with faction and

exhausted by effort, they attempt to combine hostile opinions and

contrary principles upon the same soil.

The small influence of the American journals is attributable to several

reasons, amongst which are the following:

The liberty of writing, like all other liberty, is most formidable when

it is a novelty; for a people which has never been accustomed to

co-operate in the conduct of State affairs places implicit confidence

in the first tribune who arouses its attention. The Anglo-Americans

have enjoyed this liberty ever since the foundation of the settlements;

moreover, the press cannot create human passions by its own power,

however skillfully it may kindle them where they exist. In America

politics are discussed with animation and a varied activity, but they

rarely touch those deep passions which are excited whenever the

positive interest of a part of the community is impaired: but in the

United States the interests of the community are in a most prosperous

condition. A single glance upon a French and an American newspaper is

sufficient to show the difference which exists between the two nations

on this head. In France the space allotted to commercial advertisements

is very limited, and the intelligence is not considerable, but the most

essential part of the journal is that which contains the discussion of

the politics of the day. In America three-quarters of the enormous

sheet which is set before the reader are filled with advertisements,

and the remainder is frequently occupied by political intelligence or

trivial anecdotes: it is only from time to time that one finds a corner

devoted to passionate discussions like those with which the journalists

of France are wont to indulge their readers.

It has been demonstrated by observation, and discovered by the innate

sagacity of the pettiest as well as the greatest of despots, that the

influence of a power is increased in proportion as its direction is

rendered more central. In France the press combines a twofold

centralization; almost all its power is centred in the same spot, and

vested in the same hands, for its organs are far from numerous. The

influence of a public press thus constituted, upon a sceptical nation,

must be unbounded. It is an enemy with which a Government may sign an

occasional truce, but which it is difficult to resist for any length of

time.

Neither of these kinds of centralization exists in America. The United

States have no metropolis; the intelligence as well as the power of the

country are dispersed abroad, and instead of radiating from a point,

they cross each other in every direction; the Americans have

established no central control over the expression of opinion, any more

than over the conduct of business. These are circumstances which do not

depend on human foresight; but it is owing to the laws of the Union

that there are no licenses to be granted to printers, no securities

demanded from editors as in France, and no stamp duty as in France and

formerly in England. The consequence of this is that nothing is easier

than to set up a newspaper, and a small number of readers suffices to

defray the expenses of the editor.

The number of periodical and occasional publications which appears in

the United States actually surpasses belief. The most enlightened

Americans attribute the subordinate influence of the press to this

excessive dissemination; and it is adopted as an axiom of political

science in that country that the only way to neutralize the effect of

public journals is to multiply them indefinitely. I cannot conceive

that a truth which is so self-evident should not already have been more

generally admitted in Europe; it is comprehensible that the persons who

hope to bring about revolutions by means of the press should be

desirous of confining its action to a few powerful organs, but it is

perfectly incredible that the partisans of the existing state of

things, and the natural supporters of the law, should attempt to

diminish the influence of the press by concentrating its authority. The

Governments of Europe seem to treat the press with the courtesy of the

knights of old; they are anxious to furnish it with the same central

power which they have found to be so trusty a weapon, in order to

enhance the glory of their resistance to its attacks.

In America there is scarcely a hamlet which has not its own newspaper.

It may readily be imagined that neither discipline nor unity of design

can be communicated to so multifarious a host, and each one is

consequently led to fight under his own standard. All the political

journals of the United States are indeed arrayed on the side of the

administration or against it; but they attack and defend in a thousand

different ways. They cannot succeed in forming those great currents of

opinion which overwhelm the most solid obstacles. This division of the

influence of the press produces a variety of other consequences which

are scarcely less remarkable. The facility with which journals can be

established induces a multitude of individuals to take a part in them;

but as the extent of competition precludes the possibility of

considerable profit, the most distinguished classes of society are

rarely led to engage in these undertakings. But such is the number of

the public prints that, even if they were a source of wealth, writers

of ability could not be found to direct them all. The journalists of

the United States are usually placed in a very humble position, with a

scanty education and a vulgar turn of mind. The will of the majority is

the most general of laws, and it establishes certain habits which form

the characteristics of each peculiar class of society; thus it dictates

the etiquette practised at courts and the etiquette of the bar. The

characteristics of the French journalist consist in a violent, but

frequently an eloquent and lofty, manner of discussing the politics of

the day; and the exceptions to this habitual practice are only

occasional. The characteristics of the American journalist consist in

an open and coarse appeal to the passions of the populace; and he

habitually abandons the principles of political science to assail the

characters of individuals, to track them into private life, and

disclose all their weaknesses and errors.

Nothing can be more deplorable than this abuse of the powers of

thought; I shall have occasion to point out hereafter the influence of

the newspapers upon the taste and the morality of the American people,

but my present subject exclusively concerns the political world. It

cannot be denied that the effects of this extreme license of the press

tend indirectly to the maintenance of public order. The individuals who

are already in the possession of a high station in the esteem of their

fellow-citizens are afraid to write in the newspapers, and they are

thus deprived of the most powerful instrument which they can use to

excite the passions of the multitude to their own advantage. \*a

a

[ They only write in the papers when they choose to address the people

in their own name; as, for instance, when they are called upon to repel

calumnious imputations, and to correct a misstatement of facts.]

The personal opinions of the editors have no kind of weight in the eyes

of the public: the only use of a journal is, that it imparts the

knowledge of certain facts, and it is only by altering or distorting

those facts that a journalist can contribute to the support of his own

views.

But although the press is limited to these resources, its influence in

America is immense. It is the power which impels the circulation of

political life through all the districts of that vast territory. Its

eye is constantly open to detect the secret springs of political

designs, and to summon the leaders of all parties to the bar of public

opinion. It rallies the interests of the community round certain

principles, and it draws up the creed which factions adopt; for it

affords a means of intercourse between parties which hear, and which

address each other without ever having been in immediate contact. When

a great number of the organs of the press adopt the same line of

conduct, their influence becomes irresistible; and public opinion, when

it is perpetually assailed from the same side, eventually yields to the

attack. In the United States each separate journal exercises but little

authority, but the power of the periodical press is only second to that

of the people. \*b

b

[ See Appendix, P.]

The opinions established in the United States under the empire of the

liberty of the press are frequently more firmly rooted than those which

are formed elsewhere under the sanction of a censor.

In the United States the democracy perpetually raises fresh individuals

to the conduct of public affairs; and the measures of the

administration are consequently seldom regulated by the strict rules of

consistency or of order. But the general principles of the Government

are more stable, and the opinions most prevalent in society are

generally more durable than in many other countries. When once the

Americans have taken up an idea, whether it be well or ill founded,

nothing is more difficult than to eradicate it from their minds. The

same tenacity of opinion has been observed in England, where, for the

last century, greater freedom of conscience and more invincible

prejudices have existed than in all the other countries of Europe. I

attribute this consequence to a cause which may at first sight appear

to have a very opposite tendency, namely, to the liberty of the press.

The nations amongst which this liberty exists are as apt to cling to

their opinions from pride as from conviction. They cherish them because

they hold them to be just, and because they exercised their own

free-will in choosing them; and they maintain them not only because

they are true, but because they are their own. Several other reasons

conduce to the same end.

It was remarked by a man of genius that “ignorance lies at the two ends

of knowledge.” Perhaps it would have been more correct to have said,

that absolute convictions are to be met with at the two extremities,

and that doubt lies in the middle; for the human intellect may be

considered in three distinct states, which frequently succeed one

another. A man believes implicitly, because he adopts a proposition

without inquiry. He doubts as soon as he is assailed by the objections

which his inquiries may have aroused. But he frequently succeeds in

satisfying these doubts, and then he begins to believe afresh: he no

longer lays hold on a truth in its most shadowy and uncertain form, but

he sees it clearly before him, and he advances onwards by the light it

gives him. \*c

c

[ It may, however, be doubted whether this rational and self-guiding

conviction arouses as much fervor or enthusiastic devotedness in men as

their first dogmatical belief.]

When the liberty of the press acts upon men who are in the first of

these three states, it does not immediately disturb their habit of

believing implicitly without investigation, but it constantly modifies

the objects of their intuitive convictions. The human mind continues to

discern but one point upon the whole intellectual horizon, and that

point is in continual motion. Such are the symptoms of sudden

revolutions, and of the misfortunes which are sure to befall those

generations which abruptly adopt the unconditional freedom of the

press.

The circle of novel ideas is, however, soon terminated; the touch of

experience is upon them, and the doubt and mistrust which their

uncertainty produces become universal. We may rest assured that the

majority of mankind will either believe they know not wherefore, or

will not know what to believe. Few are the beings who can ever hope to

attain to that state of rational and independent conviction which true

knowledge can beget in defiance of the attacks of doubt.

It has been remarked that in times of great religious fervor men

sometimes change their religious opinions; whereas in times of general

scepticism everyone clings to his own persuasion. The same thing takes

place in politics under the liberty of the press. In countries where

all the theories of social science have been contested in their turn,

the citizens who have adopted one of them stick to it, not so much

because they are assured of its excellence, as because they are not

convinced of the superiority of any other. In the present age men are

not very ready to die in defence of their opinions, but they are rarely

inclined to change them; and there are fewer martyrs as well as fewer

apostates.

Another still more valid reason may yet be adduced: when no abstract

opinions are looked upon as certain, men cling to the mere propensities

and external interests of their position, which are naturally more

tangible and more permanent than any opinions in the world.

It is not a question of easy solution whether aristocracy or democracy

is most fit to govern a country. But it is certain that democracy

annoys one part of the community, and that aristocracy oppresses

another part. When the question is reduced to the simple expression of

the struggle between poverty and wealth, the tendency of each side of

the dispute becomes perfectly evident without further controversy.

Chapter XII: Political Associations In The United States

Chapter Summary

Daily use which the Anglo-Americans make of the right of

association—Three kinds of political associations—In what manner the

Americans apply the representative system to associations—Dangers

resulting to the State—Great Convention of 1831 relative to the

Tariff—Legislative character of this Convention—Why the unlimited

exercise of the right of association is less dangerous in the United

States than elsewhere—Why it may be looked upon as necessary—Utility of

associations in a democratic people.

Political Associations In The United States

In no country in the world has the principle of association been more

successfully used, or more unsparingly applied to a multitude of

different objects, than in America. Besides the permanent associations

which are established by law under the names of townships, cities, and

counties, a vast number of others are formed and maintained by the

agency of private individuals.

The citizen of the United States is taught from his earliest infancy to

rely upon his own exertions in order to resist the evils and the

difficulties of life; he looks upon social authority with an eye of

mistrust and anxiety, and he only claims its assistance when he is

quite unable to shift without it. This habit may even be traced in the

schools of the rising generation, where the children in their games are

wont to submit to rules which they have themselves established, and to

punish misdemeanors which they have themselves defined. The same spirit

pervades every act of social life. If a stoppage occurs in a

thoroughfare, and the circulation of the public is hindered, the

neighbors immediately constitute a deliberative body; and this

extemporaneous assembly gives rise to an executive power which remedies

the inconvenience before anybody has thought of recurring to an

authority superior to that of the persons immediately concerned. If the

public pleasures are concerned, an association is formed to provide for

the splendor and the regularity of the entertainment. Societies are

formed to resist enemies which are exclusively of a moral nature, and

to diminish the vice of intemperance: in the United States associations

are established to promote public order, commerce, industry, morality,

and religion; for there is no end which the human will, seconded by the

collective exertions of individuals, despairs of attaining.

I shall hereafter have occasion to show the effects of association upon

the course of society, and I must confine myself for the present to the

political world. When once the right of association is recognized, the

citizens may employ it in several different ways.

An association consists simply in the public assent which a number of

individuals give to certain doctrines, and in the engagement which they

contract to promote the spread of those doctrines by their exertions.

The right of association with these views is very analogous to the

liberty of unlicensed writing; but societies thus formed possess more

authority than the press. When an opinion is represented by a society,

it necessarily assumes a more exact and explicit form. It numbers its

partisans, and compromises their welfare in its cause: they, on the

other hand, become acquainted with each other, and their zeal is

increased by their number. An association unites the efforts of minds

which have a tendency to diverge in one single channel, and urges them

vigorously towards one single end which it points out.

The second degree in the right of association is the power of meeting.

When an association is allowed to establish centres of action at

certain important points in the country, its activity is increased and

its influence extended. Men have the opportunity of seeing each other;

means of execution are more readily combined, and opinions are

maintained with a degree of warmth and energy which written language

cannot approach.

Lastly, in the exercise of the right of political association, there is

a third degree: the partisans of an opinion may unite in electoral

bodies, and choose delegates to represent them in a central assembly.

This is, properly speaking, the application of the representative

system to a party.

Thus, in the first instance, a society is formed between individuals

professing the same opinion, and the tie which keeps it together is of

a purely intellectual nature; in the second case, small assemblies are

formed which only represent a fraction of the party. Lastly, in the

third case, they constitute a separate nation in the midst of the

nation, a government within the Government. Their delegates, like the

real delegates of the majority, represent the entire collective force

of their party; and they enjoy a certain degree of that national

dignity and great influence which belong to the chosen representatives

of the people. It is true that they have not the right of making the

laws, but they have the power of attacking those which are in being,

and of drawing up beforehand those which they may afterwards cause to

be adopted.

If, in a people which is imperfectly accustomed to the exercise of

freedom, or which is exposed to violent political passions, a

deliberating minority, which confines itself to the contemplation of

future laws, be placed in juxtaposition to the legislative majority, I

cannot but believe that public tranquillity incurs very great risks in

that nation. There is doubtless a very wide difference between proving

that one law is in itself better than another and proving that the

former ought to be substituted for the latter. But the imagination of

the populace is very apt to overlook this difference, which is so

apparent to the minds of thinking men. It sometimes happens that a

nation is divided into two nearly equal parties, each of which affects

to represent the majority. If, in immediate contiguity to the directing

power, another power be established, which exercises almost as much

moral authority as the former, it is not to be believed that it will

long be content to speak without acting; or that it will always be

restrained by the abstract consideration of the nature of associations

which are meant to direct but not to enforce opinions, to suggest but

not to make the laws.

The more we consider the independence of the press in its principal

consequences, the more are we convinced that it is the chief and, so to

speak, the constitutive element of freedom in the modern world. A

nation which is determined to remain free is therefore right in

demanding the unrestrained exercise of this independence. But the

unrestrained liberty of political association cannot be entirely

assimilated to the liberty of the press. The one is at the same time

less necessary and more dangerous than the other. A nation may confine

it within certain limits without forfeiting any part of its

self-control; and it may sometimes be obliged to do so in order to

maintain its own authority.

In America the liberty of association for political purposes is

unbounded. An example will show in the clearest light to what an extent

this privilege is tolerated.

The question of the tariff, or of free trade, produced a great

manifestation of party feeling in America; the tariff was not only a

subject of debate as a matter of opinion, but it exercised a favorable

or a prejudicial influence upon several very powerful interests of the

States. The North attributed a great portion of its prosperity, and the

South all its sufferings, to this system; insomuch that for a long time

the tariff was the sole source of the political animosities which

agitated the Union.

In 1831, when the dispute was raging with the utmost virulence, a

private citizen of Massachusetts proposed to all the enemies of the

tariff, by means of the public prints, to send delegates to

Philadelphia in order to consult together upon the means which were

most fitted to promote freedom of trade. This proposal circulated in a

few days from Maine to New Orleans by the power of the printing-press:

the opponents of the tariff adopted it with enthusiasm; meetings were

formed on all sides, and delegates were named. The majority of these

individuals were well known, and some of them had earned a considerable

degree of celebrity. South Carolina alone, which afterwards took up

arms in the same cause, sent sixty-three delegates. On October 1, 1831,

this assembly, which according to the American custom had taken the

name of a Convention, met at Philadelphia; it consisted of more than

two hundred members. Its debates were public, and they at once assumed

a legislative character; the extent of the powers of Congress, the

theories of free trade, and the different clauses of the tariff, were

discussed in turn. At the end of ten days’ deliberation the Convention

broke up, after having published an address to the American people, in

which it declared:

I. That Congress had not the right of making a tariff, and that the

existing tariff was unconstitutional;

II. That the prohibition of free trade was prejudicial to the interests

of all nations, and to that of the American people in particular.

It must be acknowledged that the unrestrained liberty of political

association has not hitherto produced, in the United States, those

fatal consequences which might perhaps be expected from it elsewhere.

The right of association was imported from England, and it has always

existed in America; so that the exercise of this privilege is now

amalgamated with the manners and customs of the people. At the present

time the liberty of association is become a necessary guarantee against

the tyranny of the majority. In the United States, as soon as a party

is become preponderant, all public authority passes under its control;

its private supporters occupy all the places, and have all the force of

the administration at their disposal. As the most distinguished

partisans of the other side of the question are unable to surmount the

obstacles which exclude them from power, they require some means of

establishing themselves upon their own basis, and of opposing the moral

authority of the minority to the physical power which domineers over

it. Thus a dangerous expedient is used to obviate a still more

formidable danger.

The omnipotence of the majority appears to me to present such extreme

perils to the American Republics that the dangerous measure which is

used to repress it seems to be more advantageous than prejudicial. And

here I am about to advance a proposition which may remind the reader of

what I said before in speaking of municipal freedom: There are no

countries in which associations are more needed, to prevent the

despotism of faction or the arbitrary power of a prince, than those

which are democratically constituted. In aristocratic nations the body

of the nobles and the more opulent part of the community are in

themselves natural associations, which act as checks upon the abuses of

power. In countries in which these associations do not exist, if

private individuals are unable to create an artificial and a temporary

substitute for them, I can imagine no permanent protection against the

most galling tyranny; and a great people may be oppressed by a small

faction, or by a single individual, with impunity.

The meeting of a great political Convention (for there are Conventions

of all kinds), which may frequently become a necessary measure, is

always a serious occurrence, even in America, and one which is never

looked forward to, by the judicious friends of the country, without

alarm. This was very perceptible in the Convention of 1831, at which

the exertions of all the most distinguished members of the Assembly

tended to moderate its language, and to restrain the subjects which it

treated within certain limits. It is probable, in fact, that the

Convention of 1831 exercised a very great influence upon the minds of

the malcontents, and prepared them for the open revolt against the

commercial laws of the Union which took place in 1832.

It cannot be denied that the unrestrained liberty of association for

political purposes is the privilege which a people is longest in

learning how to exercise. If it does not throw the nation into anarchy,

it perpetually augments the chances of that calamity. On one point,

however, this perilous liberty offers a security against dangers of

another kind; in countries where associations are free, secret

societies are unknown. In America there are numerous factions, but no

conspiracies.

Different ways in which the right of association is understood in

Europe and in the United States—Different use which is made of it.

The most natural privilege of man, next to the right of acting for

himself, is that of combining his exertions with those of his

fellow-creatures, and of acting in common with them. I am therefore led

to conclude that the right of association is almost as inalienable as

the right of personal liberty. No legislator can attack it without

impairing the very foundations of society. Nevertheless, if the liberty

of association is a fruitful source of advantages and prosperity to

some nations, it may be perverted or carried to excess by others, and

the element of life may be changed into an element of destruction. A

comparison of the different methods which associations pursue in those

countries in which they are managed with discretion, as well as in

those where liberty degenerates into license, may perhaps be thought

useful both to governments and to parties.

The greater part of Europeans look upon an association as a weapon

which is to be hastily fashioned, and immediately tried in the

conflict. A society is formed for discussion, but the idea of impending

action prevails in the minds of those who constitute it: it is, in

fact, an army; and the time given to parley serves to reckon up the

strength and to animate the courage of the host, after which they

direct their march against the enemy. Resources which lie within the

bounds of the law may suggest themselves to the persons who compose it

as means, but never as the only means, of success.

Such, however, is not the manner in which the right of association is

understood in the United States. In America the citizens who form the

minority associate, in order, in the first place, to show their

numerical strength, and so to diminish the moral authority of the

majority; and, in the second place, to stimulate competition, and to

discover those arguments which are most fitted to act upon the

majority; for they always entertain hopes of drawing over their

opponents to their own side, and of afterwards disposing of the supreme

power in their name. Political associations in the United States are

therefore peaceable in their intentions, and strictly legal in the

means which they employ; and they assert with perfect truth that they

only aim at success by lawful expedients.

The difference which exists between the Americans and ourselves depends

on several causes. In Europe there are numerous parties so

diametrically opposed to the majority that they can never hope to

acquire its support, and at the same time they think that they are

sufficiently strong in themselves to struggle and to defend their

cause. When a party of this kind forms an association, its object is,

not to conquer, but to fight. In America the individuals who hold

opinions very much opposed to those of the majority are no sort of

impediment to its power, and all other parties hope to win it over to

their own principles in the end. The exercise of the right of

association becomes dangerous in proportion to the impossibility which

excludes great parties from acquiring the majority. In a country like

the United States, in which the differences of opinion are mere

differences of hue, the right of association may remain unrestrained

without evil consequences. The inexperience of many of the European

nations in the enjoyment of liberty leads them only to look upon the

liberty of association as a right of attacking the Government. The

first notion which presents itself to a party, as well as to an

individual, when it has acquired a consciousness of its own strength,

is that of violence: the notion of persuasion arises at a later period

and is only derived from experience. The English, who are divided into

parties which differ most essentially from each other, rarely abuse the

right of association, because they have long been accustomed to

exercise it. In France the passion for war is so intense that there is

no undertaking so mad, or so injurious to the welfare of the State,

that a man does not consider himself honored in defending it, at the

risk of his life.

But perhaps the most powerful of the causes which tend to mitigate the

excesses of political association in the United States is Universal

Suffrage. In countries in which universal suffrage exists the majority

is never doubtful, because neither party can pretend to represent that

portion of the community which has not voted. The associations which

are formed are aware, as well as the nation at large, that they do not

represent the majority: this is, indeed, a condition inseparable from

their existence; for if they did represent the preponderating power,

they would change the law instead of soliciting its reform. The

consequence of this is that the moral influence of the Government which

they attack is very much increased, and their own power is very much

enfeebled.

In Europe there are few associations which do not affect to represent

the majority, or which do not believe that they represent it. This

conviction or this pretension tends to augment their force amazingly,

and contributes no less to legalize their measures. Violence may seem

to be excusable in defence of the cause of oppressed right. Thus it is,

in the vast labyrinth of human laws, that extreme liberty sometimes

corrects the abuses of license, and that extreme democracy obviates the

dangers of democratic government. In Europe, associations consider

themselves, in some degree, as the legislative and executive councils

of the people, which is unable to speak for itself. In America, where

they only represent a minority of the nation, they argue and they

petition.

The means which the associations of Europe employ are in accordance

with the end which they propose to obtain. As the principal aim of

these bodies is to act, and not to debate, to fight rather than to

persuade, they are naturally led to adopt a form of organization which

differs from the ordinary customs of civil bodies, and which assumes

the habits and the maxims of military life. They centralize the

direction of their resources as much as possible, and they intrust the

power of the whole party to a very small number of leaders.

The members of these associations respond to a watchword, like soldiers

on duty; they profess the doctrine of passive obedience; say rather,

that in uniting together they at once abjure the exercise of their own

judgment and free will; and the tyrannical control which these

societies exercise is often far more insupportable than the authority

possessed over society by the Government which they attack. Their moral

force is much diminished by these excesses, and they lose the powerful

interest which is always excited by a struggle between oppressors and

the oppressed. The man who in given cases consents to obey his fellows

with servility, and who submits his activity and even his opinions to

their control, can have no claim to rank as a free citizen.

The Americans have also established certain forms of government which

are applied to their associations, but these are invariably borrowed

from the forms of the civil administration. The independence of each

individual is formally recognized; the tendency of the members of the

association points, as it does in the body of the community, towards

the same end, but they are not obliged to follow the same track. No one

abjures the exercise of his reason and his free will; but every one

exerts that reason and that will for the benefit of a common

undertaking.

Chapter XIII: Government Of The Democracy In America—Part I

I am well aware of the difficulties which attend this part of my

subject, but although every expression which I am about to make use of

may clash, upon some one point, with the feelings of the different

parties which divide my country, I shall speak my opinion with the most

perfect openness.

In Europe we are at a loss how to judge the true character and the more

permanent propensities of democracy, because in Europe two conflicting

principles exist, and we do not know what to attribute to the

principles themselves, and what to refer to the passions which they

bring into collision. Such, however, is not the case in America; there

the people reigns without any obstacle, and it has no perils to dread

and no injuries to avenge. In America, democracy is swayed by its own

free propensities; its course is natural and its activity is

unrestrained; the United States consequently afford the most favorable

opportunity of studying its real character. And to no people can this

inquiry be more vitally interesting than to the French nation, which is

blindly driven onwards by a daily and irresistible impulse towards a

state of things which may prove either despotic or republican, but

which will assuredly be democratic.

Universal Suffrage

I have already observed that universal suffrage has been adopted in all

the States of the Union; it consequently occurs amongst different

populations which occupy very different positions in the scale of

society. I have had opportunities of observing its effects in different

localities, and amongst races of men who are nearly strangers to each

other by their language, their religion, and their manner of life; in

Louisiana as well as in New England, in Georgia and in Canada. I have

remarked that Universal Suffrage is far from producing in America

either all the good or all the evil consequences which are assigned to

it in Europe, and that its effects differ very widely from those which

are usually attributed to it.

Choice Of The People, And Instinctive Preferences Of The American

Democracy

In the United States the most able men are rarely placed at the head of

affairs—Reason of this peculiarity—The envy which prevails in the lower

orders of France against the higher classes is not a French, but a

purely democratic sentiment—For what reason the most distinguished men

in America frequently seclude themselves from public affairs.

Many people in Europe are apt to believe without saying it, or to say

without believing it, that one of the great advantages of universal

suffrage is, that it entrusts the direction of public affairs to men

who are worthy of the public confidence. They admit that the people is

unable to govern for itself, but they aver that it is always sincerely

disposed to promote the welfare of the State, and that it instinctively

designates those persons who are animated by the same good wishes, and

who are the most fit to wield the supreme authority. I confess that the

observations I made in America by no means coincide with these

opinions. On my arrival in the United States I was surprised to find so

much distinguished talent among the subjects, and so little among the

heads of the Government. It is a well-authenticated fact, that at the

present day the most able men in the United States are very rarely

placed at the head of affairs; and it must be acknowledged that such

has been the result in proportion as democracy has outstepped all its

former limits. The race of American statesmen has evidently dwindled

most remarkably in the course of the last fifty years.

Several causes may be assigned to this phenomenon. It is impossible,

notwithstanding the most strenuous exertions, to raise the intelligence

of the people above a certain level. Whatever may be the facilities of

acquiring information, whatever may be the profusion of easy methods

and of cheap science, the human mind can never be instructed and

educated without devoting a considerable space of time to those

objects.

The greater or the lesser possibility of subsisting without labor is

therefore the necessary boundary of intellectual improvement. This

boundary is more remote in some countries and more restricted in

others; but it must exist somewhere as long as the people is

constrained to work in order to procure the means of physical

subsistence, that is to say, as long as it retains its popular

character. It is therefore quite as difficult to imagine a State in

which all the citizens should be very well informed as a State in which

they should all be wealthy; these two difficulties may be looked upon

as correlative. It may very readily be admitted that the mass of the

citizens are sincerely disposed to promote the welfare of their

country; nay more, it may even be allowed that the lower classes are

less apt to be swayed by considerations of personal interest than the

higher orders: but it is always more or less impossible for them to

discern the best means of attaining the end which they desire with

sincerity. Long and patient observation, joined to a multitude of

different notions, is required to form a just estimate of the character

of a single individual; and can it be supposed that the vulgar have the

power of succeeding in an inquiry which misleads the penetration of

genius itself? The people has neither the time nor the means which are

essential to the prosecution of an investigation of this kind: its

conclusions are hastily formed from a superficial inspection of the

more prominent features of a question. Hence it often assents to the

clamor of a mountebank who knows the secret of stimulating its tastes,

while its truest friends frequently fail in their exertions.

Moreover, the democracy is not only deficient in that soundness of

judgment which is necessary to select men really deserving of its

confidence, but it has neither the desire nor the inclination to find

them out. It cannot be denied that democratic institutions have a very

strong tendency to promote the feeling of envy in the human heart; not

so much because they afford to every one the means of rising to the

level of any of his fellow-citizens, as because those means perpetually

disappoint the persons who employ them. Democratic institutions awaken

and foster a passion for equality which they can never entirely

satisfy. This complete equality eludes the grasp of the people at the

very moment at which it thinks to hold it fast, and “flies,” as Pascal

says, “with eternal flight”; the people is excited in the pursuit of an

advantage, which is more precious because it is not sufficiently remote

to be unknown, or sufficiently near to be enjoyed. The lower orders are

agitated by the chance of success, they are irritated by its

uncertainty; and they pass from the enthusiasm of pursuit to the

exhaustion of ill-success, and lastly to the acrimony of

disappointment. Whatever transcends their own limits appears to be an

obstacle to their desires, and there is no kind of superiority, however

legitimate it may be, which is not irksome in their sight.

It has been supposed that the secret instinct which leads the lower

orders to remove their superiors as much as possible from the direction

of public affairs is peculiar to France. This, however, is an error;

the propensity to which I allude is not inherent in any particular

nation, but in democratic institutions in general; and although it may

have been heightened by peculiar political circumstances, it owes its

origin to a higher cause.

In the United States the people is not disposed to hate the superior

classes of society; but it is not very favorably inclined towards them,

and it carefully excludes them from the exercise of authority. It does

not entertain any dread of distinguished talents, but it is rarely

captivated by them; and it awards its approbation very sparingly to

such as have risen without the popular support.

Whilst the natural propensities of democracy induce the people to

reject the most distinguished citizens as its rulers, these individuals

are no less apt to retire from a political career in which it is almost

impossible to retain their independence, or to advance without

degrading themselves. This opinion has been very candidly set forth by

Chancellor Kent, who says, in speaking with great eulogiums of that

part of the Constitution which empowers the Executive to nominate the

judges: “It is indeed probable that the men who are best fitted to

discharge the duties of this high office would have too much reserve in

their manners, and too much austerity in their principles, for them to

be returned by the majority at an election where universal suffrage is

adopted.” Such were the opinions which were printed without

contradiction in America in the year 1830!

I hold it to be sufficiently demonstrated that universal suffrage is by

no means a guarantee of the wisdom of the popular choice, and that,

whatever its advantages may be, this is not one of them.

Causes Which May Partly Correct These Tendencies Of The Democracy

Contrary effects produced on peoples as well as on individuals by great

dangers—Why so many distinguished men stood at the head of affairs in

America fifty years ago—Influence which the intelligence and the

manners of the people exercise upon its choice—Example of New

England—States of the Southwest—Influence of certain laws upon the

choice of the people—Election by an elected body—Its effects upon the

composition of the Senate.

When a State is threatened by serious dangers, the people frequently

succeeds in selecting the citizens who are the most able to save it. It

has been observed that man rarely retains his customary level in

presence of very critical circumstances; he rises above or he sinks

below his usual condition, and the same thing occurs in nations at

large. Extreme perils sometimes quench the energy of a people instead

of stimulating it; they excite without directing its passions, and

instead of clearing they confuse its powers of perception. The Jews

deluged the smoking ruins of their temple with the carnage of the

remnant of their host. But it is more common, both in the case of

nations and in that of individuals, to find extraordinary virtues

arising from the very imminence of the danger. Great characters are

then thrown into relief, as edifices which are concealed by the gloom

of night are illuminated by the glare of a conflagration. At those

dangerous times genius no longer abstains from presenting itself in the

arena; and the people, alarmed by the perils of its situation, buries

its envious passions in a short oblivion. Great names may then be drawn

from the balloting-box.

I have already observed that the American statesmen of the present day

are very inferior to those who stood at the head of affairs fifty years

ago. This is as much a consequence of the circumstances as of the laws

of the country. When America was struggling in the high cause of

independence to throw off the yoke of another country, and when it was

about to usher a new nation into the world, the spirits of its

inhabitants were roused to the height which their great efforts

required. In this general excitement the most distinguished men were

ready to forestall the wants of the community, and the people clung to

them for support, and placed them at its head. But events of this

magnitude are rare, and it is from an inspection of the ordinary course

of affairs that our judgment must be formed.

If passing occurrences sometimes act as checks upon the passions of

democracy, the intelligence and the manners of the community exercise

an influence which is not less powerful and far more permanent. This is

extremely perceptible in the United States.

In New England the education and the liberties of the communities were

engendered by the moral and religious principles of their founders.

Where society has acquired a sufficient degree of stability to enable

it to hold certain maxims and to retain fixed habits, the lower orders

are accustomed to respect intellectual superiority and to submit to it

without complaint, although they set at naught all those privileges

which wealth and birth have introduced among mankind. The democracy in

New England consequently makes a more judicious choice than it does

elsewhere.

But as we descend towards the South, to those States in which the

constitution of society is more modern and less strong, where

instruction is less general, and where the principles of morality, of

religion, and of liberty are less happily combined, we perceive that

the talents and the virtues of those who are in authority become more

and more rare.

Lastly, when we arrive at the new South-western States, in which the

constitution of society dates but from yesterday, and presents an

agglomeration of adventurers and speculators, we are amazed at the

persons who are invested with public authority, and we are led to ask

by what force, independent of the legislation and of the men who direct

it, the State can be protected, and society be made to flourish.

There are certain laws of a democratic nature which contribute,

nevertheless, to correct, in some measure, the dangerous tendencies of

democracy. On entering the House of Representatives of Washington one

is struck by the vulgar demeanor of that great assembly. The eye

frequently does not discover a man of celebrity within its walls. Its

members are almost all obscure individuals whose names present no

associations to the mind: they are mostly village lawyers, men in

trade, or even persons belonging to the lower classes of society. In a

country in which education is very general, it is said that the

representatives of the people do not always know how to write

correctly.

At a few yards’ distance from this spot is the door of the Senate,

which contains within a small space a large proportion of the

celebrated men of America. Scarcely an individual is to be perceived in

it who does not recall the idea of an active and illustrious career:

the Senate is composed of eloquent advocates, distinguished generals,

wise magistrates, and statesmen of note, whose language would at all

times do honor to the most remarkable parliamentary debates of Europe.

What then is the cause of this strange contrast, and why are the most

able citizens to be found in one assembly rather than in the other? Why

is the former body remarkable for its vulgarity and its poverty of

talent, whilst the latter seems to enjoy a monopoly of intelligence and

of sound judgment? Both of these assemblies emanate from the people;

both of them are chosen by universal suffrage; and no voice has

hitherto been heard to assert in America that the Senate is hostile to

the interests of the people. From what cause, then, does so startling a

difference arise? The only reason which appears to me adequately to

account for it is, that the House of Representatives is elected by the

populace directly, and that the Senate is elected by elected bodies.

The whole body of the citizens names the legislature of each State, and

the Federal Constitution converts these legislatures into so many

electoral bodies, which return the members of the Senate. The senators

are elected by an indirect application of universal suffrage; for the

legislatures which name them are not aristocratic or privileged bodies

which exercise the electoral franchise in their own right; but they are

chosen by the totality of the citizens; they are generally elected

every year, and new members may constantly be chosen who will employ

their electoral rights in conformity with the wishes of the public. But

this transmission of the popular authority through an assembly of

chosen men operates an important change in it, by refining its

discretion and improving the forms which it adopts. Men who are chosen

in this manner accurately represent the majority of the nation which

governs them; but they represent the elevated thoughts which are

current in the community, the propensities which prompt its nobler

actions, rather than the petty passions which disturb or the vices

which disgrace it.

The time may be already anticipated at which the American Republics

will be obliged to introduce the plan of election by an elected body

more frequently into their system of representation, or they will incur

no small risk of perishing miserably amongst the shoals of democracy.

And here I have no scruple in confessing that I look upon this peculiar

system of election as the only means of bringing the exercise of

political power to the level of all classes of the people. Those

thinkers who regard this institution as the exclusive weapon of a

party, and those who fear, on the other hand, to make use of it, seem

to me to fall into as great an error in the one case as in the other.

Influence Which The American Democracy Has Exercised On The Laws

Relating To Elections

When elections are rare, they expose the State to a violent crisis—When

they are frequent, they keep up a degree of feverish excitement—The

Americans have preferred the second of these two evils—Mutability of

the laws—Opinions of Hamilton and Jefferson on this subject.

When elections recur at long intervals the State is exposed to violent

agitation every time they take place. Parties exert themselves to the

utmost in order to gain a prize which is so rarely within their reach;

and as the evil is almost irremediable for the candidates who fail, the

consequences of their disappointed ambition may prove most disastrous;

if, on the other hand, the legal struggle can be repeated within a

short space of time, the defeated parties take patience. When elections

occur frequently, their recurrence keeps society in a perpetual state

of feverish excitement, and imparts a continual instability to public

affairs.

Thus, on the one hand the State is exposed to the perils of a

revolution, on the other to perpetual mutability; the former system

threatens the very existence of the Government, the latter is an

obstacle to all steady and consistent policy. The Americans have

preferred the second of these evils to the first; but they were led to

this conclusion by their instinct much more than by their reason; for a

taste for variety is one of the characteristic passions of democracy.

An extraordinary mutability has, by this means, been introduced into

their legislation. Many of the Americans consider the instability of

their laws as a necessary consequence of a system whose general results

are beneficial. But no one in the United States affects to deny the

fact of this instability, or to contend that it is not a great evil.

Hamilton, after having demonstrated the utility of a power which might

prevent, or which might at least impede, the promulgation of bad laws,

adds: “It might perhaps be said that the power of preventing bad laws

includes that of preventing good ones, and may be used to the one

purpose as well as to the other. But this objection will have little

weight with those who can properly estimate the mischiefs of that

inconstancy and mutability in the laws which form the greatest blemish

in the character and genius of our governments.” (Federalist, No. 73.)

And again in No. 62 of the same work he observes: “The facility and

excess of law-making seem to be the diseases to which our governments

are most liable. . . . The mischievous effects of the mutability in the

public councils arising from a rapid succession of new members would

fill a volume: every new election in the States is found to change

one-half of the representatives. From this change of men must proceed a

change of opinions and of measures, which forfeits the respect and

confidence of other nations, poisons the blessings of liberty itself,

and diminishes the attachment and reverence of the people toward a

political system which betrays so many marks of infirmity.”

Jefferson himself, the greatest Democrat whom the democracy of America

has yet produced, pointed out the same evils. “The instability of our

laws,” said he in a letter to Madison, “is really a very serious

inconvenience. I think that we ought to have obviated it by deciding

that a whole year should always be allowed to elapse between the

bringing in of a bill and the final passing of it. It should afterward

be discussed and put to the vote without the possibility of making any

alteration in it; and if the circumstances of the case required a more

speedy decision, the question should not be decided by a simple

majority, but by a majority of at least two-thirds of both houses.”

Public Officers Under The Control Of The Democracy In America Simple

exterior of the American public officers—No official costume—All public

officers are remunerated—Political consequences of this system—No

public career exists in America—Result of this.

Public officers in the United States are commingled with the crowd of

citizens; they have neither palaces, nor guards, nor ceremonial

costumes. This simple exterior of the persons in authority is connected

not only with the peculiarities of the American character, but with the

fundamental principles of that society. In the estimation of the

democracy a government is not a benefit, but a necessary evil. A

certain degree of power must be granted to public officers, for they

would be of no use without it. But the ostensible semblance of

authority is by no means indispensable to the conduct of affairs, and

it is needlessly offensive to the susceptibility of the public. The

public officers themselves are well aware that they only enjoy the

superiority over their fellow-citizens which they derive from their

authority upon condition of putting themselves on a level with the

whole community by their manners. A public officer in the United States

is uniformly civil, accessible to all the world, attentive to all

requests, and obliging in his replies. I was pleased by these

characteristics of a democratic government; and I was struck by the

manly independence of the citizens, who respect the office more than

the officer, and who are less attached to the emblems of authority than

to the man who bears them.

I am inclined to believe that the influence which costumes really

exercise, in an age like that in which we live, has been a good deal

exaggerated. I never perceived that a public officer in America was the

less respected whilst he was in the discharge of his duties because his

own merit was set off by no adventitious signs. On the other hand, it

is very doubtful whether a peculiar dress contributes to the respect

which public characters ought to have for their own position, at least

when they are not otherwise inclined to respect it. When a magistrate

(and in France such instances are not rare) indulges his trivial wit at

the expense of the prisoner, or derides the predicament in which a

culprit is placed, it would be well to deprive him of his robes of

office, to see whether he would recall some portion of the natural

dignity of mankind when he is reduced to the apparel of a private

citizen.

A democracy may, however, allow a certain show of magisterial pomp, and

clothe its officers in silks and gold, without seriously compromising

its principles. Privileges of this kind are transitory; they belong to

the place, and are distinct from the individual: but if public officers

are not uniformly remunerated by the State, the public charges must be

entrusted to men of opulence and independence, who constitute the basis

of an aristocracy; and if the people still retains its right of

election, that election can only be made from a certain class of

citizens. When a democratic republic renders offices which had formerly

been remunerated gratuitous, it may safely be believed that the State

is advancing to monarchical institutions; and when a monarchy begins to

remunerate such officers as had hitherto been unpaid, it is a sure sign

that it is approaching toward a despotic or a republican form of

government. The substitution of paid for unpaid functionaries is of

itself, in my opinion, sufficient to constitute a serious revolution.

I look upon the entire absence of gratuitous functionaries in America

as one of the most prominent signs of the absolute dominion which

democracy exercises in that country. All public services, of whatsoever

nature they may be, are paid; so that every one has not merely the

right, but also the means of performing them. Although, in democratic

States, all the citizens are qualified to occupy stations in the

Government, all are not tempted to try for them. The number and the

capacities of the candidates are more apt to restrict the choice of

electors than the connections of the candidateship.

In nations in which the principle of election extends to every place in

the State no political career can, properly speaking, be said to exist.

Men are promoted as if by chance to the rank which they enjoy, and they

are by no means sure of retaining it. The consequence is that in

tranquil times public functions offer but few lures to ambition. In the

United States the persons who engage in the perplexities of political

life are individuals of very moderate pretensions. The pursuit of

wealth generally diverts men of great talents and of great passions

from the pursuit of power, and it very frequently happens that a man

does not undertake to direct the fortune of the State until he has

discovered his incompetence to conduct his own affairs. The vast number

of very ordinary men who occupy public stations is quite as

attributable to these causes as to the bad choice of the democracy. In

the United States, I am not sure that the people would return the men

of superior abilities who might solicit its support, but it is certain

that men of this description do not come forward.

Arbitrary Power Of Magistrates Under The Rule Of The American Democracy

For what reason the arbitrary power of Magistrates is greater in

absolute monarchies and in democratic republics than it is in limited

monarchies—Arbitrary power of the Magistrates in New England.

In two different kinds of government the magistrates \*a exercise a

considerable degree of arbitrary power; namely, under the absolute

government of a single individual, and under that of a democracy. This

identical result proceeds from causes which are nearly analogous.

a

[ I here use the word magistrates in the widest sense in which it can

be taken; I apply it to all the officers to whom the execution of the

laws is intrusted.]

In despotic States the fortune of no citizen is secure; and public

officers are not more safe than private individuals. The sovereign, who

has under his control the lives, the property, and sometimes the honor

of the men whom he employs, does not scruple to allow them a great

latitude of action, because he is convinced that they will not use it

to his prejudice. In despotic States the sovereign is so attached to

the exercise of his power, that he dislikes the constraint even of his

own regulations; and he is well pleased that his agents should follow a

somewhat fortuitous line of conduct, provided he be certain that their

actions will never counteract his desires.

In democracies, as the majority has every year the right of depriving

the officers whom it has appointed of their power, it has no reason to

fear any abuse of their authority. As the people is always able to

signify its wishes to those who conduct the Government, it prefers

leaving them to make their own exertions to prescribing an invariable

rule of conduct which would at once fetter their activity and the

popular authority.

It may even be observed, on attentive consideration, that under the

rule of a democracy the arbitrary power of the magistrate must be still

greater than in despotic States. In the latter the sovereign has the

power of punishing all the faults with which he becomes acquainted, but

it would be vain for him to hope to become acquainted with all those

which are committed. In the former the sovereign power is not only

supreme, but it is universally present. The American functionaries are,

in point of fact, much more independent in the sphere of action which

the law traces out for them than any public officer in Europe. Very

frequently the object which they are to accomplish is simply pointed

out to them, and the choice of the means is left to their own

discretion.

In New England, for instance, the selectmen of each township are bound

to draw up the list of persons who are to serve on the jury; the only

rule which is laid down to guide them in their choice is that they are

to select citizens possessing the elective franchise and enjoying a

fair reputation. \*b In France the lives and liberties of the subjects

would be thought to be in danger if a public officer of any kind was

entrusted with so formidable a right. In New England the same

magistrates are empowered to post the names of habitual drunkards in

public-houses, and to prohibit the inhabitants of a town from supplying

them with liquor. \*c A censorial power of this excessive kind would be

revolting to the population of the most absolute monarchies; here,

however, it is submitted to without difficulty.

b

[ See the Act of February 27, 1813. “General Collection of the Laws of

Massachusetts,” vol. ii. p. 331. It should be added that the jurors are

afterwards drawn from these lists by lot.]

c

[ See Act of February 28, 1787. “General Collection of the Laws of

Massachusetts,” vol. i. p. 302.]

Nowhere has so much been left by the law to the arbitrary determination

of the magistrate as in democratic republics, because this arbitrary

power is unattended by any alarming consequences. It may even be

asserted that the freedom of the magistrate increases as the elective

franchise is extended, and as the duration of the time of office is

shortened. Hence arises the great difficulty which attends the

conversion of a democratic republic into a monarchy. The magistrate

ceases to be elective, but he retains the rights and the habits of an

elected officer, which lead directly to despotism.

It is only in limited monarchies that the law, which prescribes the

sphere in which public officers are to act, superintends all their

measures. The cause of this may be easily detected. In limited

monarchies the power is divided between the King and the people, both

of whom are interested in the stability of the magistrate. The King

does not venture to place the public officers under the control of the

people, lest they should be tempted to betray his interests; on the

other hand, the people fears lest the magistrates should serve to

oppress the liberties of the country, if they were entirely dependent

upon the Crown; they cannot therefore be said to depend on either one

or the other. The same cause which induces the king and the people to

render public officers independent suggests the necessity of such

securities as may prevent their independence from encroaching upon the

authority of the former and the liberties of the latter. They

consequently agree as to the necessity of restricting the functionary

to a line of conduct laid down beforehand, and they are interested in

confining him by certain regulations which he cannot evade.

Chapter XIII: Government Of The Democracy In America—Part II

Instability Of The Administration In The United States

In America the public acts of a community frequently leave fewer traces

than the occurrences of a family—Newspapers the only historical

remains—Instability of the administration prejudicial to the art of

government.

The authority which public men possess in America is so brief, and they

are so soon commingled with the ever-changing population of the

country, that the acts of a community frequently leave fewer traces

than the occurrences of a private family. The public administration is,

so to speak, oral and traditionary. But little is committed to writing,

and that little is wafted away forever, like the leaves of the Sibyl,

by the smallest breeze.

The only historical remains in the United States are the newspapers;

but if a number be wanting, the chain of time is broken, and the

present is severed from the past. I am convinced that in fifty years it

will be more difficult to collect authentic documents concerning the

social condition of the Americans at the present day than it is to find

remains of the administration of France during the Middle Ages; and if

the United States were ever invaded by barbarians, it would be

necessary to have recourse to the history of other nations in order to

learn anything of the people which now inhabits them.

The instability of the administration has penetrated into the habits of

the people: it even appears to suit the general taste, and no one cares

for what occurred before his time. No methodical system is pursued; no

archives are formed; and no documents are brought together when it

would be very easy to do so. Where they exist, little store is set upon

them; and I have amongst my papers several original public documents

which were given to me in answer to some of my inquiries. In America

society seems to live from hand to mouth, like an army in the field.

Nevertheless, the art of administration may undoubtedly be ranked as a

science, and no sciences can be improved if the discoveries and

observations of successive generations are not connected together in

the order in which they occur. One man, in the short space of his life

remarks a fact; another conceives an idea; the former invents a means

of execution, the latter reduces a truth to a fixed proposition; and

mankind gathers the fruits of individual experience upon its way and

gradually forms the sciences. But the persons who conduct the

administration in America can seldom afford any instruction to each

other; and when they assume the direction of society, they simply

possess those attainments which are most widely disseminated in the

community, and no experience peculiar to themselves. Democracy, carried

to its furthest limits, is therefore prejudicial to the art of

government; and for this reason it is better adapted to a people

already versed in the conduct of an administration than to a nation

which is uninitiated in public affairs.

This remark, indeed, is not exclusively applicable to the science of

administration. Although a democratic government is founded upon a very

simple and natural principle, it always presupposes the existence of a

high degree of culture and enlightenment in society. \*d At the first

glance it may be imagined to belong to the earliest ages of the world;

but maturer observation will convince us that it could only come last

in the succession of human history.

d

[ It is needless to observe that I speak here of the democratic form of

government as applied to a people, not merely to a tribe.]

Charges Levied By The State Under The Rule Of The American Democracy

In all communities citizens divisible into three classes—Habits of each

of these classes in the direction of public finances—Why public

expenditure must tend to increase when the people governs—What renders

the extravagance of a democracy less to be feared in America—Public

expenditure under a democracy.

Before we can affirm whether a democratic form of government is

economical or not, we must establish a suitable standard of comparison.

The question would be one of easy solution if we were to attempt to

draw a parallel between a democratic republic and an absolute monarchy.

The public expenditure would be found to be more considerable under the

former than under the latter; such is the case with all free States

compared to those which are not so. It is certain that despotism ruins

individuals by preventing them from producing wealth, much more than by

depriving them of the wealth they have produced; it dries up the source

of riches, whilst it usually respects acquired property. Freedom, on

the contrary, engenders far more benefits than it destroys; and the

nations which are favored by free institutions invariably find that

their resources increase even more rapidly than their taxes.

My present object is to compare free nations to each other, and to

point out the influence of democracy upon the finances of a State.

Communities, as well as organic bodies, are subject to certain fixed

rules in their formation which they cannot evade. They are composed of

certain elements which are common to them at all times and under all

circumstances. The people may always be mentally divided into three

distinct classes. The first of these classes consists of the wealthy;

the second, of those who are in easy circumstances; and the third is

composed of those who have little or no property, and who subsist more

especially by the work which they perform for the two superior orders.

The proportion of the individuals who are included in these three

divisions may vary according to the condition of society, but the

divisions themselves can never be obliterated.

It is evident that each of these classes will exercise an influence

peculiar to its own propensities upon the administration of the

finances of the State. If the first of the three exclusively possesses

the legislative power, it is probable that it will not be sparing of

the public funds, because the taxes which are levied on a large fortune

only tend to diminish the sum of superfluous enjoyment, and are, in

point of fact, but little felt. If the second class has the power of

making the laws, it will certainly not be lavish of taxes, because

nothing is so onerous as a large impost which is levied upon a small

income. The government of the middle classes appears to me to be the

most economical, though perhaps not the most enlightened, and certainly

not the most generous, of free governments.

But let us now suppose that the legislative authority is vested in the

lowest orders: there are two striking reasons which show that the

tendency of the expenditure will be to increase, not to diminish. As

the great majority of those who create the laws are possessed of no

property upon which taxes can be imposed, all the money which is spent

for the community appears to be spent to their advantage, at no cost of

their own; and those who are possessed of some little property readily

find means of regulating the taxes so that they are burdensome to the

wealthy and profitable to the poor, although the rich are unable to

take the same advantage when they are in possession of the Government.

In countries in which the poor \*e should be exclusively invested with

the power of making the laws no great economy of public expenditure

ought to be expected: that expenditure will always be considerable;

either because the taxes do not weigh upon those who levy them, or

because they are levied in such a manner as not to weigh upon those

classes. In other words, the government of the democracy is the only

one under which the power which lays on taxes escapes the payment of

them.

e

[ The word poor is used here, and throughout the remainder of this

chapter, in a relative, not in an absolute sense. Poor men in America

would often appear rich in comparison with the poor of Europe; but they

may with propriety by styled poor in comparison with their more

affluent countrymen.]

It may be objected (but the argument has no real weight) that the true

interest of the people is indissolubly connected with that of the

wealthier portion of the community, since it cannot but suffer by the

severe measures to which it resorts. But is it not the true interest of

kings to render their subjects happy, and the true interest of nobles

to admit recruits into their order on suitable grounds? If remote

advantages had power to prevail over the passions and the exigencies of

the moment, no such thing as a tyrannical sovereign or an exclusive

aristocracy could ever exist.

Again, it may be objected that the poor are never invested with the

sole power of making the laws; but I reply, that wherever universal

suffrage has been established the majority of the community

unquestionably exercises the legislative authority; and if it be proved

that the poor always constitute the majority, it may be added, with

perfect truth, that in the countries in which they possess the elective

franchise they possess the sole power of making laws. But it is certain

that in all the nations of the world the greater number has always

consisted of those persons who hold no property, or of those whose

property is insufficient to exempt them from the necessity of working

in order to procure an easy subsistence. Universal suffrage does

therefore, in point of fact, invest the poor with the government of

society.

The disastrous influence which popular authority may sometimes exercise

upon the finances of a State was very clearly seen in some of the

democratic republics of antiquity, in which the public treasure was

exhausted in order to relieve indigent citizens, or to supply the games

and theatrical amusements of the populace. It is true that the

representative system was then very imperfectly known, and that, at the

present time, the influence of popular passion is less felt in the

conduct of public affairs; but it may be believed that the delegate

will in the end conform to the principles of his constituents, and

favor their propensities as much as their interests.

The extravagance of democracy is, however, less to be dreaded in

proportion as the people acquires a share of property, because on the

one hand the contributions of the rich are then less needed, and, on

the other, it is more difficult to lay on taxes which do not affect the

interests of the lower classes. On this account universal suffrage

would be less dangerous in France than in England, because in the

latter country the property on which taxes may be levied is vested in

fewer hands. America, where the great majority of the citizens possess

some fortune, is in a still more favorable position than France.

There are still further causes which may increase the sum of public

expenditure in democratic countries. When the aristocracy governs, the

individuals who conduct the affairs of State are exempted by their own

station in society from every kind of privation; they are contented

with their position; power and renown are the objects for which they

strive; and, as they are placed far above the obscurer throng of

citizens, they do not always distinctly perceive how the well-being of

the mass of the people ought to redound to their own honor. They are

not indeed callous to the sufferings of the poor, but they cannot feel

those miseries as acutely as if they were themselves partakers of them.

Provided that the people appear to submit to its lot, the rulers are

satisfied, and they demand nothing further from the Government. An

aristocracy is more intent upon the means of maintaining its influence

than upon the means of improving its condition.

When, on the contrary, the people is invested with the supreme

authority, the perpetual sense of their own miseries impels the rulers

of society to seek for perpetual ameliorations. A thousand different

objects are subjected to improvement; the most trivial details are

sought out as susceptible of amendment; and those changes which are

accompanied with considerable expense are more especially advocated,

since the object is to render the condition of the poor more tolerable,

who cannot pay for themselves.

Moreover, all democratic communities are agitated by an ill-defined

excitement and by a kind of feverish impatience, that engender a

multitude of innovations, almost all of which are attended with

expense.

In monarchies and aristocracies the natural taste which the rulers have

for power and for renown is stimulated by the promptings of ambition,

and they are frequently incited by these temptations to very costly

undertakings. In democracies, where the rulers labor under privations,

they can only be courted by such means as improve their well-being, and

these improvements cannot take place without a sacrifice of money. When

a people begins to reflect upon its situation, it discovers a multitude

of wants to which it had not before been subject, and to satisfy these

exigencies recourse must be had to the coffers of the State. Hence it

arises that the public charges increase in proportion as civilization

spreads, and that imposts are augmented as knowledge pervades the

community.

The last cause which frequently renders a democratic government dearer

than any other is, that a democracy does not always succeed in

moderating its expenditure, because it does not understand the art of

being economical. As the designs which it entertains are frequently

changed, and the agents of those designs are still more frequently

removed, its undertakings are often ill conducted or left unfinished:

in the former case the State spends sums out of all proportion to the

end which it proposes to accomplish; in the second, the expense itself

is unprofitable. \*f

f

[ The gross receipts of the Treasury of the United States in 1832 were

about $28,000,000; in 1870 they had risen to $411,000,000. The gross

expenditure in 1832 was $30,000,000; in 1870, $309,000,000.]

Tendencies Of The American Democracy As Regards The Salaries Of Public

Officers

In the democracies those who establish high salaries have no chance of

profiting by them—Tendency of the American democracy to increase the

salaries of subordinate officers and to lower those of the more

important functionaries—Reason of this—Comparative statement of the

salaries of public officers in the United States and in France.

There is a powerful reason which usually induces democracies to

economize upon the salaries of public officers. As the number of

citizens who dispense the remuneration is extremely large in democratic

countries, so the number of persons who can hope to be benefited by the

receipt of it is comparatively small. In aristocratic countries, on the

contrary, the individuals who fix high salaries have almost always a

vague hope of profiting by them. These appointments may be looked upon

as a capital which they create for their own use, or at least as a

resource for their children.

It must, however, be allowed that a democratic State is most

parsimonious towards its principal agents. In America the secondary

officers are much better paid, and the dignitaries of the

administration much worse, than they are elsewhere.

These opposite effects result from the same cause; the people fixes the

salaries of the public officers in both cases; and the scale of

remuneration is determined by the consideration of its own wants. It is

held to be fair that the servants of the public should be placed in the

same easy circumstances as the public itself; \*g but when the question

turns upon the salaries of the great officers of State, this rule

fails, and chance alone can guide the popular decision. The poor have

no adequate conception of the wants which the higher classes of society

may feel. The sum which is scanty to the rich appears enormous to the

poor man whose wants do not extend beyond the necessaries of life; and

in his estimation the Governor of a State, with his twelve or fifteen

hundred dollars a year, is a very fortunate and enviable being. \*h If

you undertake to convince him that the representative of a great people

ought to be able to maintain some show of splendor in the eyes of

foreign nations, he will perhaps assent to your meaning; but when he

reflects on his own humble dwelling, and on the hard-earned produce of

his wearisome toil, he remembers all that he could do with a salary

which you say is insufficient, and he is startled or almost frightened

at the sight of such uncommon wealth. Besides, the secondary public

officer is almost on a level with the people, whilst the others are

raised above it. The former may therefore excite his interest, but the

latter begins to arouse his envy.

g

[ The easy circumstances in which secondary functionaries are placed in

the United States result also from another cause, which is independent

of the general tendencies of democracy; every kind of private business

is very lucrative, and the State would not be served at all if it did

not pay its servants. The country is in the position of a commercial

undertaking, which is obliged to sustain an expensive competition,

notwithstanding its tastes for economy.]

h

[ The State of Ohio, which contains a million of inhabitants, gives its

Governor a salary of only $1,200 a year.]

This is very clearly seen in the United States, where the salaries seem

to decrease as the authority of those who receive them augments \*i

i

[ To render this assertion perfectly evident, it will suffice to

examine the scale of salaries of the agents of the Federal Government.

I have added the salaries attached to the corresponding officers in

France under the constitutional monarchy to complete the comparison.

United States

Treasury Department

Messenger ............................ $700

Clerk with lowest salary ............. 1,000

Clerk with highest salary ............ 1,600

Chief Clerk .......................... 2,000

Secretary of State ................... 6,000

The President ........................ 25,000

France

Ministere des Finances

Hussier ........................... 1,500 fr.

Clerk with lowest salary, 1,000 to 1,800 fr.

Clerk with highest salary 3,200 to 8,600 fr.

Secretaire-general ................20,000 fr.

The Minister ......................80,000 fr.

The King ......................12,000,000 fr.

I have perhaps done wrong in selecting France as my standard of

comparison. In France the democratic tendencies of the nation exercise

an ever-increasing influence upon the Government, and the Chambers show

a disposition to raise the low salaries and to lower the principal

ones. Thus, the Minister of Finance, who received 160,000 fr. under the

Empire, receives 80,000 fr. in 1835: the Directeurs-generaux of

Finance, who then received 50,000 fr. now receive only 20,000 fr. [This

comparison is based on the state of things existing in France and the

United States in 1831. It has since materially altered in both

countries, but not so much as to impugn the truth of the author’s

observation.]]

Under the rule of an aristocracy it frequently happens, on the

contrary, that whilst the high officers are receiving munificent

salaries, the inferior ones have not more than enough to procure the

necessaries of life. The reason of this fact is easily discoverable

from causes very analogous to those to which I have just alluded. If a

democracy is unable to conceive the pleasures of the rich or to witness

them without envy, an aristocracy is slow to understand, or, to speak

more correctly, is unacquainted with, the privations of the poor. The

poor man is not (if we use the term aright) the fellow of the rich one;

but he is a being of another species. An aristocracy is therefore apt

to care but little for the fate of its subordinate agents; and their

salaries are only raised when they refuse to perform their service for

too scanty a remuneration.

It is the parsimonious conduct of democracy towards its principal

officers which has countenanced a supposition of far more economical

propensities than any which it really possesses. It is true that it

scarcely allows the means of honorable subsistence to the individuals

who conduct its affairs; but enormous sums are lavished to meet the

exigencies or to facilitate the enjoyments of the people. \*j The money

raised by taxation may be better employed, but it is not saved. In

general, democracy gives largely to the community, and very sparingly

to those who govern it. The reverse is the case in aristocratic

countries, where the money of the State is expended to the profit of

the persons who are at the head of affairs.

j

[ See the American budgets for the cost of indigent citizens and

gratuitous instruction. In 1831 $250,000 were spent in the State of New

York for the maintenance of the poor, and at least $1,000,000 were

devoted to gratuitous instruction. (William’s “New York Annual

Register,” 1832, pp. 205 and 243.) The State of New York contained only

1,900,000 inhabitants in the year 1830, which is not more than double

the amount of population in the Department du Nord in France.]

Difficulty of Distinguishing The Causes Which Contribute To The Economy

Of The American Government

We are liable to frequent errors in the research of those facts which

exercise a serious influence upon the fate of mankind, since nothing is

more difficult than to appreciate their real value. One people is

naturally inconsistent and enthusiastic; another is sober and

calculating; and these characteristics originate in their physical

constitution or in remote causes with which we are unacquainted.

These are nations which are fond of parade and the bustle of festivity,

and which do not regret the costly gaieties of an hour. Others, on the

contrary, are attached to more retiring pleasures, and seem almost

ashamed of appearing to be pleased. In some countries the highest value

is set upon the beauty of public edifices; in others the productions of

art are treated with indifference, and everything which is unproductive

is looked down upon with contempt. In some renown, in others money, is

the ruling passion.

Independently of the laws, all these causes concur to exercise a very

powerful influence upon the conduct of the finances of the State. If

the Americans never spend the money of the people in galas, it is not

only because the imposition of taxes is under the control of the

people, but because the people takes no delight in public rejoicings.

If they repudiate all ornament from their architecture, and set no

store on any but the more practical and homely advantages, it is not

only because they live under democratic institutions, but because they

are a commercial nation. The habits of private life are continued in

public; and we ought carefully to distinguish that economy which

depends upon their institutions from that which is the natural result

of their manners and customs.

Whether The Expenditure Of The United States Can Be Compared To That Of

France

Two points to be established in order to estimate the extent of the

public charges, viz., the national wealth and the rate of taxation—The

wealth and the charges of France not accurately known—Why the wealth

and charges of the Union cannot be accurately known—Researches of the

author with a view to discover the amount of taxation of

Pennsylvania—General symptoms which may serve to indicate the amount of

the public charges in a given nation—Result of this investigation for

the Union.

Many attempts have recently been made in France to compare the public

expenditure of that country with the expenditure of the United States;

all these attempts have, however, been unattended by success, and a few

words will suffice to show that they could not have had a satisfactory

result.

In order to estimate the amount of the public charges of a people two

preliminaries are indispensable: it is necessary, in the first place,

to know the wealth of that people; and in the second, to learn what

portion of that wealth is devoted to the expenditure of the State. To

show the amount of taxation without showing the resources which are

destined to meet the demand, is to undertake a futile labor; for it is

not the expenditure, but the relation of the expenditure to the

revenue, which it is desirable to know.

The same rate of taxation which may easily be supported by a wealthy

contributor will reduce a poor one to extreme misery. The wealth of

nations is composed of several distinct elements, of which population

is the first, real property the second, and personal property the

third. The first of these three elements may be discovered without

difficulty. Amongst civilized nations it is easy to obtain an accurate

census of the inhabitants; but the two others cannot be determined with

so much facility. It is difficult to take an exact account of all the

lands in a country which are under cultivation, with their natural or

their acquired value; and it is still more impossible to estimate the

entire personal property which is at the disposal of a nation, and

which eludes the strictest analysis by the diversity and the number of

shapes under which it may occur. And, indeed, we find that the most

ancient civilized nations of Europe, including even those in which the

administration is most central, have not succeeded, as yet, in

determining the exact condition of their wealth.

In America the attempt has never been made; for how would such an

investigation be possible in a country where society has not yet

settled into habits of regularity and tranquillity; where the national

Government is not assisted by a multiple of agents whose exertions it

can command and direct to one sole end; and where statistics are not

studied, because no one is able to collect the necessary documents, or

to find time to peruse them? Thus the primary elements of the

calculations which have been made in France cannot be obtained in the

Union; the relative wealth of the two countries is unknown; the

property of the former is not accurately determined, and no means exist

of computing that of the latter.

I consent, therefore, for the sake of the discussion, to abandon this

necessary term of the comparison, and I confine myself to a computation

of the actual amount of taxation, without investigating the relation

which subsists between the taxation and the revenue. But the reader

will perceive that my task has not been facilitated by the limits which

I here lay down for my researches.

It cannot be doubted that the central administration of France,

assisted by all the public officers who are at its disposal, might

determine with exactitude the amount of the direct and indirect taxes

levied upon the citizens. But this investigation, which no private

individual can undertake, has not hitherto been completed by the French

Government, or, at least, its results have not been made public. We are

acquainted with the sum total of the charges of the State; we know the

amount of the departmental expenditure; but the expenses of the

communal divisions have not been computed, and the amount of the public

expenses of France is consequently unknown.

If we now turn to America, we shall perceive that the difficulties are

multiplied and enhanced. The Union publishes an exact return of the

amount of its expenditure; the budgets of the four and twenty States

furnish similar returns of their revenues; but the expenses incident to

the affairs of the counties and the townships are unknown. \*k

k

[ The Americans, as we have seen, have four separate budgets, the

Union, the States, the Counties, and the Townships having each

severally their own. During my stay in America I made every endeavor to

discover the amount of the public expenditure in the townships and

counties of the principal States of the Union, and I readily obtained

the budget of the larger townships, but I found it quite impossible to

procure that of the smaller ones. I possess, however, some documents

relating to county expenses, which, although incomplete, are still

curious. I have to thank Mr. Richards, Mayor of Philadelphia, for the

budgets of thirteen of the counties of Pennsylvania, viz., Lebanon,

Centre, Franklin, Fayette, Montgomery, Luzerne, Dauphin, Butler,

Alleghany, Columbia, Northampton, Northumberland, and Philadelphia, for

the year 1830. Their population at that time consisted of 495,207

inhabitants. On looking at the map of Pennsylvania, it will be seen

that these thirteen counties are scattered in every direction, and so

generally affected by the causes which usually influence the condition

of a country, that they may easily be supposed to furnish a correct

average of the financial state of the counties of Pennsylvania in

general; and thus, upon reckoning that the expenses of these counties

amounted in the year 1830 to about $361,650, or nearly 75 cents for

each inhabitant, and calculating that each of them contributed in the

same year about $2.55 towards the Union, and about 75 cents to the

State of Pennsylvania, it appears that they each contributed as their

share of all the public expenses (except those of the townships) the

sum of $4.05. This calculation is doubly incomplete, as it applies only

to a single year and to one part of the public charges; but it has at

least the merit of not being conjectural.]

The authority of the Federal government cannot oblige the provincial

governments to throw any light upon this point; and even if these

governments were inclined to afford their simultaneous co-operation, it

may be doubted whether they possess the means of procuring a

satisfactory answer. Independently of the natural difficulties of the

task, the political organization of the country would act as a

hindrance to the success of their efforts. The county and town

magistrates are not appointed by the authorities of the State, and they

are not subjected to their control. It is therefore very allowable to

suppose that, if the State was desirous of obtaining the returns which

we require, its design would be counteracted by the neglect of those

subordinate officers whom it would be obliged to employ. \*l It is, in

point of fact, useless to inquire what the Americans might do to

forward this inquiry, since it is certain that they have hitherto done

nothing at all. There does not exist a single individual at the present

day, in America or in Europe, who can inform us what each citizen of

the Union annually contributes to the public charges of the nation. \*m

[Footnote l: Those who have attempted to draw a comparison between the

expenses of France and America have at once perceived that no such

comparison could be drawn between the total expenditure of the two

countries; but they have endeavored to contrast detached portions of

this expenditure. It may readily be shown that this second system is

not at all less defective than the first. If I attempt to compare the

French budget with the budget of the Union, it must be remembered that

the latter embraces much fewer objects than then central Government of

the former country, and that the expenditure must consequently be much

smaller. If I contrast the budgets of the Departments with those of the

States which constitute the Union, it must be observed that, as the

power and control exercised by the States is much greater than that

which is exercised by the Departments, their expenditure is also more

considerable. As for the budgets of the counties, nothing of the kind

occurs in the French system of finances; and it is, again, doubtful

whether the corresponding expenses should be referred to the budget of

the State or to those of the municipal divisions. Municipal expenses

exist in both countries, but they are not always analogous. In America

the townships discharge a variety of offices which are reserved in

France to the Departments or to the State. It may, moreover, be asked

what is to be understood by the municipal expenses of America. The

organization of the municipal bodies or townships differs in the

several States. Are we to be guided by what occurs in New England or in

Georgia, in Pennsylvania or in the State of Illinois? A kind of analogy

may very readily be perceived between certain budgets in the two

countries; but as the elements of which they are composed always differ

more or less, no fair comparison can be instituted between them. [The

same difficulty exists, perhaps to a greater degree at the present

time, when the taxation of America has largely increased.—1874.]]

m

[ Even if we knew the exact pecuniary contributions of every French and

American citizen to the coffers of the State, we should only come at a

portion of the truth. Governments do not only demand supplies of money,

but they call for personal services, which may be looked upon as

equivalent to a given sum. When a State raises an army, besides the pay

of the troops, which is furnished by the entire nation, each soldier

must give up his time, the value of which depends on the use he might

make of it if he were not in the service. The same remark applies to

the militia; the citizen who is in the militia devotes a certain

portion of valuable time to the maintenance of the public peace, and he

does in reality surrender to the State those earnings which he is

prevented from gaining. Many other instances might be cited in addition

to these. The governments of France and of America both levy taxes of

this kind, which weigh upon the citizens; but who can estimate with

accuracy their relative amount in the two countries?

This, however, is not the last of the difficulties which prevent us

from comparing the expenditure of the Union with that of France. The

French Government contracts certain obligations which do not exist in

America, and vice versa. The French Government pays the clergy; in

America the voluntary principle prevails. In America there is a legal

provision for the poor; in France they are abandoned to the charity of

the public. The French public officers are paid by a fixed salary; in

America they are allowed certain perquisites. In France contributions

in kind take place on very few roads; in America upon almost all the

thoroughfares: in the former country the roads are free to all

travellers; in the latter turnpikes abound. All these differences in

the manner in which contributions are levied in the two countries

enhance the difficulty of comparing their expenditure; for there are

certain expenses which the citizens would not be subject to, or which

would at any rate be much less considerable, if the State did not take

upon itself to act in the name of the public.]

Hence we must conclude that it is no less difficult to compare the

social expenditure than it is to estimate the relative wealth of France

and America. I will even add that it would be dangerous to attempt this

comparison; for when statistics are not based upon computations which

are strictly accurate, they mislead instead of guiding aright. The mind

is easily imposed upon by the false affectation of exactness, which

prevails even in the misstatements of science, and it adopts with

confidence errors which are dressed in the forms of mathematical truth.

We abandon, therefore, our numerical investigation, with the hope of

meeting with data of another kind. In the absence of positive

documents, we may form an opinion as to the proportion which the

taxation of a people bears to its real prosperity, by observing whether

its external appearance is flourishing; whether, after having

discharged the calls of the State, the poor man retains the means of

subsistence, and the rich the means of enjoyment; and whether both

classes are contented with their position, seeking, however, to

ameliorate it by perpetual exertions, so that industry is never in want

of capital, nor capital unemployed by industry. The observer who draws

his inferences from these signs will, undoubtedly, be led to the

conclusion that the American of the United States contributes a much

smaller portion of his income to the State than the citizen of France.

Nor, indeed, can the result be otherwise.

A portion of the French debt is the consequence of two successive

invasions; and the Union has no similar calamity to fear. A nation

placed upon the continent of Europe is obliged to maintain a large

standing army; the isolated position of the Union enables it to have

only 6,000 soldiers. The French have a fleet of 300 sail; the Americans

have 52 vessels. \*n How, then, can the inhabitants of the Union be

called upon to contribute as largely as the inhabitants of France? No

parallel can be drawn between the finances of two countries so

differently situated.

n

[ See the details in the Budget of the French Minister of Marine; and

for America, the National Calendar of 1833, p. 228. [But the public

debt of the United States in 1870, caused by the Civil War, amounted to

$2,480,672,427; that of France was more than doubled by the

extravagance of the Second Empire and by the war of 1870.]]

It is by examining what actually takes place in the Union, and not by

comparing the Union with France, that we may discover whether the

American Government is really economical. On casting my eyes over the

different republics which form the confederation, I perceive that their

Governments lack perseverance in their undertakings, and that they

exercise no steady control over the men whom they employ. Whence I

naturally infer that they must often spend the money of the people to

no purpose, or consume more of it than is really necessary to their

undertakings. Great efforts are made, in accordance with the democratic

origin of society, to satisfy the exigencies of the lower orders, to

open the career of power to their endeavors, and to diffuse knowledge

and comfort amongst them. The poor are maintained, immense sums are

annually devoted to public instruction, all services whatsoever are

remunerated, and the most subordinate agents are liberally paid. If

this kind of government appears to me to be useful and rational, I am

nevertheless constrained to admit that it is expensive.

Wherever the poor direct public affairs and dispose of the national

resources, it appears certain that, as they profit by the expenditure

of the State, they are apt to augment that expenditure.

I conclude, therefore, without having recourse to inaccurate

computations, and without hazarding a comparison which might prove

incorrect, that the democratic government of the Americans is not a

cheap government, as is sometimes asserted; and I have no hesitation in

predicting that, if the people of the United States is ever involved in

serious difficulties, its taxation will speedily be increased to the

rate of that which prevails in the greater part of the aristocracies

and the monarchies of Europe. \*o

o

[ [That is precisely what has since occurred.]]

Chapter XIII: Government Of The Democracy In America—Part III

Corruption And Vices Of The Rulers In A Democracy, And Consequent

Effects Upon Public Morality

In aristocracies rulers sometimes endeavor to corrupt the people—In

democracies rulers frequently show themselves to be corrupt—In the

former their vices are directly prejudicial to the morality of the

people—In the latter their indirect influence is still more pernicious.

A distinction must be made, when the aristocratic and the democratic

principles mutually inveigh against each other, as tending to

facilitate corruption. In aristocratic governments the individuals who

are placed at the head of affairs are rich men, who are solely desirous

of power. In democracies statesmen are poor, and they have their

fortunes to make. The consequence is that in aristocratic States the

rulers are rarely accessible to corruption, and have very little

craving for money; whilst the reverse is the case in democratic

nations.

But in aristocracies, as those who are desirous of arriving at the head

of affairs are possessed of considerable wealth, and as the number of

persons by whose assistance they may rise is comparatively small, the

government is, if I may use the expression, put up to a sort of

auction. In democracies, on the contrary, those who are covetous of

power are very seldom wealthy, and the number of citizens who confer

that power is extremely great. Perhaps in democracies the number of men

who might be bought is by no means smaller, but buyers are rarely to be

met with; and, besides, it would be necessary to buy so many persons at

once that the attempt is rendered nugatory.

Many of the men who have been in the administration in France during

the last forty years have been accused of making their fortunes at the

expense of the State or of its allies; a reproach which was rarely

addressed to the public characters of the ancient monarchy. But in

France the practice of bribing electors is almost unknown, whilst it is

notoriously and publicly carried on in England. In the United States I

never heard a man accused of spending his wealth in corrupting the

populace; but I have often heard the probity of public officers

questioned; still more frequently have I heard their success attributed

to low intrigues and immoral practices.

If, then, the men who conduct the government of an aristocracy

sometimes endeavor to corrupt the people, the heads of a democracy are

themselves corrupt. In the former case the morality of the people is

directly assailed; in the latter an indirect influence is exercised

upon the people which is still more to be dreaded.

As the rulers of democratic nations are almost always exposed to the

suspicion of dishonorable conduct, they in some measure lend the

authority of the Government to the base practices of which they are

accused. They thus afford an example which must prove discouraging to

the struggles of virtuous independence, and must foster the secret

calculations of a vicious ambition. If it be asserted that evil

passions are displayed in all ranks of society, that they ascend the

throne by hereditary right, and that despicable characters are to be

met with at the head of aristocratic nations as well as in the sphere

of a democracy, this objection has but little weight in my estimation.

The corruption of men who have casually risen to power has a coarse and

vulgar infection in it which renders it contagious to the multitude. On

the contrary, there is a kind of aristocratic refinement and an air of

grandeur in the depravity of the great, which frequently prevent it

from spreading abroad.

The people can never penetrate into the perplexing labyrinth of court

intrigue, and it will always have difficulty in detecting the turpitude

which lurks under elegant manners, refined tastes, and graceful

language. But to pillage the public purse, and to vend the favors of

the State, are arts which the meanest villain may comprehend, and hope

to practice in his turn.

In reality it is far less prejudicial to witness the immorality of the

great than to witness that immorality which leads to greatness. In a

democracy private citizens see a man of their own rank in life, who

rises from that obscure position, and who becomes possessed of riches

and of power in a few years; the spectacle excites their surprise and

their envy, and they are led to inquire how the person who was

yesterday their equal is to-day their ruler. To attribute his rise to

his talents or his virtues is unpleasant; for it is tacitly to

acknowledge that they are themselves less virtuous and less talented

than he was. They are therefore led (and not unfrequently their

conjecture is a correct one) to impute his success mainly to some one

of his defects; and an odious mixture is thus formed of the ideas of

turpitude and power, unworthiness and success, utility and dishonor.

Efforts Of Which A Democracy Is Capable

The Union has only had one struggle hitherto for its

existence—Enthusiasm at the commencement of the war—Indifference

towards its close—Difficulty of establishing military conscription or

impressment of seamen in America—Why a democratic people is less

capable of sustained effort than another.

I here warn the reader that I speak of a government which implicitly

follows the real desires of a people, and not of a government which

simply commands in its name. Nothing is so irresistible as a tyrannical

power commanding in the name of the people, because, whilst it

exercises that moral influence which belongs to the decision of the

majority, it acts at the same time with the promptitude and the

tenacity of a single man.

It is difficult to say what degree of exertion a democratic government

may be capable of making a crisis in the history of the nation. But no

great democratic republic has hitherto existed in the world. To style

the oligarchy which ruled over France in 1793 by that name would be to

offer an insult to the republican form of government. The United States

afford the first example of the kind.

The American Union has now subsisted for half a century, in the course

of which time its existence has only once been attacked, namely, during

the War of Independence. At the commencement of that long war, various

occurrences took place which betokened an extraordinary zeal for the

service of the country. \*p But as the contest was prolonged, symptoms

of private egotism began to show themselves. No money was poured into

the public treasury; few recruits could be raised to join the army; the

people wished to acquire independence, but was very ill-disposed to

undergo the privations by which alone it could be obtained. “Tax laws,”

says Hamilton in the “Federalist” (No. 12), “have in vain been

multiplied; new methods to enforce the collection have in vain been

tried; the public expectation has been uniformly disappointed and the

treasuries of the States have remained empty. The popular system of

administration inherent in the nature of popular government, coinciding

with the real scarcity of money incident to a languid and mutilated

state of trade, has hitherto defeated every experiment for extensive

collections, and has at length taught the different legislatures the

folly of attempting them.”

p

[ One of the most singular of these occurrences was the resolution

which the Americans took of temporarily abandoning the use of tea.

Those who know that men usually cling more to their habits than to

their life will doubtless admire this great though obscure sacrifice

which was made by a whole people.]

The United States have not had any serious war to carry on ever since

that period. In order, therefore, to appreciate the sacrifices which

democratic nations may impose upon themselves, we must wait until the

American people is obliged to put half its entire income at the

disposal of the Government, as was done by the English; or until it

sends forth a twentieth part of its population to the field of battle,

as was done by France. \*q

q

[ [The Civil War showed that when the necessity arose the American

people, both in the North and in the South, are capable of making the

most enormous sacrifices, both in money and in men.]]

In America the use of conscription is unknown, and men are induced to

enlist by bounties. The notions and habits of the people of the United

States are so opposed to compulsory enlistment that I do not imagine it

can ever be sanctioned by the laws. What is termed the conscription in

France is assuredly the heaviest tax upon the population of that

country; yet how could a great continental war be carried on without

it? The Americans have not adopted the British impressment of seamen,

and they have nothing which corresponds to the French system of

maritime conscription; the navy, as well as the merchant service, is

supplied by voluntary service. But it is not easy to conceive how a

people can sustain a great maritime war without having recourse to one

or the other of these two systems. Indeed, the Union, which has fought

with some honor upon the seas, has never possessed a very numerous

fleet, and the equipment of the small number of American vessels has

always been excessively expensive.

I have heard American statesmen confess that the Union will have great

difficulty in maintaining its rank on the seas without adopting the

system of impressment or of maritime conscription; but the difficulty

is to induce the people, which exercises the supreme authority, to

submit to impressment or any compulsory system.

It is incontestable that in times of danger a free people displays far

more energy than one which is not so. But I incline to believe that

this is more especially the case in those free nations in which the

democratic element preponderates. Democracy appears to me to be much

better adapted for the peaceful conduct of society, or for an

occasional effort of remarkable vigor, than for the hardy and prolonged

endurance of the storms which beset the political existence of nations.

The reason is very evident; it is enthusiasm which prompts men to

expose themselves to dangers and privations, but they will not support

them long without reflection. There is more calculation, even in the

impulses of bravery, than is generally attributed to them; and although

the first efforts are suggested by passion, perseverance is maintained

by a distinct regard of the purpose in view. A portion of what we value

is exposed, in order to save the remainder.

But it is this distinct perception of the future, founded upon a sound

judgment and an enlightened experience, which is most frequently

wanting in democracies. The populace is more apt to feel than to

reason; and if its present sufferings are great, it is to be feared

that the still greater sufferings attendant upon defeat will be

forgotten.

Another cause tends to render the efforts of a democratic government

less persevering than those of an aristocracy. Not only are the lower

classes less awakened than the higher orders to the good or evil

chances of the future, but they are liable to suffer far more acutely

from present privations. The noble exposes his life, indeed, but the

chance of glory is equal to the chance of harm. If he sacrifices a

large portion of his income to the State, he deprives himself for a

time of the pleasures of affluence; but to the poor man death is

embellished by no pomp or renown, and the imposts which are irksome to

the rich are fatal to him.

This relative impotence of democratic republics is, perhaps, the

greatest obstacle to the foundation of a republic of this kind in

Europe. In order that such a State should subsist in one country of the

Old World, it would be necessary that similar institutions should be

introduced into all the other nations.

I am of opinion that a democratic government tends in the end to

increase the real strength of society; but it can never combine, upon a

single point and at a given time, so much power as an aristocracy or a

monarchy. If a democratic country remained during a whole century

subject to a republican government, it would probably at the end of

that period be more populous and more prosperous than the neighboring

despotic States. But it would have incurred the risk of being conquered

much oftener than they would in that lapse of years.

Self-Control Of The American Democracy

The American people acquiesces slowly, or frequently does not

acquiesce, in what is beneficial to its interests—The faults of the

American democracy are for the most part reparable.

The difficulty which a democracy has in conquering the passions and in

subduing the exigencies of the moment, with a view to the future, is

conspicuous in the most trivial occurrences of the United States. The

people, which is surrounded by flatterers, has great difficulty in

surmounting its inclinations, and whenever it is solicited to undergo a

privation or any kind of inconvenience, even to attain an end which is

sanctioned by its own rational conviction, it almost always refuses to

comply at first. The deference of the Americans to the laws has been

very justly applauded; but it must be added that in America the

legislation is made by the people and for the people. Consequently, in

the United States the law favors those classes which are most

interested in evading it elsewhere. It may therefore be supposed that

an offensive law, which should not be acknowledged to be one of

immediate utility, would either not be enacted or would not be obeyed.

In America there is no law against fraudulent bankruptcies; not because

they are few, but because there are a great number of bankruptcies. The

dread of being prosecuted as a bankrupt acts with more intensity upon

the mind of the majority of the people than the fear of being involved

in losses or ruin by the failure of other parties, and a sort of guilty

tolerance is extended by the public conscience to an offence which

everyone condemns in his individual capacity. In the new States of the

Southwest the citizens generally take justice into their own hands, and

murders are of very frequent occurrence. This arises from the rude

manners and the ignorance of the inhabitants of those deserts, who do

not perceive the utility of investing the law with adequate force, and

who prefer duels to prosecutions.

Someone observed to me one day, in Philadelphia, that almost all crimes

in America are caused by the abuse of intoxicating liquors, which the

lower classes can procure in great abundance, from their excessive

cheapness. “How comes it,” said I, “that you do not put a duty upon

brandy?” “Our legislators,” rejoined my informant, “have frequently

thought of this expedient; but the task of putting it in operation is a

difficult one; a revolt might be apprehended, and the members who

should vote for a law of this kind would be sure of losing their

seats.” “Whence I am to infer,” replied I, “that the drinking

population constitutes the majority in your country, and that

temperance is somewhat unpopular.”

When these things are pointed out to the American statesmen, they

content themselves with assuring you that time will operate the

necessary change, and that the experience of evil will teach the people

its true interests. This is frequently true, although a democracy is

more liable to error than a monarch or a body of nobles; the chances of

its regaining the right path when once it has acknowledged its mistake,

are greater also; because it is rarely embarrassed by internal

interests, which conflict with those of the majority, and resist the

authority of reason. But a democracy can only obtain truth as the

result of experience, and many nations may forfeit their existence

whilst they are awaiting the consequences of their errors.

The great privilege of the Americans does not simply consist in their

being more enlightened than other nations, but in their being able to

repair the faults they may commit. To which it must be added, that a

democracy cannot derive substantial benefit from past experience,

unless it be arrived at a certain pitch of knowledge and civilization.

There are tribes and peoples whose education has been so vicious, and

whose character presents so strange a mixture of passion, of ignorance,

and of erroneous notions upon all subjects, that they are unable to

discern the causes of their own wretchedness, and they fall a sacrifice

to ills with which they are unacquainted.

I have crossed vast tracts of country that were formerly inhabited by

powerful Indian nations which are now extinct; I have myself passed

some time in the midst of mutilated tribes, which witness the daily

decline of their numerical strength and of the glory of their

independence; and I have heard these Indians themselves anticipate the

impending doom of their race. Every European can perceive means which

would rescue these unfortunate beings from inevitable destruction. They

alone are insensible to the expedient; they feel the woe which year

after year heaps upon their heads, but they will perish to a man

without accepting the remedy. It would be necessary to employ force to

induce them to submit to the protection and the constraint of

civilization.

The incessant revolutions which have convulsed the South American

provinces for the last quarter of a century have frequently been

adverted to with astonishment, and expectations have been expressed

that those nations would speedily return to their natural state. But

can it be affirmed that the turmoil of revolution is not actually the

most natural state of the South American Spaniards at the present time?

In that country society is plunged into difficulties from which all its

efforts are insufficient to rescue it. The inhabitants of that fair

portion of the Western Hemisphere seem obstinately bent on pursuing the

work of inward havoc. If they fall into a momentary repose from the

effects of exhaustion, that repose prepares them for a fresh state of

frenzy. When I consider their condition, which alternates between

misery and crime, I should be inclined to believe that despotism itself

would be a benefit to them, if it were possible that the words

despotism and benefit could ever be united in my mind.

Conduct Of Foreign Affairs By The American Democracy

Direction given to the foreign policy of the United States by

Washington and Jefferson—Almost all the defects inherent in democratic

institutions are brought to light in the conduct of foreign

affairs—Their advantages are less perceptible.

We have seen that the Federal Constitution entrusts the permanent

direction of the external interests of the nation to the President and

the Senate, \*r which tends in some degree to detach the general foreign

policy of the Union from the control of the people. It cannot therefore

be asserted with truth that the external affairs of State are conducted

by the democracy.

r

[ “The President,” says the Constitution, Art. II, sect. 2, Section 2,

“shall have power, by and with the advice and consent of the Senate, to

make treaties, provided two-thirds of the senators present concur.” The

reader is reminded that the senators are returned for a term of six

years, and that they are chosen by the legislature of each State.]

The policy of America owes its rise to Washington, and after him to

Jefferson, who established those principles which it observes at the

present day. Washington said in the admirable letter which he addressed

to his fellow-citizens, and which may be looked upon as his political

bequest to the country: “The great rule of conduct for us in regard to

foreign nations is, in extending our commercial relations, to have with

them as little political connection as possible. So far as we have

already formed engagements, let them be fulfilled with perfect good

faith. Here let us stop. Europe has a set of primary interests which to

us have none, or a very remote relation. Hence, she must be engaged in

frequent controversies, the causes of which are essentially foreign to

our concerns. Hence, therefore, it must be unwise in us to implicate

ourselves, by artificial ties, in the ordinary vicissitudes of her

politics, or the ordinary combinations and collisions of her

friendships or enmities. Our detached and distant situation invites and

enables us to pursue a different course. If we remain one people, under

an efficient government, the period is not far off when we may defy

material injury from external annoyance; when we may take such an

attitude as will cause the neutrality we may at any time resolve upon

to be scrupulously respected; when belligerent nations, under the

impossibility of making acquisitions upon us, will not lightly hazard

the giving us provocation; when we may choose peace or war, as our

interest, guided by justice, shall counsel. Why forego the advantages

of so peculiar a situation? Why quit our own to stand upon foreign

ground? Why, by interweaving our destiny with that of any part of

Europe, entangle our peace and prosperity in the toils of European

ambition, rivalship, interest, humor, or caprice? It is our true policy

to steer clear of permanent alliances with any portion of the foreign

world; so far, I mean, as we are now at liberty to do it; for let me

not be understood as capable of patronizing infidelity to existing

engagements. I hold the maxim no less applicable to public than to

private affairs, that honesty is always the best policy. I repeat it;

therefore, let those engagements be observed in their genuine sense;

but in my opinion it is unnecessary, and would be unwise, to extend

them. Taking care always to keep ourselves, by suitable establishments,

in a respectable defensive posture, we may safely trust to temporary

alliances for extraordinary emergencies.” In a previous part of the

same letter Washington makes the following admirable and just remark:

“The nation which indulges towards another an habitual hatred or an

habitual fondness is in some degree a slave. It is a slave to its

animosity or to its affection, either of which is sufficient to lead it

astray from its duty and its interest.”

The political conduct of Washington was always guided by these maxims.

He succeeded in maintaining his country in a state of peace whilst all

the other nations of the globe were at war; and he laid it down as a

fundamental doctrine, that the true interest of the Americans consisted

in a perfect neutrality with regard to the internal dissensions of the

European Powers.

Jefferson went still further, and he introduced a maxim into the policy

of the Union, which affirms that “the Americans ought never to solicit

any privileges from foreign nations, in order not to be obliged to

grant similar privileges themselves.”

These two principles, which were so plain and so just as to be adapted

to the capacity of the populace, have greatly simplified the foreign

policy of the United States. As the Union takes no part in the affairs

of Europe, it has, properly speaking, no foreign interests to discuss,

since it has at present no powerful neighbors on the American

continent. The country is as much removed from the passions of the Old

World by its position as by the line of policy which it has chosen, and

it is neither called upon to repudiate nor to espouse the conflicting

interests of Europe; whilst the dissensions of the New World are still

concealed within the bosom of the future.

The Union is free from all pre-existing obligations, and it is

consequently enabled to profit by the experience of the old nations of

Europe, without being obliged, as they are, to make the best of the

past, and to adapt it to their present circumstances; or to accept that

immense inheritance which they derive from their forefathers—an

inheritance of glory mingled with calamities, and of alliances

conflicting with national antipathies. The foreign policy of the United

States is reduced by its very nature to await the chances of the future

history of the nation, and for the present it consists more in

abstaining from interference than in exerting its activity.

It is therefore very difficult to ascertain, at present, what degree of

sagacity the American democracy will display in the conduct of the

foreign policy of the country; and upon this point its adversaries, as

well as its advocates, must suspend their judgment. As for myself I

have no hesitation in avowing my conviction, that it is most especially

in the conduct of foreign relations that democratic governments appear

to me to be decidedly inferior to governments carried on upon different

principles. Experience, instruction, and habit may almost always

succeed in creating a species of practical discretion in democracies,

and that science of the daily occurrences of life which is called good

sense. Good sense may suffice to direct the ordinary course of society;

and amongst a people whose education has been provided for, the

advantages of democratic liberty in the internal affairs of the country

may more than compensate for the evils inherent in a democratic

government. But such is not always the case in the mutual relations of

foreign nations.

Foreign politics demand scarcely any of those qualities which a

democracy possesses; and they require, on the contrary, the perfect use

of almost all those faculties in which it is deficient. Democracy is

favorable to the increase of the internal resources of the State; it

tends to diffuse a moderate independence; it promotes the growth of

public spirit, and fortifies the respect which is entertained for law

in all classes of society; and these are advantages which only exercise

an indirect influence over the relations which one people bears to

another. But a democracy is unable to regulate the details of an

important undertaking, to persevere in a design, and to work out its

execution in the presence of serious obstacles. It cannot combine its

measures with secrecy, and it will not await their consequences with

patience. These are qualities which more especially belong to an

individual or to an aristocracy; and they are precisely the means by

which an individual people attains to a predominant position.

If, on the contrary, we observe the natural defects of aristocracy, we

shall find that their influence is comparatively innoxious in the

direction of the external affairs of a State. The capital fault of

which aristocratic bodies may be accused is that they are more apt to

contrive their own advantage than that of the mass of the people. In

foreign politics it is rare for the interest of the aristocracy to be

in any way distinct from that of the people.

The propensity which democracies have to obey the impulse of passion

rather than the suggestions of prudence, and to abandon a mature design

for the gratification of a momentary caprice, was very clearly seen in

America on the breaking out of the French Revolution. It was then as

evident to the simplest capacity as it is at the present time that the

interest of the Americans forbade them to take any part in the contest

which was about to deluge Europe with blood, but which could by no

means injure the welfare of their own country. Nevertheless the

sympathies of the people declared themselves with so much violence in

behalf of France that nothing but the inflexible character of

Washington, and the immense popularity which he enjoyed, could have

prevented the Americans from declaring war against England. And even

then, the exertions which the austere reason of that great man made to

repress the generous but imprudent passions of his fellow-citizens,

very nearly deprived him of the sole recompense which he had ever

claimed—that of his country’s love. The majority then reprobated the

line of policy which he adopted, and which has since been unanimously

approved by the nation. \*s If the Constitution and the favor of the

public had not entrusted the direction of the foreign affairs of the

country to Washington, it is certain that the American nation would at

that time have taken the very measures which it now condemns.

s

[ See the fifth volume of Marshall’s “Life of Washington.” In a

government constituted like that of the United States, he says, “it is

impossible for the chief magistrate, however firm he may be, to oppose

for any length of time the torrent of popular opinion; and the

prevalent opinion of that day seemed to incline to war. In fact, in the

session of Congress held at the time, it was frequently seen that

Washington had lost the majority in the House of Representatives.” The

violence of the language used against him in public was extreme, and in

a political meeting they did not scruple to compare him indirectly to

the treacherous Arnold. “By the opposition,” says Marshall, “the

friends of the administration were declared to be an aristocratic and

corrupt faction, who, from a desire to introduce monarchy, were hostile

to France and under the influence of Britain; that they were a paper

nobility, whose extreme sensibility at every measure which threatened

the funds, induced a tame submission to injuries and insults, which the

interests and honor of the nation required them to resist.”]

Almost all the nations which have ever exercised a powerful influence

upon the destinies of the world by conceiving, following up, and

executing vast designs—from the Romans to the English—have been

governed by aristocratic institutions. Nor will this be a subject of

wonder when we recollect that nothing in the world has so absolute a

fixity of purpose as an aristocracy. The mass of the people may be led

astray by ignorance or passion; the mind of a king may be biased, and

his perseverance in his designs may be shaken—besides which a king is

not immortal—but an aristocratic body is too numerous to be led astray

by the blandishments of intrigue, and yet not numerous enough to yield

readily to the intoxicating influence of unreflecting passion: it has

the energy of a firm and enlightened individual, added to the power

which it derives from perpetuity.

Chapter XIV: Advantages American Society Derive From Democracy—Part I

What The Real Advantages Are Which American Society Derives From The

Government Of The Democracy

Before I enter upon the subject of the present chapter I am induced to

remind the reader of what I have more than once adverted to in the

course of this book. The political institutions of the United States

appear to me to be one of the forms of government which a democracy may

adopt; but I do not regard the American Constitution as the best, or as

the only one, which a democratic people may establish. In showing the

advantages which the Americans derive from the government of democracy,

I am therefore very far from meaning, or from believing, that similar

advantages can only be obtained from the same laws.

General Tendency Of The Laws Under The Rule Of The American Democracy,

And Habits Of Those Who Apply Them

Defects of a democratic government easy to be discovered—Its advantages

only to be discerned by long observation—Democracy in America often

inexpert, but the general tendency of the laws advantageous—In the

American democracy public officers have no permanent interests distinct

from those of the majority—Result of this state of things.

The defects and the weaknesses of a democratic government may very

readily be discovered; they are demonstrated by the most flagrant

instances, whilst its beneficial influence is less perceptibly

exercised. A single glance suffices to detect its evil consequences,

but its good qualities can only be discerned by long observation. The

laws of the American democracy are frequently defective or incomplete;

they sometimes attack vested rights, or give a sanction to others which

are dangerous to the community; but even if they were good, the

frequent changes which they undergo would be an evil. How comes it,

then, that the American republics prosper and maintain their position?

In the consideration of laws a distinction must be carefully observed

between the end at which they aim and the means by which they are

directed to that end, between their absolute and their relative

excellence. If it be the intention of the legislator to favor the

interests of the minority at the expense of the majority, and if the

measures he takes are so combined as to accomplish the object he has in

view with the least possible expense of time and exertion, the law may

be well drawn up, although its purpose be bad; and the more efficacious

it is, the greater is the mischief which it causes.

Democratic laws generally tend to promote the welfare of the greatest

possible number; for they emanate from the majority of the citizens,

who are subject to error, but who cannot have an interest opposed to

their own advantage. The laws of an aristocracy tend, on the contrary,

to concentrate wealth and power in the hands of the minority, because

an aristocracy, by its very nature, constitutes a minority. It may

therefore be asserted, as a general proposition, that the purpose of a

democracy in the conduct of its legislation is useful to a greater

number of citizens than that of an aristocracy. This is, however, the

sum total of its advantages.

Aristocracies are infinitely more expert in the science of legislation

than democracies ever can be. They are possessed of a self-control

which protects them from the errors of temporary excitement, and they

form lasting designs which they mature with the assistance of favorable

opportunities. Aristocratic government proceeds with the dexterity of

art; it understands how to make the collective force of all its laws

converge at the same time to a given point. Such is not the case with

democracies, whose laws are almost always ineffective or inopportune.

The means of democracy are therefore more imperfect than those of

aristocracy, and the measures which it unwittingly adopts are

frequently opposed to its own cause; but the object it has in view is

more useful.

Let us now imagine a community so organized by nature, or by its

constitution, that it can support the transitory action of bad laws,

and that it can await, without destruction, the general tendency of the

legislation: we shall then be able to conceive that a democratic

government, notwithstanding its defects, will be most fitted to conduce

to the prosperity of this community. This is precisely what has

occurred in the United States; and I repeat, what I have before

remarked, that the great advantage of the Americans consists in their

being able to commit faults which they may afterward repair.

An analogous observation may be made respecting public officers. It is

easy to perceive that the American democracy frequently errs in the

choice of the individuals to whom it entrusts the power of the

administration; but it is more difficult to say why the State prospers

under their rule. In the first place it is to be remarked, that if in a

democratic State the governors have less honesty and less capacity than

elsewhere, the governed, on the other hand, are more enlightened and

more attentive to their interests. As the people in democracies is more

incessantly vigilant in its affairs and more jealous of its rights, it

prevents its representatives from abandoning that general line of

conduct which its own interest prescribes. In the second place, it must

be remembered that if the democratic magistrate is more apt to misuse

his power, he possesses it for a shorter period of time. But there is

yet another reason which is still more general and conclusive. It is no

doubt of importance to the welfare of nations that they should be

governed by men of talents and virtue; but it is perhaps still more

important that the interests of those men should not differ from the

interests of the community at large; for, if such were the case,

virtues of a high order might become useless, and talents might be

turned to a bad account. I say that it is important that the interests

of the persons in authority should not conflict with or oppose the

interests of the community at large; but I do not insist upon their

having the same interests as the whole population, because I am not

aware that such a state of things ever existed in any country.

No political form has hitherto been discovered which is equally

favorable to the prosperity and the development of all the classes into

which society is divided. These classes continue to form, as it were, a

certain number of distinct nations in the same nation; and experience

has shown that it is no less dangerous to place the fate of these

classes exclusively in the hands of any one of them than it is to make

one people the arbiter of the destiny of another. When the rich alone

govern, the interest of the poor is always endangered; and when the

poor make the laws, that of the rich incurs very serious risks. The

advantage of democracy does not consist, therefore, as has sometimes

been asserted, in favoring the prosperity of all, but simply in

contributing to the well-being of the greatest possible number.

The men who are entrusted with the direction of public affairs in the

United States are frequently inferior, both in point of capacity and of

morality, to those whom aristocratic institutions would raise to power.

But their interest is identified and confounded with that of the

majority of their fellow-citizens. They may frequently be faithless and

frequently mistaken, but they will never systematically adopt a line of

conduct opposed to the will of the majority; and it is impossible that

they should give a dangerous or an exclusive tendency to the

government.

The mal-administration of a democratic magistrate is a mere isolated

fact, which only occurs during the short period for which he is

elected. Corruption and incapacity do not act as common interests,

which may connect men permanently with one another. A corrupt or an

incapable magistrate will not concert his measures with another

magistrate, simply because that individual is as corrupt and as

incapable as himself; and these two men will never unite their

endeavors to promote the corruption and inaptitude of their remote

posterity. The ambition and the manoeuvres of the one will serve, on

the contrary, to unmask the other. The vices of a magistrate, in

democratic states, are usually peculiar to his own person.

But under aristocratic governments public men are swayed by the

interest of their order, which, if it is sometimes confounded with the

interests of the majority, is very frequently distinct from them. This

interest is the common and lasting bond which unites them together; it

induces them to coalesce, and to combine their efforts in order to

attain an end which does not always ensure the greatest happiness of

the greatest number; and it serves not only to connect the persons in

authority, but to unite them to a considerable portion of the

community, since a numerous body of citizens belongs to the

aristocracy, without being invested with official functions. The

aristocratic magistrate is therefore constantly supported by a portion

of the community, as well as by the Government of which he is a member.

The common purpose which connects the interest of the magistrates in

aristocracies with that of a portion of their contemporaries identifies

it with that of future generations; their influence belongs to the

future as much as to the present. The aristocratic magistrate is urged

at the same time toward the same point by the passions of the

community, by his own, and I may almost add by those of his posterity.

Is it, then, wonderful that he does not resist such repeated impulses?

And indeed aristocracies are often carried away by the spirit of their

order without being corrupted by it; and they unconsciously fashion

society to their own ends, and prepare it for their own descendants.

The English aristocracy is perhaps the most liberal which ever existed,

and no body of men has ever, uninterruptedly, furnished so many

honorable and enlightened individuals to the government of a country.

It cannot, however, escape observation that in the legislation of

England the good of the poor has been sacrificed to the advantage of

the rich, and the rights of the majority to the privileges of the few.

The consequence is, that England, at the present day, combines the

extremes of fortune in the bosom of her society, and her perils and

calamities are almost equal to her power and her renown. \*a

a

[ [The legislation of England for the forty years is certainly not

fairly open to this criticism, which was written before the Reform Bill

of 1832, and accordingly Great Britain has thus far escaped and

surmounted the perils and calamities to which she seemed to be

exposed.]]

In the United States, where the public officers have no interests to

promote connected with their caste, the general and constant influence

of the Government is beneficial, although the individuals who conduct

it are frequently unskilful and sometimes contemptible. There is indeed

a secret tendency in democratic institutions to render the exertions of

the citizens subservient to the prosperity of the community,

notwithstanding their private vices and mistakes; whilst in

aristocratic institutions there is a secret propensity which,

notwithstanding the talents and the virtues of those who conduct the

government, leads them to contribute to the evils which oppress their

fellow-creatures. In aristocratic governments public men may frequently

do injuries which they do not intend, and in democratic states they

produce advantages which they never thought of.

Public Spirit In The United States

Patriotism of instinct—Patriotism of reflection—Their different

characteristics—Nations ought to strive to acquire the second when the

first has disappeared—Efforts of the Americans to it—Interest of the

individual intimately connected with that of the country.

There is one sort of patriotic attachment which principally arises from

that instinctive, disinterested, and undefinable feeling which connects

the affections of man with his birthplace. This natural fondness is

united to a taste for ancient customs, and to a reverence for ancestral

traditions of the past; those who cherish it love their country as they

love the mansions of their fathers. They enjoy the tranquillity which

it affords them; they cling to the peaceful habits which they have

contracted within its bosom; they are attached to the reminiscences

which it awakens, and they are even pleased by the state of obedience

in which they are placed. This patriotism is sometimes stimulated by

religious enthusiasm, and then it is capable of making the most

prodigious efforts. It is in itself a kind of religion; it does not

reason, but it acts from the impulse of faith and of sentiment. By some

nations the monarch has been regarded as a personification of the

country; and the fervor of patriotism being converted into the fervor

of loyalty, they took a sympathetic pride in his conquests, and gloried

in his power. At one time, under the ancient monarchy, the French felt

a sort of satisfaction in the sense of their dependence upon the

arbitrary pleasure of their king, and they were wont to say with pride,

“We are the subjects of the most powerful king in the world.”

But, like all instinctive passions, this kind of patriotism is more apt

to prompt transient exertion than to supply the motives of continuous

endeavor. It may save the State in critical circumstances, but it will

not unfrequently allow the nation to decline in the midst of peace.

Whilst the manners of a people are simple and its faith unshaken,

whilst society is steadily based upon traditional institutions whose

legitimacy has never been contested, this instinctive patriotism is

wont to endure.

But there is another species of attachment to a country which is more

rational than the one we have been describing. It is perhaps less

generous and less ardent, but it is more fruitful and more lasting; it

is coeval with the spread of knowledge, it is nurtured by the laws, it

grows by the exercise of civil rights, and, in the end, it is

confounded with the personal interest of the citizen. A man comprehends

the influence which the prosperity of his country has upon his own

welfare; he is aware that the laws authorize him to contribute his

assistance to that prosperity, and he labors to promote it as a portion

of his interest in the first place, and as a portion of his right in

the second.

But epochs sometimes occur, in the course of the existence of a nation,

at which the ancient customs of a people are changed, public morality

destroyed, religious belief disturbed, and the spell of tradition

broken, whilst the diffusion of knowledge is yet imperfect, and the

civil rights of the community are ill secured, or confined within very

narrow limits. The country then assumes a dim and dubious shape in the

eyes of the citizens; they no longer behold it in the soil which they

inhabit, for that soil is to them a dull inanimate clod; nor in the

usages of their forefathers, which they have been taught to look upon

as a debasing yoke; nor in religion, for of that they doubt; nor in the

laws, which do not originate in their own authority; nor in the

legislator, whom they fear and despise. The country is lost to their

senses, they can neither discover it under its own nor under borrowed

features, and they entrench themselves within the dull precincts of a

narrow egotism. They are emancipated from prejudice without having

acknowledged the empire of reason; they are neither animated by the

instinctive patriotism of monarchical subjects nor by the thinking

patriotism of republican citizens; but they have stopped halfway

between the two, in the midst of confusion and of distress.

In this predicament, to retreat is impossible; for a people cannot

restore the vivacity of its earlier times, any more than a man can

return to the innocence and the bloom of childhood; such things may be

regretted, but they cannot be renewed. The only thing, then, which

remains to be done is to proceed, and to accelerate the union of

private with public interests, since the period of disinterested

patriotism is gone by forever.

I am certainly very far from averring that, in order to obtain this

result, the exercise of political rights should be immediately granted

to all the members of the community. But I maintain that the most

powerful, and perhaps the only, means of interesting men in the welfare

of their country which we still possess is to make them partakers in

the Government. At the present time civic zeal seems to me to be

inseparable from the exercise of political rights; and I hold that the

number of citizens will be found to augment or to decrease in Europe in

proportion as those rights are extended.

In the United States the inhabitants were thrown but as yesterday upon

the soil which they now occupy, and they brought neither customs nor

traditions with them there; they meet each other for the first time

with no previous acquaintance; in short, the instinctive love of their

country can scarcely exist in their minds; but everyone takes as

zealous an interest in the affairs of his township, his county, and of

the whole State, as if they were his own, because everyone, in his

sphere, takes an active part in the government of society.

The lower orders in the United States are alive to the perception of

the influence exercised by the general prosperity upon their own

welfare; and simple as this observation is, it is one which is but too

rarely made by the people. But in America the people regards this

prosperity as the result of its own exertions; the citizen looks upon

the fortune of the public as his private interest, and he co-operates

in its success, not so much from a sense of pride or of duty, as from

what I shall venture to term cupidity.

It is unnecessary to study the institutions and the history of the

Americans in order to discover the truth of this remark, for their

manners render it sufficiently evident. As the American participates in

all that is done in his country, he thinks himself obliged to defend

whatever may be censured; for it is not only his country which is

attacked upon these occasions, but it is himself. The consequence is,

that his national pride resorts to a thousand artifices, and to all the

petty tricks of individual vanity.

Nothing is more embarrassing in the ordinary intercourse of life than

this irritable patriotism of the Americans. A stranger may be very well

inclined to praise many of the institutions of their country, but he

begs permission to blame some of the peculiarities which he observes—a

permission which is, however, inexorably refused. America is therefore

a free country, in which, lest anybody should be hurt by your remarks,

you are not allowed to speak freely of private individuals, or of the

State, of the citizens or of the authorities, of public or of private

undertakings, or, in short, of anything at all, except it be of the

climate and the soil; and even then Americans will be found ready to

defend either the one or the other, as if they had been contrived by

the inhabitants of the country.

In our times option must be made between the patriotism of all and the

government of a few; for the force and activity which the first confers

are irreconcilable with the guarantees of tranquillity which the second

furnishes.

Notion Of Rights In The United States

No great people without a notion of rights—How the notion of rights can

be given to people—Respect of rights in the United States—Whence it

arises.

After the idea of virtue, I know no higher principle than that of

right; or, to speak more accurately, these two ideas are commingled in

one. The idea of right is simply that of virtue introduced into the

political world. It is the idea of right which enabled men to define

anarchy and tyranny; and which taught them to remain independent

without arrogance, as well as to obey without servility. The man who

submits to violence is debased by his compliance; but when he obeys the

mandate of one who possesses that right of authority which he

acknowledges in a fellow-creature, he rises in some measure above the

person who delivers the command. There are no great men without virtue,

and there are no great nations—it may almost be added that there would

be no society—without the notion of rights; for what is the condition

of a mass of rational and intelligent beings who are only united

together by the bond of force?

I am persuaded that the only means which we possess at the present time

of inculcating the notion of rights, and of rendering it, as it were,

palpable to the senses, is to invest all the members of the community

with the peaceful exercise of certain rights: this is very clearly seen

in children, who are men without the strength and the experience of

manhood. When a child begins to move in the midst of the objects which

surround him, he is instinctively led to turn everything which he can

lay his hands upon to his own purposes; he has no notion of the

property of others; but as he gradually learns the value of things, and

begins to perceive that he may in his turn be deprived of his

possessions, he becomes more circumspect, and he observes those rights

in others which he wishes to have respected in himself. The principle

which the child derives from the possession of his toys is taught to

the man by the objects which he may call his own. In America those

complaints against property in general which are so frequent in Europe

are never heard, because in America there are no paupers; and as

everyone has property of his own to defend, everyone recognizes the

principle upon which he holds it.

The same thing occurs in the political world. In America the lowest

classes have conceived a very high notion of political rights, because

they exercise those rights; and they refrain from attacking those of

other people, in order to ensure their own from attack. Whilst in

Europe the same classes sometimes recalcitrate even against the supreme

power, the American submits without a murmur to the authority of the

pettiest magistrate.

This truth is exemplified by the most trivial details of national

peculiarities. In France very few pleasures are exclusively reserved

for the higher classes; the poor are admitted wherever the rich are

received, and they consequently behave with propriety, and respect

whatever contributes to the enjoyments in which they themselves

participate. In England, where wealth has a monopoly of amusement as

well as of power, complaints are made that whenever the poor happen to

steal into the enclosures which are reserved for the pleasures of the

rich, they commit acts of wanton mischief: can this be wondered at,

since care has been taken that they should have nothing to lose? \*b

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[ [This, too, has been amended by much larger provisions for the

amusements of the people in public parks, gardens, museums, etc.; and

the conduct of the people in these places of amusement has improved in

the same proportion.]]

The government of democracy brings the notion of political rights to

the level of the humblest citizens, just as the dissemination of wealth

brings the notion of property within the reach of all the members of

the community; and I confess that, to my mind, this is one of its

greatest advantages. I do not assert that it is easy to teach men to

exercise political rights; but I maintain that, when it is possible,

the effects which result from it are highly important; and I add that,

if there ever was a time at which such an attempt ought to be made,

that time is our own. It is clear that the influence of religious

belief is shaken, and that the notion of divine rights is declining; it

is evident that public morality is vitiated, and the notion of moral

rights is also disappearing: these are general symptoms of the

substitution of argument for faith, and of calculation for the impulses

of sentiment. If, in the midst of this general disruption, you do not

succeed in connecting the notion of rights with that of personal

interest, which is the only immutable point in the human heart, what

means will you have of governing the world except by fear? When I am

told that, since the laws are weak and the populace is wild, since

passions are excited and the authority of virtue is paralyzed, no

measures must be taken to increase the rights of the democracy, I

reply, that it is for these very reasons that some measures of the kind

must be taken; and I am persuaded that governments are still more

interested in taking them than society at large, because governments

are liable to be destroyed and society cannot perish.

I am not, however, inclined to exaggerate the example which America

furnishes. In those States the people are invested with political

rights at a time when they could scarcely be abused, for the citizens

were few in number and simple in their manners. As they have increased,

the Americans have not augmented the power of the democracy, but they

have, if I may use the expression, extended its dominions. It cannot be

doubted that the moment at which political rights are granted to a

people that had before been without them is a very critical, though it

be a necessary one. A child may kill before he is aware of the value of

life; and he may deprive another person of his property before he is

aware that his own may be taken away from him. The lower orders, when

first they are invested with political rights, stand, in relation to

those rights, in the same position as the child does to the whole of

nature, and the celebrated adage may then be applied to them, Homo puer

robustus. This truth may even be perceived in America. The States in

which the citizens have enjoyed their rights longest are those in which

they make the best use of them.

It cannot be repeated too often that nothing is more fertile in

prodigies than the art of being free; but there is nothing more arduous

than the apprenticeship of liberty. Such is not the case with despotic

institutions: despotism often promises to make amends for a thousand

previous ills; it supports the right, it protects the oppressed, and it

maintains public order. The nation is lulled by the temporary

prosperity which accrues to it, until it is roused to a sense of its

own misery. Liberty, on the contrary, is generally established in the

midst of agitation, it is perfected by civil discord, and its benefits

cannot be appreciated until it is already old.

Chapter XIV: Advantages American Society Derive From Democracy—Part II

Respect For The Law In The United States

Respect of the Americans for the law—Parental affection which they

entertain for it—Personal interest of everyone to increase the

authority of the law.

It is not always feasible to consult the whole people, either directly

or indirectly, in the formation of the law; but it cannot be denied

that, when such a measure is possible the authority of the law is very

much augmented. This popular origin, which impairs the excellence and

the wisdom of legislation, contributes prodigiously to increase its

power. There is an amazing strength in the expression of the

determination of a whole people, and when it declares itself the

imagination of those who are most inclined to contest it is overawed by

its authority. The truth of this fact is very well known by parties,

and they consequently strive to make out a majority whenever they can.

If they have not the greater number of voters on their side, they

assert that the true majority abstained from voting; and if they are

foiled even there, they have recourse to the body of those persons who

had no votes to give.

In the United States, except slaves, servants, and paupers in the

receipt of relief from the townships, there is no class of persons who

do not exercise the elective franchise, and who do not indirectly

contribute to make the laws. Those who design to attack the laws must

consequently either modify the opinion of the nation or trample upon

its decision.

A second reason, which is still more weighty, may be further adduced;

in the United States everyone is personally interested in enforcing the

obedience of the whole community to the law; for as the minority may

shortly rally the majority to its principles, it is interested in

professing that respect for the decrees of the legislator which it may

soon have occasion to claim for its own. However irksome an enactment

may be, the citizen of the United States complies with it, not only

because it is the work of the majority, but because it originates in

his own authority, and he regards it as a contract to which he is

himself a party.

In the United States, then, that numerous and turbulent multitude does

not exist which always looks upon the law as its natural enemy, and

accordingly surveys it with fear and with fear and with distrust. It is

impossible, on the other hand, not to perceive that all classes display

the utmost reliance upon the legislation of their country, and that

they are attached to it by a kind of parental affection.

I am wrong, however, in saying all classes; for as in America the

European scale of authority is inverted, the wealthy are there placed

in a position analogous to that of the poor in the Old World, and it is

the opulent classes which frequently look upon the law with suspicion.

I have already observed that the advantage of democracy is not, as has

been sometimes asserted, that it protects the interests of the whole

community, but simply that it protects those of the majority. In the

United States, where the poor rule, the rich have always some reason to

dread the abuses of their power. This natural anxiety of the rich may

produce a sullen dissatisfaction, but society is not disturbed by it;

for the same reason which induces the rich to withhold their confidence

in the legislative authority makes them obey its mandates; their

wealth, which prevents them from making the law, prevents them from

withstanding it. Amongst civilized nations revolts are rarely excited,

except by such persons as have nothing to lose by them; and if the laws

of a democracy are not always worthy of respect, at least they always

obtain it; for those who usually infringe the laws have no excuse for

not complying with the enactments they have themselves made, and by

which they are themselves benefited, whilst the citizens whose

interests might be promoted by the infraction of them are induced, by

their character and their stations, to submit to the decisions of the

legislature, whatever they may be. Besides which, the people in America

obeys the law not only because it emanates from the popular authority,

but because that authority may modify it in any points which may prove

vexatory; a law is observed because it is a self-imposed evil in the

first place, and an evil of transient duration in the second.

Activity Which Pervades All The Branches Of The Body Politic In The

United States; Influence Which It Exercises Upon Society

More difficult to conceive the political activity which pervades the

United States than the freedom and equality which reign there—The great

activity which perpetually agitates the legislative bodies is only an

episode to the general activity—Difficult for an American to confine

himself to his own business—Political agitation extends to all social

intercourse—Commercial activity of the Americans partly attributable to

this cause—Indirect advantages which society derives from a democratic

government.

On passing from a country in which free institutions are established to

one where they do not exist, the traveller is struck by the change; in

the former all is bustle and activity, in the latter everything is calm

and motionless. In the one, amelioration and progress are the general

topics of inquiry; in the other, it seems as if the community only

aspired to repose in the enjoyment of the advantages which it has

acquired. Nevertheless, the country which exerts itself so strenuously

to promote its welfare is generally more wealthy and more prosperous

than that which appears to be so contented with its lot; and when we

compare them together, we can scarcely conceive how so many new wants

are daily felt in the former, whilst so few seem to occur in the

latter.

If this remark is applicable to those free countries in which

monarchical and aristocratic institutions subsist, it is still more

striking with regard to democratic republics. In these States it is not

only a portion of the people which is busied with the amelioration of

its social condition, but the whole community is engaged in the task;

and it is not the exigencies and the convenience of a single class for

which a provision is to be made, but the exigencies and the convenience

of all ranks of life.

It is not impossible to conceive the surpassing liberty which the

Americans enjoy; some idea may likewise be formed of the extreme

equality which subsists amongst them, but the political activity which

pervades the United States must be seen in order to be understood. No

sooner do you set foot upon the American soil than you are stunned by a

kind of tumult; a confused clamor is heard on every side; and a

thousand simultaneous voices demand the immediate satisfaction of their

social wants. Everything is in motion around you; here, the people of

one quarter of a town are met to decide upon the building of a church;

there, the election of a representative is going on; a little further

the delegates of a district are posting to the town in order to consult

upon some local improvements; or in another place the laborers of a

village quit their ploughs to deliberate upon the project of a road or

a public school. Meetings are called for the sole purpose of declaring

their disapprobation of the line of conduct pursued by the Government;

whilst in other assemblies the citizens salute the authorities of the

day as the fathers of their country. Societies are formed which regard

drunkenness as the principal cause of the evils under which the State

labors, and which solemnly bind themselves to give a constant example

of temperance. \*c

c

[ At the time of my stay in the United States the temperance societies

already consisted of more than 270,000 members, and their effect had

been to diminish the consumption of fermented liquors by 500,000

gallons per annum in the State of Pennsylvania alone.]

The great political agitation of the American legislative bodies, which

is the only kind of excitement that attracts the attention of foreign

countries, is a mere episode or a sort of continuation of that

universal movement which originates in the lowest classes of the people

and extends successively to all the ranks of society. It is impossible

to spend more efforts in the pursuit of enjoyment.

The cares of political life engross a most prominent place in the

occupation of a citizen in the United States, and almost the only

pleasure of which an American has any idea is to take a part in the

Government, and to discuss the part he has taken. This feeling pervades

the most trifling habits of life; even the women frequently attend

public meetings and listen to political harangues as a recreation after

their household labors. Debating clubs are to a certain extent a

substitute for theatrical entertainments: an American cannot converse,

but he can discuss; and when he attempts to talk he falls into a

dissertation. He speaks to you as if he was addressing a meeting; and

if he should chance to warm in the course of the discussion, he will

infallibly say, “Gentlemen,” to the person with whom he is conversing.

In some countries the inhabitants display a certain repugnance to avail

themselves of the political privileges with which the law invests them;

it would seem that they set too high a value upon their time to spend

it on the interests of the community; and they prefer to withdraw

within the exact limits of a wholesome egotism, marked out by four sunk

fences and a quickset hedge. But if an American were condemned to

confine his activity to his own affairs, he would be robbed of one half

of his existence; he would feel an immense void in the life which he is

accustomed to lead, and his wretchedness would be unbearable. \*d I am

persuaded that, if ever a despotic government is established in

America, it will find it more difficult to surmount the habits which

free institutions have engendered than to conquer the attachment of the

citizens to freedom.

d

[ The same remark was made at Rome under the first Caesars. Montesquieu

somewhere alludes to the excessive despondency of certain Roman

citizens who, after the excitement of political life, were all at once

flung back into the stagnation of private life.]

This ceaseless agitation which democratic government has introduced

into the political world influences all social intercourse. I am not

sure that upon the whole this is not the greatest advantage of

democracy. And I am much less inclined to applaud it for what it does

than for what it causes to be done. It is incontestable that the people

frequently conducts public business very ill; but it is impossible that

the lower orders should take a part in public business without

extending the circle of their ideas, and without quitting the ordinary

routine of their mental acquirements. The humblest individual who is

called upon to co-operate in the government of society acquires a

certain degree of self-respect; and as he possesses authority, he can

command the services of minds much more enlightened than his own. He is

canvassed by a multitude of applicants, who seek to deceive him in a

thousand different ways, but who instruct him by their deceit. He takes

a part in political undertakings which did not originate in his own

conception, but which give him a taste for undertakings of the kind.

New ameliorations are daily pointed out in the property which he holds

in common with others, and this gives him the desire of improving that

property which is more peculiarly his own. He is perhaps neither

happier nor better than those who came before him, but he is better

informed and more active. I have no doubt that the democratic

institutions of the United States, joined to the physical constitution

of the country, are the cause (not the direct, as is so often asserted,

but the indirect cause) of the prodigious commercial activity of the

inhabitants. It is not engendered by the laws, but the people learns

how to promote it by the experience derived from legislation.

When the opponents of democracy assert that a single individual

performs the duties which he undertakes much better than the government

of the community, it appears to me that they are perfectly right. The

government of an individual, supposing an equality of instruction on

either side, is more consistent, more persevering, and more accurate

than that of a multitude, and it is much better qualified judiciously

to discriminate the characters of the men it employs. If any deny what

I advance, they have certainly never seen a democratic government, or

have formed their opinion upon very partial evidence. It is true that

even when local circumstances and the disposition of the people allow

democratic institutions to subsist, they never display a regular and

methodical system of government. Democratic liberty is far from

accomplishing all the projects it undertakes, with the skill of an

adroit despotism. It frequently abandons them before they have borne

their fruits, or risks them when the consequences may prove dangerous;

but in the end it produces more than any absolute government, and if it

do fewer things well, it does a greater number of things. Under its

sway the transactions of the public administration are not nearly so

important as what is done by private exertion. Democracy does not

confer the most skilful kind of government upon the people, but it

produces that which the most skilful governments are frequently unable

to awaken, namely, an all-pervading and restless activity, a

superabundant force, and an energy which is inseparable from it, and

which may, under favorable circumstances, beget the most amazing

benefits. These are the true advantages of democracy.

In the present age, when the destinies of Christendom seem to be in

suspense, some hasten to assail democracy as its foe whilst it is yet

in its early growth; and others are ready with their vows of adoration

for this new deity which is springing forth from chaos: but both

parties are very imperfectly acquainted with the object of their hatred

or of their desires; they strike in the dark, and distribute their

blows by mere chance.

We must first understand what the purport of society and the aim of

government is held to be. If it be your intention to confer a certain

elevation upon the human mind, and to teach it to regard the things of

this world with generous feelings, to inspire men with a scorn of mere

temporal advantage, to give birth to living convictions, and to keep

alive the spirit of honorable devotedness; if you hold it to be a good

thing to refine the habits, to embellish the manners, to cultivate the

arts of a nation, and to promote the love of poetry, of beauty, and of

renown; if you would constitute a people not unfitted to act with power

upon all other nations, nor unprepared for those high enterprises

which, whatever be the result of its efforts, will leave a name forever

famous in time—if you believe such to be the principal object of

society, you must avoid the government of democracy, which would be a

very uncertain guide to the end you have in view.

But if you hold it to be expedient to divert the moral and intellectual

activity of man to the production of comfort, and to the acquirement of

the necessaries of life; if a clear understanding be more profitable to

man than genius; if your object be not to stimulate the virtues of

heroism, but to create habits of peace; if you had rather witness vices

than crimes and are content to meet with fewer noble deeds, provided

offences be diminished in the same proportion; if, instead of living in

the midst of a brilliant state of society, you are contented to have

prosperity around you; if, in short, you are of opinion that the

principal object of a Government is not to confer the greatest possible

share of power and of glory upon the body of the nation, but to ensure

the greatest degree of enjoyment and the least degree of misery to each

of the individuals who compose it—if such be your desires, you can have

no surer means of satisfying them than by equalizing the conditions of

men, and establishing democratic institutions.

But if the time be passed at which such a choice was possible, and if

some superhuman power impel us towards one or the other of these two

governments without consulting our wishes, let us at least endeavor to

make the best of that which is allotted to us; and let us so inquire

into its good and its evil propensities as to be able to foster the

former and repress the latter to the utmost.

Chapter XV: Unlimited Power Of Majority, And Its Consequences—Part I

Chapter Summary

Natural strength of the majority in democracies—Most of the American

Constitutions have increased this strength by artificial means—How this

has been done—Pledged delegates—Moral power of the majority—Opinion as

to its infallibility—Respect for its rights, how augmented in the

United States.

Unlimited Power Of The Majority In The United States, And Its

Consequences

The very essence of democratic government consists in the absolute

sovereignty of the majority; for there is nothing in democratic States

which is capable of resisting it. Most of the American Constitutions

have sought to increase this natural strength of the majority by

artificial means. \*a

a

[ We observed, in examining the Federal Constitution, that the efforts

of the legislators of the Union had been diametrically opposed to the

present tendency. The consequence has been that the Federal Government

is more independent in its sphere than that of the States. But the

Federal Government scarcely ever interferes in any but external

affairs; and the governments of the State are in the governments of the

States are in reality the authorities which direct society in America.]

The legislature is, of all political institutions, the one which is

most easily swayed by the wishes of the majority. The Americans

determined that the members of the legislature should be elected by the

people immediately, and for a very brief term, in order to subject

them, not only to the general convictions, but even to the daily

passion, of their constituents. The members of both houses are taken

from the same class in society, and are nominated in the same manner;

so that the modifications of the legislative bodies are almost as rapid

and quite as irresistible as those of a single assembly. It is to a

legislature thus constituted that almost all the authority of the

government has been entrusted.

But whilst the law increased the strength of those authorities which of

themselves were strong, it enfeebled more and more those which were

naturally weak. It deprived the representatives of the executive of all

stability and independence, and by subjecting them completely to the

caprices of the legislature, it robbed them of the slender influence

which the nature of a democratic government might have allowed them to

retain. In several States the judicial power was also submitted to the

elective discretion of the majority, and in all of them its existence

was made to depend on the pleasure of the legislative authority, since

the representatives were empowered annually to regulate the stipend of

the judges.

Custom, however, has done even more than law. A proceeding which will

in the end set all the guarantees of representative government at

naught is becoming more and more general in the United States; it

frequently happens that the electors, who choose a delegate, point out

a certain line of conduct to him, and impose upon him a certain number

of positive obligations which he is pledged to fulfil. With the

exception of the tumult, this comes to the same thing as if the

majority of the populace held its deliberations in the market-place.

Several other circumstances concur in rendering the power of the

majority in America not only preponderant, but irresistible. The moral

authority of the majority is partly based upon the notion that there is

more intelligence and more wisdom in a great number of men collected

together than in a single individual, and that the quantity of

legislators is more important than their quality. The theory of

equality is in fact applied to the intellect of man: and human pride is

thus assailed in its last retreat by a doctrine which the minority

hesitate to admit, and in which they very slowly concur. Like all other

powers, and perhaps more than all other powers, the authority of the

many requires the sanction of time; at first it enforces obedience by

constraint, but its laws are not respected until they have long been

maintained.

The right of governing society, which the majority supposes itself to

derive from its superior intelligence, was introduced into the United

States by the first settlers, and this idea, which would be sufficient

of itself to create a free nation, has now been amalgamated with the

manners of the people and the minor incidents of social intercourse.

The French, under the old monarchy, held it for a maxim (which is still

a fundamental principle of the English Constitution) that the King

could do no wrong; and if he did do wrong, the blame was imputed to his

advisers. This notion was highly favorable to habits of obedience, and

it enabled the subject to complain of the law without ceasing to love

and honor the lawgiver. The Americans entertain the same opinion with

respect to the majority.

The moral power of the majority is founded upon yet another principle,

which is, that the interests of the many are to be preferred to those

of the few. It will readily be perceived that the respect here

professed for the rights of the majority must naturally increase or

diminish according to the state of parties. When a nation is divided

into several irreconcilable factions, the privilege of the majority is

often overlooked, because it is intolerable to comply with its demands.

If there existed in America a class of citizens whom the legislating

majority sought to deprive of exclusive privileges which they had

possessed for ages, and to bring down from an elevated station to the

level of the ranks of the multitude, it is probable that the minority

would be less ready to comply with its laws. But as the United States

were colonized by men holding equal rank amongst themselves, there is

as yet no natural or permanent source of dissension between the

interests of its different inhabitants.

There are certain communities in which the persons who constitute the

minority can never hope to draw over the majority to their side,

because they must then give up the very point which is at issue between

them. Thus, an aristocracy can never become a majority whilst it

retains its exclusive privileges, and it cannot cede its privileges

without ceasing to be an aristocracy.

In the United States political questions cannot be taken up in so

general and absolute a manner, and all parties are willing to recognize

the right of the majority, because they all hope to turn those rights

to their own advantage at some future time. The majority therefore in

that country exercises a prodigious actual authority, and a moral

influence which is scarcely less preponderant; no obstacles exist which

can impede or so much as retard its progress, or which can induce it to

heed the complaints of those whom it crushes upon its path. This state

of things is fatal in itself and dangerous for the future.

How The Unlimited Power Of The Majority Increases In America The

Instability Of Legislation And Administration Inherent In Democracy The

Americans increase the mutability of the laws which is inherent in

democracy by changing the legislature every year, and by investing it

with unbounded authority—The same effect is produced upon the

administration—In America social amelioration is conducted more

energetically but less perseveringly than in Europe.

I have already spoken of the natural defects of democratic

institutions, and they all of them increase at the exact ratio of the

power of the majority. To begin with the most evident of them all; the

mutability of the laws is an evil inherent in democratic government,

because it is natural to democracies to raise men to power in very

rapid succession. But this evil is more or less sensible in proportion

to the authority and the means of action which the legislature

possesses.

In America the authority exercised by the legislative bodies is

supreme; nothing prevents them from accomplishing their wishes with

celerity, and with irresistible power, whilst they are supplied by new

representatives every year. That is to say, the circumstances which

contribute most powerfully to democratic instability, and which admit

of the free application of caprice to every object in the State, are

here in full operation. In conformity with this principle, America is,

at the present day, the country in the world where laws last the

shortest time. Almost all the American constitutions have been amended

within the course of thirty years: there is therefore not a single

American State which has not modified the principles of its legislation

in that lapse of time. As for the laws themselves, a single glance upon

the archives of the different States of the Union suffices to convince

one that in America the activity of the legislator never slackens. Not

that the American democracy is naturally less stable than any other,

but that it is allowed to follow its capricious propensities in the

formation of the laws. \*b

b

[ The legislative acts promulgated by the State of Massachusetts alone,

from the year 1780 to the present time, already fill three stout

volumes; and it must not be forgotten that the collection to which I

allude was published in 1823, when many old laws which had fallen into

disuse were omitted. The State of Massachusetts, which is not more

populous than a department of France, may be considered as the most

stable, the most consistent, and the most sagacious in its undertakings

of the whole Union.]

The omnipotence of the majority, and the rapid as well as absolute

manner in which its decisions are executed in the United States, has

not only the effect of rendering the law unstable, but it exercises the

same influence upon the execution of the law and the conduct of the

public administration. As the majority is the only power which it is

important to court, all its projects are taken up with the greatest

ardor, but no sooner is its attention distracted than all this ardor

ceases; whilst in the free States of Europe the administration is at

once independent and secure, so that the projects of the legislature

are put into execution, although its immediate attention may be

directed to other objects.

In America certain ameliorations are undertaken with much more zeal and

activity than elsewhere; in Europe the same ends are promoted by much

less social effort, more continuously applied.

Some years ago several pious individuals undertook to ameliorate the

condition of the prisons. The public was excited by the statements

which they put forward, and the regeneration of criminals became a very

popular undertaking. New prisons were built, and for the first time the

idea of reforming as well as of punishing the delinquent formed a part

of prison discipline. But this happy alteration, in which the public

had taken so hearty an interest, and which the exertions of the

citizens had irresistibly accelerated, could not be completed in a

moment. Whilst the new penitentiaries were being erected (and it was

the pleasure of the majority that they should be terminated with all

possible celerity), the old prisons existed, which still contained a

great number of offenders. These jails became more unwholesome and more

corrupt in proportion as the new establishments were beautified and

improved, forming a contrast which may readily be understood. The

majority was so eagerly employed in founding the new prisons that those

which already existed were forgotten; and as the general attention was

diverted to a novel object, the care which had hitherto been bestowed

upon the others ceased. The salutary regulations of discipline were

first relaxed, and afterwards broken; so that in the immediate

neighborhood of a prison which bore witness to the mild and enlightened

spirit of our time, dungeons might be met with which reminded the

visitor of the barbarity of the Middle Ages.

Chapter XV: Unlimited Power Of Majority, And Its Consequences—Part II

Tyranny Of The Majority

How the principle of the sovereignty of the people is to be

understood—Impossibility of conceiving a mixed government—The sovereign

power must centre somewhere—Precautions to be taken to control its

action—These precautions have not been taken in the United

States—Consequences.

I hold it to be an impious and an execrable maxim that, politically

speaking, a people has a right to do whatsoever it pleases, and yet I

have asserted that all authority originates in the will of the

majority. Am I then, in contradiction with myself?

A general law—which bears the name of Justice—has been made and

sanctioned, not only by a majority of this or that people, but by a

majority of mankind. The rights of every people are consequently

confined within the limits of what is just. A nation may be considered

in the light of a jury which is empowered to represent society at

large, and to apply the great and general law of justice. Ought such a

jury, which represents society, to have more power than the society in

which the laws it applies originate?

When I refuse to obey an unjust law, I do not contest the right which

the majority has of commanding, but I simply appeal from the

sovereignty of the people to the sovereignty of mankind. It has been

asserted that a people can never entirely outstep the boundaries of

justice and of reason in those affairs which are more peculiarly its

own, and that consequently, full power may fearlessly be given to the

majority by which it is represented. But this language is that of a

slave.

A majority taken collectively may be regarded as a being whose

opinions, and most frequently whose interests, are opposed to those of

another being, which is styled a minority. If it be admitted that a

man, possessing absolute power, may misuse that power by wronging his

adversaries, why should a majority not be liable to the same reproach?

Men are not apt to change their characters by agglomeration; nor does

their patience in the presence of obstacles increase with the

consciousness of their strength. \*c And for these reasons I can never

willingly invest any number of my fellow-creatures with that unlimited

authority which I should refuse to any one of them.

c

[ No one will assert that a people cannot forcibly wrong another

people; but parties may be looked upon as lesser nations within a

greater one, and they are aliens to each other: if, therefore, it be

admitted that a nation can act tyrannically towards another nation, it

cannot be denied that a party may do the same towards another party.]

I do not think that it is possible to combine several principles in the

same government, so as at the same time to maintain freedom, and really

to oppose them to one another. The form of government which is usually

termed mixed has always appeared to me to be a mere chimera. Accurately

speaking there is no such thing as a mixed government (with the meaning

usually given to that word), because in all communities some one

principle of action may be discovered which preponderates over the

others. England in the last century, which has been more especially

cited as an example of this form of Government, was in point of fact an

essentially aristocratic State, although it comprised very powerful

elements of democracy; for the laws and customs of the country were

such that the aristocracy could not but preponderate in the end, and

subject the direction of public affairs to its own will. The error

arose from too much attention being paid to the actual struggle which

was going on between the nobles and the people, without considering the

probable issue of the contest, which was in reality the important

point. When a community really has a mixed government, that is to say,

when it is equally divided between two adverse principles, it must

either pass through a revolution or fall into complete dissolution.

I am therefore of opinion that some one social power must always be

made to predominate over the others; but I think that liberty is

endangered when this power is checked by no obstacles which may retard

its course, and force it to moderate its own vehemence.

Unlimited power is in itself a bad and dangerous thing; human beings

are not competent to exercise it with discretion, and God alone can be

omnipotent, because His wisdom and His justice are always equal to His

power. But no power upon earth is so worthy of honor for itself, or of

reverential obedience to the rights which it represents, that I would

consent to admit its uncontrolled and all-predominant authority. When I

see that the right and the means of absolute command are conferred on a

people or upon a king, upon an aristocracy or a democracy, a monarchy

or a republic, I recognize the germ of tyranny, and I journey onward to

a land of more hopeful institutions.

In my opinion the main evil of the present democratic institutions of

the United States does not arise, as is often asserted in Europe, from

their weakness, but from their overpowering strength; and I am not so

much alarmed at the excessive liberty which reigns in that country as

at the very inadequate securities which exist against tyranny.

When an individual or a party is wronged in the United States, to whom

can he apply for redress? If to public opinion, public opinion

constitutes the majority; if to the legislature, it represents the

majority, and implicitly obeys its injunctions; if to the executive

power, it is appointed by the majority, and remains a passive tool in

its hands; the public troops consist of the majority under arms; the

jury is the majority invested with the right of hearing judicial cases;

and in certain States even the judges are elected by the majority.

However iniquitous or absurd the evil of which you complain may be, you

must submit to it as well as you can. \*d

d

[ A striking instance of the excesses which may be occasioned by the

despotism of the majority occurred at Baltimore in the year 1812. At

that time the war was very popular in Baltimore. A journal which had

taken the other side of the question excited the indignation of the

inhabitants by its opposition. The populace assembled, broke the

printing-presses, and attacked the houses of the newspaper editors. The

militia was called out, but no one obeyed the call; and the only means

of saving the poor wretches who were threatened by the frenzy of the

mob was to throw them into prison as common malefactors. But even this

precaution was ineffectual; the mob collected again during the night,

the magistrates again made a vain attempt to call out the militia, the

prison was forced, one of the newspaper editors was killed upon the

spot, and the others were left for dead; the guilty parties were

acquitted by the jury when they were brought to trial.

I said one day to an inhabitant of Pennsylvania, “Be so good as to

explain to me how it happens that in a State founded by Quakers, and

celebrated for its toleration, freed blacks are not allowed to exercise

civil rights. They pay the taxes; is it not fair that they should have

a vote?”

“You insult us,” replied my informant, “if you imagine that our

legislators could have committed so gross an act of injustice and

intolerance.”

“What! then the blacks possess the right of voting in this county?”

“Without the smallest doubt.”

“How comes it, then, that at the polling-booth this morning I did not

perceive a single negro in the whole meeting?”

“This is not the fault of the law: the negroes have an undisputed right

of voting, but they voluntarily abstain from making their appearance.”

“A very pretty piece of modesty on their parts!” rejoined I.

“Why, the truth is, that they are not disinclined to vote, but they are

afraid of being maltreated; in this country the law is sometimes unable

to maintain its authority without the support of the majority. But in

this case the majority entertains very strong prejudices against the

blacks, and the magistrates are unable to protect them in the exercise

of their legal privileges.”

“What! then the majority claims the right not only of making the laws,

but of breaking the laws it has made?”]

If, on the other hand, a legislative power could be so constituted as

to represent the majority without necessarily being the slave of its

passions; an executive, so as to retain a certain degree of

uncontrolled authority; and a judiciary, so as to remain independent of

the two other powers; a government would be formed which would still be

democratic without incurring any risk of tyrannical abuse.

I do not say that tyrannical abuses frequently occur in America at the

present day, but I maintain that no sure barrier is established against

them, and that the causes which mitigate the government are to be found

in the circumstances and the manners of the country more than in its

laws.

Effects Of The Unlimited Power Of The Majority Upon The Arbitrary

Authority Of The American Public Officers

Liberty left by the American laws to public officers within a certain

sphere—Their power.

A distinction must be drawn between tyranny and arbitrary power.

Tyranny may be exercised by means of the law, and in that case it is

not arbitrary; arbitrary power may be exercised for the good of the

community at large, in which case it is not tyrannical. Tyranny usually

employs arbitrary means, but, if necessary, it can rule without them.

In the United States the unbounded power of the majority, which is

favorable to the legal despotism of the legislature, is likewise

favorable to the arbitrary authority of the magistrate. The majority

has an entire control over the law when it is made and when it is

executed; and as it possesses an equal authority over those who are in

power and the community at large, it considers public officers as its

passive agents, and readily confides the task of serving its designs to

their vigilance. The details of their office and the privileges which

they are to enjoy are rarely defined beforehand; but the majority

treats them as a master does his servants when they are always at work

in his sight, and he has the power of directing or reprimanding them at

every instant.

In general the American functionaries are far more independent than the

French civil officers within the sphere which is prescribed to them.

Sometimes, even, they are allowed by the popular authority to exceed

those bounds; and as they are protected by the opinion, and backed by

the co-operation, of the majority, they venture upon such

manifestations of their power as astonish a European. By this means

habits are formed in the heart of a free country which may some day

prove fatal to its liberties.

Power Exercised By The Majority In America Upon Opinion

In America, when the majority has once irrevocably decided a question,

all discussion ceases—Reason of this—Moral power exercised by the

majority upon opinion—Democratic republics have deprived despotism of

its physical instruments—Their despotism sways the minds of men.

It is in the examination of the display of public opinion in the United

States that we clearly perceive how far the power of the majority

surpasses all the powers with which we are acquainted in Europe.

Intellectual principles exercise an influence which is so invisible,

and often so inappreciable, that they baffle the toils of oppression.

At the present time the most absolute monarchs in Europe are unable to

prevent certain notions, which are opposed to their authority, from

circulating in secret throughout their dominions, and even in their

courts. Such is not the case in America; as long as the majority is

still undecided, discussion is carried on; but as soon as its decision

is irrevocably pronounced, a submissive silence is observed, and the

friends, as well as the opponents, of the measure unite in assenting to

its propriety. The reason of this is perfectly clear: no monarch is so

absolute as to combine all the powers of society in his own hands, and

to conquer all opposition with the energy of a majority which is

invested with the right of making and of executing the laws.

The authority of a king is purely physical, and it controls the actions

of the subject without subduing his private will; but the majority

possesses a power which is physical and moral at the same time; it acts

upon the will as well as upon the actions of men, and it represses not

only all contest, but all controversy. I know no country in which there

is so little true independence of mind and freedom of discussion as in

America. In any constitutional state in Europe every sort of religious

and political theory may be advocated and propagated abroad; for there

is no country in Europe so subdued by any single authority as not to

contain citizens who are ready to protect the man who raises his voice

in the cause of truth from the consequences of his hardihood. If he is

unfortunate enough to live under an absolute government, the people is

upon his side; if he inhabits a free country, he may find a shelter

behind the authority of the throne, if he require one. The aristocratic

part of society supports him in some countries, and the democracy in

others. But in a nation where democratic institutions exist, organized

like those of the United States, there is but one sole authority, one

single element of strength and of success, with nothing beyond it.

In America the majority raises very formidable barriers to the liberty

of opinion: within these barriers an author may write whatever he

pleases, but he will repent it if he ever step beyond them. Not that he

is exposed to the terrors of an auto-da-fe, but he is tormented by the

slights and persecutions of daily obloquy. His political career is

closed forever, since he has offended the only authority which is able

to promote his success. Every sort of compensation, even that of

celebrity, is refused to him. Before he published his opinions he

imagined that he held them in common with many others; but no sooner

has he declared them openly than he is loudly censured by his

overbearing opponents, whilst those who think without having the

courage to speak, like him, abandon him in silence. He yields at

length, oppressed by the daily efforts he has been making, and he

subsides into silence, as if he was tormented by remorse for having

spoken the truth.

Fetters and headsmen were the coarse instruments which tyranny formerly

employed; but the civilization of our age has refined the arts of

despotism which seemed, however, to have been sufficiently perfected

before. The excesses of monarchical power had devised a variety of

physical means of oppression: the democratic republics of the present

day have rendered it as entirely an affair of the mind as that will

which it is intended to coerce. Under the absolute sway of an

individual despot the body was attacked in order to subdue the soul,

and the soul escaped the blows which were directed against it and rose

superior to the attempt; but such is not the course adopted by tyranny

in democratic republics; there the body is left free, and the soul is

enslaved. The sovereign can no longer say, “You shall think as I do on

pain of death;” but he says, “You are free to think differently from

me, and to retain your life, your property, and all that you possess;

but if such be your determination, you are henceforth an alien among

your people. You may retain your civil rights, but they will be useless

to you, for you will never be chosen by your fellow-citizens if you

solicit their suffrages, and they will affect to scorn you if you

solicit their esteem. You will remain among men, but you will be

deprived of the rights of mankind. Your fellow-creatures will shun you

like an impure being, and those who are most persuaded of your

innocence will abandon you too, lest they should be shunned in their

turn. Go in peace! I have given you your life, but it is an existence

in comparably worse than death.”

Monarchical institutions have thrown an odium upon despotism; let us

beware lest democratic republics should restore oppression, and should

render it less odious and less degrading in the eyes of the many, by

making it still more onerous to the few.

Works have been published in the proudest nations of the Old World

expressly intended to censure the vices and deride the follies of the

times; Labruyere inhabited the palace of Louis XIV when he composed his

chapter upon the Great, and Moliere criticised the courtiers in the

very pieces which were acted before the Court. But the ruling power in

the United States is not to be made game of; the smallest reproach

irritates its sensibility, and the slightest joke which has any

foundation in truth renders it indignant; from the style of its

language to the more solid virtues of its character, everything must be

made the subject of encomium. No writer, whatever be his eminence, can

escape from this tribute of adulation to his fellow-citizens. The

majority lives in the perpetual practice of self-applause, and there

are certain truths which the Americans can only learn from strangers or

from experience.

If great writers have not at present existed in America, the reason is

very simply given in these facts; there can be no literary genius

without freedom of opinion, and freedom of opinion does not exist in

America. The Inquisition has never been able to prevent a vast number

of anti-religious books from circulating in Spain. The empire of the

majority succeeds much better in the United States, since it actually

removes the wish of publishing them. Unbelievers are to be met with in

America, but, to say the truth, there is no public organ of infidelity.

Attempts have been made by some governments to protect the morality of

nations by prohibiting licentious books. In the United States no one is

punished for this sort of works, but no one is induced to write them;

not because all the citizens are immaculate in their manners, but

because the majority of the community is decent and orderly.

In these cases the advantages derived from the exercise of this power

are unquestionable, and I am simply discussing the nature of the power

itself. This irresistible authority is a constant fact, and its

judicious exercise is an accidental occurrence.

Effects Of The Tyranny Of The Majority Upon The National Character Of

The Americans

Effects of the tyranny of the majority more sensibly felt hitherto in

the manners than in the conduct of society—They check the development

of leading characters—Democratic republics organized like the United

States bring the practice of courting favor within the reach of the

many—Proofs of this spirit in the United States—Why there is more

patriotism in the people than in those who govern in its name.

The tendencies which I have just alluded to are as yet very slightly

perceptible in political society, but they already begin to exercise an

unfavorable influence upon the national character of the Americans. I

am inclined to attribute the singular paucity of distinguished

political characters to the ever-increasing activity of the despotism

of the majority in the United States. When the American Revolution

broke out they arose in great numbers, for public opinion then served,

not to tyrannize over, but to direct the exertions of individuals.

Those celebrated men took a full part in the general agitation of mind

common at that period, and they attained a high degree of personal

fame, which was reflected back upon the nation, but which was by no

means borrowed from it.

In absolute governments the great nobles who are nearest to the throne

flatter the passions of the sovereign, and voluntarily truckle to his

caprices. But the mass of the nation does not degrade itself by

servitude: it often submits from weakness, from habit, or from

ignorance, and sometimes from loyalty. Some nations have been known to

sacrifice their own desires to those of the sovereign with pleasure and

with pride, thus exhibiting a sort of independence in the very act of

submission. These peoples are miserable, but they are not degraded.

There is a great difference between doing what one does not approve and

feigning to approve what one does; the one is the necessary case of a

weak person, the other befits the temper of a lackey.

In free countries, where everyone is more or less called upon to give

his opinion in the affairs of state; in democratic republics, where

public life is incessantly commingled with domestic affairs, where the

sovereign authority is accessible on every side, and where its

attention can almost always be attracted by vociferation, more persons

are to be met with who speculate upon its foibles and live at the cost

of its passions than in absolute monarchies. Not because men are

naturally worse in these States than elsewhere, but the temptation is

stronger, and of easier access at the same time. The result is a far

more extensive debasement of the characters of citizens.

Democratic republics extend the practice of currying favor with the

many, and they introduce it into a greater number of classes at once:

this is one of the most serious reproaches that can be addressed to

them. In democratic States organized on the principles of the American

republics, this is more especially the case, where the authority of the

majority is so absolute and so irresistible that a man must give up his

rights as a citizen, and almost abjure his quality as a human being, if

te intends to stray from the track which it lays down.

In that immense crowd which throngs the avenues to power in the United

States I found very few men who displayed any of that manly candor and

that masculine independence of opinion which frequently distinguished

the Americans in former times, and which constitutes the leading

feature in distinguished characters, wheresoever they may be found. It

seems, at first sight, as if all the minds of the Americans were formed

upon one model, so accurately do they correspond in their manner of

judging. A stranger does, indeed, sometimes meet with Americans who

dissent from these rigorous formularies; with men who deplore the

defects of the laws, the mutability and the ignorance of democracy; who

even go so far as to observe the evil tendencies which impair the

national character, and to point out such remedies as it might be

possible to apply; but no one is there to hear these things besides

yourself, and you, to whom these secret reflections are confided, are a

stranger and a bird of passage. They are very ready to communicate

truths which are useless to you, but they continue to hold a different

language in public.

If ever these lines are read in America, I am well assured of two

things: in the first place, that all who peruse them will raise their

voices to condemn me; and in the second place, that very many of them

will acquit me at the bottom of their conscience.

I have heard of patriotism in the United States, and it is a virtue

which may be found among the people, but never among the leaders of the

people. This may be explained by analogy; despotism debases the

oppressed much more than the oppressor: in absolute monarchies the king

has often great virtues, but the courtiers are invariably servile. It

is true that the American courtiers do not say “Sire,” or “Your

Majesty”—a distinction without a difference. They are forever talking

of the natural intelligence of the populace they serve; they do not

debate the question as to which of the virtues of their master is

pre-eminently worthy of admiration, for they assure him that he

possesses all the virtues under heaven without having acquired them, or

without caring to acquire them; they do not give him their daughters

and their wives to be raised at his pleasure to the rank of his

concubines, but, by sacrificing their opinions, they prostitute

themselves. Moralists and philosophers in America are not obliged to

conceal their opinions under the veil of allegory; but, before they

venture upon a harsh truth, they say, “We are aware that the people

which we are addressing is too superior to all the weaknesses of human

nature to lose the command of its temper for an instant; and we should

not hold this language if we were not speaking to men whom their

virtues and their intelligence render more worthy of freedom than all

the rest of the world.” It would have been impossible for the

sycophants of Louis XIV to flatter more dexterously. For my part, I am

persuaded that in all governments, whatever their nature may be,

servility will cower to force, and adulation will cling to power. The

only means of preventing men from degrading themselves is to invest no

one with that unlimited authority which is the surest method of

debasing them.

The Greatest Dangers Of The American Republics Proceed From The

Unlimited Power Of The Majority

Democratic republics liable to perish from a misuse of their power, and

not by impotence—The Governments of the American republics are more

centralized and more energetic than those of the monarchies of

Europe—Dangers resulting from this—Opinions of Hamilton and Jefferson

upon this point.

Governments usually fall a sacrifice to impotence or to tyranny. In the

former case their power escapes from them; it is wrested from their

grasp in the latter. Many observers, who have witnessed the anarchy of

democratic States, have imagined that the government of those States

was naturally weak and impotent. The truth is, that when once

hostilities are begun between parties, the government loses its control

over society. But I do not think that a democratic power is naturally

without force or without resources: say, rather, that it is almost

always by the abuse of its force and the misemployment of its resources

that a democratic government fails. Anarchy is almost always produced

by its tyranny or its mistakes, but not by its want of strength.

It is important not to confound stability with force, or the greatness

of a thing with its duration. In democratic republics, the power which

directs \*e society is not stable; for it often changes hands and

assumes a new direction. But whichever way it turns, its force is

almost irresistible. The Governments of the American republics appear

to me to be as much centralized as those of the absolute monarchies of

Europe, and more energetic than they are. I do not, therefore, imagine

that they will perish from weakness. \*f

e

[ This power may be centred in an assembly, in which case it will be

strong without being stable; or it may be centred in an individual, in

which case it will be less strong, but more stable.]

f

[ I presume that it is scarcely necessary to remind the reader here, as

well as throughout the remainder of this chapter, that I am speaking,

not of the Federal Government, but of the several governments of each

State, which the majority controls at its pleasure.]

If ever the free institutions of America are destroyed, that event may

be attributed to the unlimited authority of the majority, which may at

some future time urge the minorities to desperation, and oblige them to

have recourse to physical force. Anarchy will then be the result, but

it will have been brought about by despotism.

Mr. Hamilton expresses the same opinion in the “Federalist,” No. 51.

“It is of great importance in a republic not only to guard the society

against the oppression of its rulers, but to guard one part of the

society against the injustice of the other part. Justice is the end of

government. It is the end of civil society. It ever has been, and ever

will be, pursued until it be obtained, or until liberty be lost in the

pursuit. In a society, under the forms of which the stronger faction

can readily unite and oppress the weaker, anarchy may as truly be said

to reign as in a state of nature, where the weaker individual is not

secured against the violence of the stronger: and as in the latter

state even the stronger individuals are prompted by the uncertainty of

their condition to submit to a government which may protect the weak as

well as themselves, so in the former state will the more powerful

factions be gradually induced by a like motive to wish for a government

which will protect all parties, the weaker as well as the more

powerful. It can be little doubted that, if the State of Rhode Island

was separated from the Confederacy and left to itself, the insecurity

of right under the popular form of government within such narrow limits

would be displayed by such reiterated oppressions of the factious

majorities, that some power altogether independent of the people would

soon be called for by the voice of the very factions whose misrule had

proved the necessity of it.”

Jefferson has also thus expressed himself in a letter to Madison: \*g

“The executive power in our Government is not the only, perhaps not

even the principal, object of my solicitude. The tyranny of the

Legislature is really the danger most to be feared, and will continue

to be so for many years to come. The tyranny of the executive power

will come in its turn, but at a more distant period.” I am glad to cite

the opinion of Jefferson upon this subject rather than that of another,

because I consider him to be the most powerful advocate democracy has

ever sent forth.

g

[ March 15, 1789.]

Chapter XVI: Causes Mitigating Tyranny In The United States—Part I

Chapter Summary

The national majority does not pretend to conduct all business—Is

obliged to employ the town and county magistrates to execute its

supreme decisions.

I have already pointed out the distinction which is to be made between

a centralized government and a centralized administration. The former

exists in America, but the latter is nearly unknown there. If the

directing power of the American communities had both these instruments

of government at its disposal, and united the habit of executing its

own commands to the right of commanding; if, after having established

the general principles of government, it descended to the details of

public business; and if, having regulated the great interests of the

country, it could penetrate into the privacy of individual interests,

freedom would soon be banished from the New World.

But in the United States the majority, which so frequently displays the

tastes and the propensities of a despot, is still destitute of the more

perfect instruments of tyranny. In the American republics the activity

of the central Government has never as yet been extended beyond a

limited number of objects sufficiently prominent to call forth its

attention. The secondary affairs of society have never been regulated

by its authority, and nothing has hitherto betrayed its desire of

interfering in them. The majority is become more and more absolute, but

it has not increased the prerogatives of the central government; those

great prerogatives have been confined to a certain sphere; and although

the despotism of the majority may be galling upon one point, it cannot

be said to extend to all. However the predominant party in the nation

may be carried away by its passions, however ardent it may be in the

pursuit of its projects, it cannot oblige all the citizens to comply

with its desires in the same manner and at the same time throughout the

country. When the central Government which represents that majority has

issued a decree, it must entrust the execution of its will to agents,

over whom it frequently has no control, and whom it cannot perpetually

direct. The townships, municipal bodies, and counties may therefore be

looked upon as concealed break-waters, which check or part the tide of

popular excitement. If an oppressive law were passed, the liberties of

the people would still be protected by the means by which that law

would be put in execution: the majority cannot descend to the details

and (as I will venture to style them) the puerilities of administrative

tyranny. Nor does the people entertain that full consciousness of its

authority which would prompt it to interfere in these matters; it knows

the extent of its natural powers, but it is unacquainted with the

increased resources which the art of government might furnish.

This point deserves attention, for if a democratic republic similar to

that of the United States were ever founded in a country where the

power of a single individual had previously subsisted, and the effects

of a centralized administration had sunk deep into the habits and the

laws of the people, I do not hesitate to assert, that in that country a

more insufferable despotism would prevail than any which now exists in

the monarchical States of Europe, or indeed than any which could be

found on this side of the confines of Asia.

The Profession Of The Law In The United States Serves To Counterpoise

The Democracy

Utility of discriminating the natural propensities of the members of

the legal profession—These men called upon to act a prominent part in

future society—In what manner the peculiar pursuits of lawyers give an

aristocratic turn to their ideas—Accidental causes which may check this

tendency—Ease with which the aristocracy coalesces with legal men—Use

of lawyers to a despot—The profession of the law constitutes the only

aristocratic element with which the natural elements of democracy will

combine—Peculiar causes which tend to give an aristocratic turn of mind

to the English and American lawyers—The aristocracy of America is on

the bench and at the bar—Influence of lawyers upon American

society—Their peculiar magisterial habits affect the legislature, the

administration, and even the people.

In visiting the Americans and in studying their laws we perceive that

the authority they have entrusted to members of the legal profession,

and the influence which these individuals exercise in the Government,

is the most powerful existing security against the excesses of

democracy. This effect seems to me to result from a general cause which

it is useful to investigate, since it may produce analogous

consequences elsewhere.

The members of the legal profession have taken an important part in all

the vicissitudes of political society in Europe during the last five

hundred years. At one time they have been the instruments of those who

were invested with political authority, and at another they have

succeeded in converting political authorities into their instrument. In

the Middle Ages they afforded a powerful support to the Crown, and

since that period they have exerted themselves to the utmost to limit

the royal prerogative. In England they have contracted a close alliance

with the aristocracy; in France they have proved to be the most

dangerous enemies of that class. It is my object to inquire whether,

under all these circumstances, the members of the legal profession have

been swayed by sudden and momentary impulses; or whether they have been

impelled by principles which are inherent in their pursuits, and which

will always recur in history. I am incited to this investigation by

reflecting that this particular class of men will most likely play a

prominent part in that order of things to which the events of our time

are giving birth.

Men who have more especially devoted themselves to legal pursuits

derive from those occupations certain habits of order, a taste for

formalities, and a kind of instinctive regard for the regular

connection of ideas, which naturally render them very hostile to the

revolutionary spirit and the unreflecting passions of the multitude.

The special information which lawyers derive from their studies ensures

them a separate station in society, and they constitute a sort of

privileged body in the scale of intelligence. This notion of their

superiority perpetually recurs to them in the practice of their

profession: they are the masters of a science which is necessary, but

which is not very generally known; they serve as arbiters between the

citizens; and the habit of directing the blind passions of parties in

litigation to their purpose inspires them with a certain contempt for

the judgment of the multitude. To this it may be added that they

naturally constitute a body, not by any previous understanding, or by

an agreement which directs them to a common end; but the analogy of

their studies and the uniformity of their proceedings connect their

minds together, as much as a common interest could combine their

endeavors.

A portion of the tastes and of the habits of the aristocracy may

consequently be discovered in the characters of men in the profession

of the law. They participate in the same instinctive love of order and

of formalities; and they entertain the same repugnance to the actions

of the multitude, and the same secret contempt of the government of the

people. I do not mean to say that the natural propensities of lawyers

are sufficiently strong to sway them irresistibly; for they, like most

other men, are governed by their private interests and the advantages

of the moment.

In a state of society in which the members of the legal profession are

prevented from holding that rank in the political world which they

enjoy in private life, we may rest assured that they will be the

foremost agents of revolution. But it must then be inquired whether the

cause which induces them to innovate and to destroy is accidental, or

whether it belongs to some lasting purpose which they entertain. It is

true that lawyers mainly contributed to the overthrow of the French

monarchy in 1789; but it remains to be seen whether they acted thus

because they had studied the laws, or because they were prohibited from

co-operating in the work of legislation.

Five hundred years ago the English nobles headed the people, and spoke

in its name; at the present time the aristocracy supports the throne,

and defends the royal prerogative. But aristocracy has, notwithstanding

this, its peculiar instincts and propensities. We must be careful not

to confound isolated members of a body with the body itself. In all

free governments, of whatsoever form they may be, members of the legal

profession will be found at the head of all parties. The same remark is

also applicable to the aristocracy; for almost all the democratic

convulsions which have agitated the world have been directed by nobles.

A privileged body can never satisfy the ambition of all its members; it

has always more talents and more passions to content and to employ than

it can find places; so that a considerable number of individuals are

usually to be met with who are inclined to attack those very privileges

which they find it impossible to turn to their own account.

I do not, then, assert that all the members of the legal profession are

at all times the friends of order and the opponents of innovation, but

merely that most of them usually are so. In a community in which

lawyers are allowed to occupy, without opposition, that high station

which naturally belongs to them, their general spirit will be eminently

conservative and anti-democratic. When an aristocracy excludes the

leaders of that profession from its ranks, it excites enemies which are

the more formidable to its security as they are independent of the

nobility by their industrious pursuits; and they feel themselves to be

its equal in point of intelligence, although they enjoy less opulence

and less power. But whenever an aristocracy consents to impart some of

its privileges to these same individuals, the two classes coalesce very

readily, and assume, as it were, the consistency of a single order of

family interests.

I am, in like manner, inclined to believe that a monarch will always be

able to convert legal practitioners into the most serviceable

instruments of his authority. There is a far greater affinity between

this class of individuals and the executive power than there is between

them and the people; just as there is a greater natural affinity

between the nobles and the monarch than between the nobles and the

people, although the higher orders of society have occasionally

resisted the prerogative of the Crown in concert with the lower

classes.

Lawyers are attached to public order beyond every other consideration,

and the best security of public order is authority. It must not be

forgotten that, if they prize the free institutions of their country

much, they nevertheless value the legality of those institutions far

more: they are less afraid of tyranny than of arbitrary power; and

provided that the legislature take upon itself to deprive men of their

independence, they are not dissatisfied.

I am therefore convinced that the prince who, in presence of an

encroaching democracy, should endeavor to impair the judicial authority

in his dominions, and to diminish the political influence of lawyers,

would commit a great mistake. He would let slip the substance of

authority to grasp at the shadow. He would act more wisely in

introducing men connected with the law into the government; and if he

entrusted them with the conduct of a despotic power, bearing some marks

of violence, that power would most likely assume the external features

of justice and of legality in their hands.

The government of democracy is favorable to the political power of

lawyers; for when the wealthy, the noble, and the prince are excluded

from the government, they are sure to occupy the highest stations, in

their own right, as it were, since they are the only men of information

and sagacity, beyond the sphere of the people, who can be the object of

the popular choice. If, then, they are led by their tastes to combine

with the aristocracy and to support the Crown, they are naturally

brought into contact with the people by their interests. They like the

government of democracy, without participating in its propensities and

without imitating its weaknesses; whence they derive a twofold

authority, from it and over it. The people in democratic states does

not mistrust the members of the legal profession, because it is well

known that they are interested in serving the popular cause; and it

listens to them without irritation, because it does not attribute to

them any sinister designs. The object of lawyers is not, indeed, to

overthrow the institutions of democracy, but they constantly endeavor

to give it an impulse which diverts it from its real tendency, by means

which are foreign to its nature. Lawyers belong to the people by birth

and interest, to the aristocracy by habit and by taste, and they may be

looked upon as the natural bond and connecting link of the two great

classes of society.

The profession of the law is the only aristocratic element which can be

amalgamated without violence with the natural elements of democracy,

and which can be advantageously and permanently combined with them. I

am not unacquainted with the defects which are inherent in the

character of that body of men; but without this admixture of

lawyer-like sobriety with the democratic principle, I question whether

democratic institutions could long be maintained, and I cannot believe

that a republic could subsist at the present time if the influence of

lawyers in public business did not increase in proportion to the power

of the people.

This aristocratic character, which I hold to be common to the legal

profession, is much more distinctly marked in the United States and in

England than in any other country. This proceeds not only from the

legal studies of the English and American lawyers, but from the nature

of the legislation, and the position which those persons occupy in the

two countries. The English and the Americans have retained the law of

precedents; that is to say, they continue to found their legal opinions

and the decisions of their courts upon the opinions and the decisions

of their forefathers. In the mind of an English or American lawyer a

taste and a reverence for what is old is almost always united to a love

of regular and lawful proceedings.

This predisposition has another effect upon the character of the legal

profession and upon the general course of society. The English and

American lawyers investigate what has been done; the French advocate

inquires what should have been done; the former produce precedents, the

latter reasons. A French observer is surprised to hear how often an

English or an American lawyer quotes the opinions of others, and how

little he alludes to his own; whilst the reverse occurs in France.

There the most trifling litigation is never conducted without the

introduction of an entire system of ideas peculiar to the counsel

employed; and the fundamental principles of law are discussed in order

to obtain a perch of land by the decision of the court. This abnegation

of his own opinion, and this implicit deference to the opinion of his

forefathers, which are common to the English and American lawyer, this

subjection of thought which he is obliged to profess, necessarily give

him more timid habits and more sluggish inclinations in England and

America than in France.

The French codes are often difficult of comprehension, but they can be

read by every one; nothing, on the other hand, can be more impenetrable

to the uninitiated than a legislation founded upon precedents. The

indispensable want of legal assistance which is felt in England and in

the United States, and the high opinion which is generally entertained

of the ability of the legal profession, tend to separate it more and

more from the people, and to place it in a distinct class. The French

lawyer is simply a man extensively acquainted with the statutes of his

country; but the English or American lawyer resembles the hierophants

of Egypt, for, like them, he is the sole interpreter of an occult

science.

The station which lawyers occupy in England and America exercises no

less an influence upon their habits and their opinions. The English

aristocracy, which has taken care to attract to its sphere whatever is

at all analogous to itself, has conferred a high degree of importance

and of authority upon the members of the legal profession. In English

society lawyers do not occupy the first rank, but they are contented

with the station assigned to them; they constitute, as it were, the

younger branch of the English aristocracy, and they are attached to

their elder brothers, although they do not enjoy all their privileges.

The English lawyers consequently mingle the taste and the ideas of the

aristocratic circles in which they move with the aristocratic interests

of their profession.

And indeed the lawyer-like character which I am endeavoring to depict

is most distinctly to be met with in England: there laws are esteemed

not so much because they are good as because they are old; and if it be

necessary to modify them in any respect, or to adapt them the changes

which time operates in society, recourse is had to the most

inconceivable contrivances in order to uphold the traditionary fabric,

and to maintain that nothing has been done which does not square with

the intentions and complete the labors of former generations. The very

individuals who conduct these changes disclaim all intention of

innovation, and they had rather resort to absurd expedients than plead

guilty to so great a crime. This spirit appertains more especially to

the English lawyers; they seem indifferent to the real meaning of what

they treat, and they direct all their attention to the letter, seeming

inclined to infringe the rules of common sense and of humanity rather

than to swerve one title from the law. The English legislation may be

compared to the stock of an old tree, upon which lawyers have engrafted

the most various shoots, with the hope that, although their fruits may

differ, their foliage at least will be confounded with the venerable

trunk which supports them all.

In America there are no nobles or men of letters, and the people is apt

to mistrust the wealthy; lawyers consequently form the highest

political class, and the most cultivated circle of society. They have

therefore nothing to gain by innovation, which adds a conservative

interest to their natural taste for public order. If I were asked where

I place the American aristocracy, I should reply without hesitation

that it is not composed of the rich, who are united together by no

common tie, but that it occupies the judicial bench and the bar.

The more we reflect upon all that occurs in the United States the more

shall we be persuaded that the lawyers as a body form the most

powerful, if not the only, counterpoise to the democratic element. In

that country we perceive how eminently the legal profession is

qualified by its powers, and even by its defects, to neutralize the

vices which are inherent in popular government. When the American

people is intoxicated by passion, or carried away by the impetuosity of

its ideas, it is checked and stopped by the almost invisible influence

of its legal counsellors, who secretly oppose their aristocratic

propensities to its democratic instincts, their superstitious

attachment to what is antique to its love of novelty, their narrow

views to its immense designs, and their habitual procrastination to its

ardent impatience.

The courts of justice are the most visible organs by which the legal

profession is enabled to control the democracy. The judge is a lawyer,

who, independently of the taste for regularity and order which he has

contracted in the study of legislation, derives an additional love of

stability from his own inalienable functions. His legal attainments

have already raised him to a distinguished rank amongst his

fellow-citizens; his political power completes the distinction of his

station, and gives him the inclinations natural to privileged classes.

Armed with the power of declaring the laws to be unconstitutional, \*a

the American magistrate perpetually interferes in political affairs. He

cannot force the people to make laws, but at least he can oblige it not

to disobey its own enactments; or to act inconsistently with its own

principles. I am aware that a secret tendency to diminish the judicial

power exists in the United States, and by most of the constitutions of

the several States the Government can, upon the demand of the two

houses of the legislature, remove the judges from their station. By

some other constitutions the members of the tribunals are elected, and

they are even subjected to frequent re-elections. I venture to predict

that these innovations will sooner or later be attended with fatal

consequences, and that it will be found out at some future period that

the attack which is made upon the judicial power has affected the

democratic republic itself.

a

[ See chapter VI. on the “Judicial Power in the United States.”]

It must not, however, be supposed that the legal spirit of which I have

been speaking has been confined, in the United States, to the courts of

justice; it extends far beyond them. As the lawyers constitute the only

enlightened class which the people does not mistrust, they are

naturally called upon to occupy most of the public stations. They fill

the legislative assemblies, and they conduct the administration; they

consequently exercise a powerful influence upon the formation of the

law, and upon its execution. The lawyers are, however, obliged to yield

to the current of public opinion, which is too strong for them to

resist it, but it is easy to find indications of what their conduct

would be if they were free to act as they chose. The Americans, who

have made such copious innovations in their political legislation, have

introduced very sparing alterations in their civil laws, and that with

great difficulty, although those laws are frequently repugnant to their

social condition. The reason of this is, that in matters of civil law

the majority is obliged to defer to the authority of the legal

profession, and that the American lawyers are disinclined to innovate

when they are left to their own choice.

It is curious for a Frenchman, accustomed to a very different state of

things, to hear the perpetual complaints which are made in the United

States against the stationary propensities of legal men, and their

prejudices in favor of existing institutions.

The influence of the legal habits which are common in America extends

beyond the limits I have just pointed out. Scarcely any question arises

in the United States which does not become, sooner or later, a subject

of judicial debate; hence all parties are obliged to borrow the ideas,

and even the language, usual in judicial proceedings in their daily

controversies. As most public men are, or have been, legal

practitioners, they introduce the customs and technicalities of their

profession into the affairs of the country. The jury extends this

habitude to all classes. The language of the law thus becomes, in some

measure, a vulgar tongue; the spirit of the law, which is produced in

the schools and courts of justice, gradually penetrates beyond their

walls into the bosom of society, where it descends to the lowest

classes, so that the whole people contracts the habits and the tastes

of the magistrate. The lawyers of the United States form a party which

is but little feared and scarcely perceived, which has no badge

peculiar to itself, which adapts itself with great flexibility to the

exigencies of the time, and accommodates itself to all the movements of

the social body; but this party extends over the whole community, and

it penetrates into all classes of society; it acts upon the country

imperceptibly, but it finally fashions it to suit its purposes.

Chapter XVI: Causes Mitigating Tyranny In The United States—Part II

Trial By Jury In The United States Considered As A Political

Institution

Trial by jury, which is one of the instruments of the sovereignty of

the people, deserves to be compared with the other laws which establish

that sovereignty—Composition of the jury in the United States—Effect of

trial by jury upon the national character—It educates the people—It

tends to establish the authority of the magistrates and to extend a

knowledge of law among the people.

Since I have been led by my subject to recur to the administration of

justice in the United States, I will not pass over this point without

adverting to the institution of the jury. Trial by jury may be

considered in two separate points of view, as a judicial and as a

political institution. If it entered into my present purpose to inquire

how far trial by jury (more especially in civil cases) contributes to

insure the best administration of justice, I admit that its utility

might be contested. As the jury was first introduced at a time when

society was in an uncivilized state, and when courts of justice were

merely called upon to decide on the evidence of facts, it is not an

easy task to adapt it to the wants of a highly civilized community when

the mutual relations of men are multiplied to a surprising extent, and

have assumed the enlightened and intellectual character of the age. \*b

b

[ The investigation of trial by jury as a judicial institution, and the

appreciation of its effects in the United States, together with the

advantages the Americans have derived from it, would suffice to form a

book, and a book upon a very useful and curious subject. The State of

Louisiana would in particular afford the curious phenomenon of a French

and English legislation, as well as a French and English population,

which are gradually combining with each other. See the “Digeste des

Lois de la Louisiane,” in two volumes; and the “Traite sur les Regles

des Actions civiles,” printed in French and English at New Orleans in

1830.]

My present object is to consider the jury as a political institution,

and any other course would divert me from my subject. Of trial by jury,

considered as a judicial institution, I shall here say but very few

words. When the English adopted trial by jury they were a

semi-barbarous people; they are become, in course of time, one of the

most enlightened nations of the earth; and their attachment to this

institution seems to have increased with their increasing cultivation.

They soon spread beyond their insular boundaries to every corner of the

habitable globe; some have formed colonies, others independent states;

the mother-country has maintained its monarchical constitution; many of

its offspring have founded powerful republics; but wherever the English

have been they have boasted of the privilege of trial by jury. \*c They

have established it, or hastened to re-establish it, in all their

settlements. A judicial institution which obtains the suffrages of a

great people for so long a series of ages, which is zealously renewed

at every epoch of civilization, in all the climates of the earth and

under every form of human government, cannot be contrary to the spirit

of justice. \*d

c

[ All the English and American jurists are unanimous upon this head.

Mr. Story, judge of the Supreme Court of the United States, speaks, in

his “Treatise on the Federal Constitution,” of the advantages of trial

by jury in civil cases:—“The inestimable privilege of a trial by jury

in civil cases—a privilege scarcely inferior to that in criminal cases,

which is counted by all persons to be essential to political and civil

liberty. . . .” (Story, book iii., chap. xxxviii.)]

d

[ If it were our province to point out the utility of the jury as a

judicial institution in this place, much might be said, and the

following arguments might be brought forward amongst others:—

By introducing the jury into the business of the courts you are enabled

to diminish the number of judges, which is a very great advantage. When

judges are very numerous, death is perpetually thinning the ranks of

the judicial functionaries, and laying places vacant for newcomers. The

ambition of the magistrates is therefore continually excited, and they

are naturally made dependent upon the will of the majority, or the

individual who fills up the vacant appointments; the officers of the

court then rise like the officers of an army. This state of things is

entirely contrary to the sound administration of justice, and to the

intentions of the legislator. The office of a judge is made inalienable

in order that he may remain independent: but of what advantage is it

that his independence should be protected if he be tempted to sacrifice

it of his own accord? When judges are very numerous many of them must

necessarily be incapable of performing their important duties, for a

great magistrate is a man of no common powers; and I am inclined to

believe that a half-enlightened tribunal is the worst of all

instruments for attaining those objects which it is the purpose of

courts of justice to accomplish. For my own part, I had rather submit

the decision of a case to ignorant jurors directed by a skilful judge

than to judges a majority of whom are imperfectly acquainted with

jurisprudence and with the laws.]

I turn, however, from this part of the subject. To look upon the jury

as a mere judicial institution is to confine our attention to a very

narrow view of it; for however great its influence may be upon the

decisions of the law courts, that influence is very subordinate to the

powerful effects which it produces on the destinies of the community at

large. The jury is above all a political institution, and it must be

regarded in this light in order to be duly appreciated.

By the jury I mean a certain number of citizens chosen

indiscriminately, and invested with a temporary right of judging. Trial

by jury, as applied to the repression of crime, appears to me to

introduce an eminently republican element into the government upon the

following grounds:—

The institution of the jury may be aristocratic or democratic,

according to the class of society from which the jurors are selected;

but it always preserves its republican character, inasmuch as it places

the real direction of society in the hands of the governed, or of a

portion of the governed, instead of leaving it under the authority of

the Government. Force is never more than a transient element of

success; and after force comes the notion of right. A government which

should only be able to crush its enemies upon a field of battle would

very soon be destroyed. The true sanction of political laws is to be

found in penal legislation, and if that sanction be wanting the law

will sooner or later lose its cogency. He who punishes infractions of

the law is therefore the real master of society. Now the institution of

the jury raises the people itself, or at least a class of citizens, to

the bench of judicial authority. The institution of the jury

consequently invests the people, or that class of citizens, with the

direction of society. \*e

e

[ An important remark must, however, be made. Trial by jury does

unquestionably invest the people with a general control over the

actions of citizens, but it does not furnish means of exercising this

control in all cases, or with an absolute authority. When an absolute

monarch has the right of trying offences by his representatives, the

fate of the prisoner is, as it were, decided beforehand. But even if

the people were predisposed to convict, the composition and the

non-responsibility of the jury would still afford some chances

favorable to the protection of innocence.]

In England the jury is returned from the aristocratic portion of the

nation; \*f the aristocracy makes the laws, applies the laws, and

punishes all infractions of the laws; everything is established upon a

consistent footing, and England may with truth be said to constitute an

aristocratic republic. In the United States the same system is applied

to the whole people. Every American citizen is qualified to be an

elector, a juror, and is eligible to office. \*g The system of the jury,

as it is understood in America, appears to me to be as direct and as

extreme a consequence of the sovereignty of the people as universal

suffrage. These institutions are two instruments of equal power, which

contribute to the supremacy of the majority. All the sovereigns who

have chosen to govern by their own authority, and to direct society

instead of obeying its directions, have destroyed or enfeebled the

institution of the jury. The monarchs of the House of Tudor sent to

prison jurors who refused to convict, and Napoleon caused them to be

returned by his agents.

f

[ [This may be true to some extent of special juries, but not of common

juries. The author seems not to have been aware that the qualifications

of jurors in England vary exceedingly.]]

g

[ See Appendix, Q.]

However clear most of these truths may seem to be, they do not command

universal assent, and in France, at least, the institution of trial by

jury is still very imperfectly understood. If the question arises as to

the proper qualification of jurors, it is confined to a discussion of

the intelligence and knowledge of the citizens who may be returned, as

if the jury was merely a judicial institution. This appears to me to be

the least part of the subject. The jury is pre-eminently a political

institution; it must be regarded as one form of the sovereignty of the

people; when that sovereignty is repudiated, it must be rejected, or it

must be adapted to the laws by which that sovereignty is established.

The jury is that portion of the nation to which the execution of the

laws is entrusted, as the Houses of Parliament constitute that part of

the nation which makes the laws; and in order that society may be

governed with consistency and uniformity, the list of citizens

qualified to serve on juries must increase and diminish with the list

of electors. This I hold to be the point of view most worthy of the

attention of the legislator, and all that remains is merely accessory.

I am so entirely convinced that the jury is pre-eminently a political

institution that I still consider it in this light when it is applied

in civil causes. Laws are always unstable unless they are founded upon

the manners of a nation; manners are the only durable and resisting

power in a people. When the jury is reserved for criminal offences, the

people only witnesses its occasional action in certain particular

cases; the ordinary course of life goes on without its interference,

and it is considered as an instrument, but not as the only instrument,

of obtaining justice. This is true a fortiori when the jury is only

applied to certain criminal causes.

When, on the contrary, the influence of the jury is extended to civil

causes, its application is constantly palpable; it affects all the

interests of the community; everyone co-operates in its work: it thus

penetrates into all the usages of life, it fashions the human mind to

its peculiar forms, and is gradually associated with the idea of

justice itself.

The institution of the jury, if confined to criminal causes, is always

in danger, but when once it is introduced into civil proceedings it

defies the aggressions of time and of man. If it had been as easy to

remove the jury from the manners as from the laws of England, it would

have perished under Henry VIII, and Elizabeth, and the civil jury did

in reality, at that period, save the liberties of the country. In

whatever manner the jury be applied, it cannot fail to exercise a

powerful influence upon the national character; but this influence is

prodigiously increased when it is introduced into civil causes. The

jury, and more especially the jury in civil cases, serves to

communicate the spirit of the judges to the minds of all the citizens;

and this spirit, with the habits which attend it, is the soundest

preparation for free institutions. It imbues all classes with a respect

for the thing judged, and with the notion of right. If these two

elements be removed, the love of independence is reduced to a mere

destructive passion. It teaches men to practice equity, every man

learns to judge his neighbor as he would himself be judged; and this is

especially true of the jury in civil causes, for, whilst the number of

persons who have reason to apprehend a criminal prosecution is small,

every one is liable to have a civil action brought against him. The

jury teaches every man not to recoil before the responsibility of his

own actions, and impresses him with that manly confidence without which

political virtue cannot exist. It invests each citizen with a kind of

magistracy, it makes them all feel the duties which they are bound to

discharge towards society, and the part which they take in the

Government. By obliging men to turn their attention to affairs which

are not exclusively their own, it rubs off that individual egotism

which is the rust of society.

The jury contributes most powerfully to form the judgement and to

increase the natural intelligence of a people, and this is, in my

opinion, its greatest advantage. It may be regarded as a gratuitous

public school ever open, in which every juror learns to exercise his

rights, enters into daily communication with the most learned and

enlightened members of the upper classes, and becomes practically

acquainted with the laws of his country, which are brought within the

reach of his capacity by the efforts of the bar, the advice of the

judge, and even by the passions of the parties. I think that the

practical intelligence and political good sense of the Americans are

mainly attributable to the long use which they have made of the jury in

civil causes. I do not know whether the jury is useful to those who are

in litigation; but I am certain it is highly beneficial to those who

decide the litigation; and I look upon it as one of the most

efficacious means for the education of the people which society can

employ.

What I have hitherto said applies to all nations, but the remark I am

now about to make is peculiar to the Americans and to democratic

peoples. I have already observed that in democracies the members of the

legal profession and the magistrates constitute the only aristocratic

body which can check the irregularities of the people. This aristocracy

is invested with no physical power, but it exercises its conservative

influence upon the minds of men, and the most abundant source of its

authority is the institution of the civil jury. In criminal causes,

when society is armed against a single individual, the jury is apt to

look upon the judge as the passive instrument of social power, and to

mistrust his advice. Moreover, criminal causes are entirely founded

upon the evidence of facts which common sense can readily appreciate;

upon this ground the judge and the jury are equal. Such, however, is

not the case in civil causes; then the judge appears as a disinterested

arbiter between the conflicting passions of the parties. The jurors

look up to him with confidence and listen to him with respect, for in

this instance their intelligence is completely under the control of his

learning. It is the judge who sums up the various arguments with which

their memory has been wearied out, and who guides them through the

devious course of the proceedings; he points their attention to the

exact question of fact which they are called upon to solve, and he puts

the answer to the question of law into their mouths. His influence upon

their verdict is almost unlimited.

If I am called upon to explain why I am but little moved by the

arguments derived from the ignorance of jurors in civil causes, I

reply, that in these proceedings, whenever the question to be solved is

not a mere question of fact, the jury has only the semblance of a

judicial body. The jury sanctions the decision of the judge, they by

the authority of society which they represent, and he by that of reason

and of law. \*h

h

[ See Appendix, R.]

In England and in America the judges exercise an influence upon

criminal trials which the French judges have never possessed. The

reason of this difference may easily be discovered; the English and

American magistrates establish their authority in civil causes, and

only transfer it afterwards to tribunals of another kind, where that

authority was not acquired. In some cases (and they are frequently the

most important ones) the American judges have the right of deciding

causes alone. \*i Upon these occasions they are accidentally placed in

the position which the French judges habitually occupy, but they are

invested with far more power than the latter; they are still surrounded

by the reminiscence of the jury, and their judgment has almost as much

authority as the voice of the community at large, represented by that

institution. Their influence extends beyond the limits of the courts;

in the recreations of private life as well as in the turmoil of public

business, abroad and in the legislative assemblies, the American judge

is constantly surrounded by men who are accustomed to regard his

intelligence as superior to their own, and after having exercised his

power in the decision of causes, he continues to influence the habits

of thought and the characters of the individuals who took a part in his

judgment.

i

[ The Federal judges decide upon their own authority almost all the

questions most important to the country.]

The jury, then, which seems to restrict the rights of magistracy, does

in reality consolidate its power, and in no country are the judges so

powerful as there, where the people partakes their privileges. It is

more especially by means of the jury in civil causes that the American

magistrates imbue all classes of society with the spirit of their

profession. Thus the jury, which is the most energetic means of making

the people rule, is also the most efficacious means of teaching it to

rule well.

Chapter XVII: Principal Causes Maintaining The Democratic

Republic—Part I

Principal Causes Which Tend To Maintain The Democratic Republic In The

United States

A democratic republic subsists in the United States, and the principal

object of this book has been to account for the fact of its existence.

Several of the causes which contribute to maintain the institutions of

America have been involuntarily passed by or only hinted at as I was

borne along by my subject. Others I have been unable to discuss, and

those on which I have dwelt most are, as it were, buried in the details

of the former parts of this work. I think, therefore, that before I

proceed to speak of the future, I cannot do better than collect within

a small compass the reasons which best explain the present. In this

retrospective chapter I shall be succinct, for I shall take care to

remind the reader very summarily of what he already knows; and I shall

only select the most prominent of those facts which I have not yet

pointed out.

All the causes which contribute to the maintenance of the democratic

republic in the United States are reducible to three heads:—

I. The peculiar and accidental situation in which Providence has placed

the Americans.

II. The laws.

III. The manners and customs of the people.

Accidental Or Providential Causes Which Contribute To The Maintenance

Of The Democratic Republic In The United States The Union has no

neighbors—No metropolis—The Americans have had the chances of birth in

their favor—America an empty country—How this circumstance contributes

powerfully to the maintenance of the democratic republic in America—How

the American wilds are peopled—Avidity of the Anglo-Americans in taking

possession of the solitudes of the New World—Influence of physical

prosperity upon the political opinions of the Americans.

A thousand circumstances, independent of the will of man, concur to

facilitate the maintenance of a democratic republic in the United

States. Some of these peculiarities are known, the others may easily be

pointed out; but I shall confine myself to the most prominent amongst

them.

The Americans have no neighbors, and consequently they have no great

wars, or financial crises, or inroads, or conquest to dread; they

require neither great taxes, nor great armies, nor great generals; and

they have nothing to fear from a scourge which is more formidable to

republics than all these evils combined, namely, military glory. It is

impossible to deny the inconceivable influence which military glory

exercises upon the spirit of a nation. General Jackson, whom the

Americans have twice elected to the head of their Government, is a man

of a violent temper and mediocre talents; no one circumstance in the

whole course of his career ever proved that he is qualified to govern a

free people, and indeed the majority of the enlightened classes of the

Union has always been opposed to him. But he was raised to the

Presidency, and has been maintained in that lofty station, solely by

the recollection of a victory which he gained twenty years ago under

the walls of New Orleans, a victory which was, however, a very ordinary

achievement, and which could only be remembered in a country where

battles are rare. Now the people which is thus carried away by the

illusions of glory is unquestionably the most cold and calculating, the

most unmilitary (if I may use the expression), and the most prosaic of

all the peoples of the earth.

America has no great capital \*a city, whose influence is directly or

indirectly felt over the whole extent of the country, which I hold to

be one of the first causes of the maintenance of republican

institutions in the United States. In cities men cannot be prevented

from concerting together, and from awakening a mutual excitement which

prompts sudden and passionate resolutions. Cities may be looked upon as

large assemblies, of which all the inhabitants are members; their

populace exercises a prodigious influence upon the magistrates, and

frequently executes its own wishes without their intervention.

a

[ The United States have no metropolis, but they already contain

several very large cities. Philadelphia reckoned 161,000 inhabitants

and New York 202,000 in the year 1830. The lower orders which inhabit

these cities constitute a rabble even more formidable than the populace

of European towns. They consist of freed blacks in the first place, who

are condemned by the laws and by public opinion to a hereditary state

of misery and degradation. They also contain a multitude of Europeans

who have been driven to the shores of the New World by their

misfortunes or their misconduct; and these men inoculate the United

States with all our vices, without bringing with them any of those

interests which counteract their baneful influence. As inhabitants of a

country where they have no civil rights, they are ready to turn all the

passions which agitate the community to their own advantage; thus,

within the last few months serious riots have broken out in

Philadelphia and in New York. Disturbances of this kind are unknown in

the rest of the country, which is nowise alarmed by them, because the

population of the cities has hitherto exercised neither power nor

influence over the rural districts. Nevertheless, I look upon the size

of certain American cities, and especially on the nature of their

population, as a real danger which threatens the future security of the

democratic republics of the New World; and I venture to predict that

they will perish from this circumstance unless the government succeeds

in creating an armed force, which, whilst it remains under the control

of the majority of the nation, will be independent of the town

population, and able to repress its excesses.

[The population of the city of New York had risen, in 1870, to 942,292,

and that of Philadelphia to 674,022. Brooklyn, which may be said to

form part of New York city, has a population of 396,099, in addition to

that of New York. The frequent disturbances in the great cities of

America, and the excessive corruption of their local governments—over

which there is no effectual control—are amongst the greatest evils and

dangers of the country.]]

To subject the provinces to the metropolis is therefore not only to

place the destiny of the empire in the hands of a portion of the

community, which may be reprobated as unjust, but to place it in the

hands of a populace acting under its own impulses, which must be

avoided as dangerous. The preponderance of capital cities is therefore

a serious blow upon the representative system, and it exposes modern

republics to the same defect as the republics of antiquity, which all

perished from not having been acquainted with that form of government.

It would be easy for me to adduce a great number of secondary causes

which have contributed to establish, and which concur to maintain, the

democratic republic of the United States. But I discern two principal

circumstances amongst these favorable elements, which I hasten to point

out. I have already observed that the origin of the American

settlements may be looked upon as the first and most efficacious cause

to which the present prosperity of the United States may be attributed.

The Americans had the chances of birth in their favor, and their

forefathers imported that equality of conditions into the country

whence the democratic republic has very naturally taken its rise. Nor

was this all they did; for besides this republican condition of

society, the early settler bequeathed to their descendants those

customs, manners, and opinions which contribute most to the success of

a republican form of government. When I reflect upon the consequences

of this primary circumstance, methinks I see the destiny of America

embodied in the first Puritan who landed on those shores, just as the

human race was represented by the first man.

The chief circumstance which has favored the establishment and the

maintenance of a democratic republic in the United States is the nature

of the territory which the American inhabit. Their ancestors gave them

the love of equality and of freedom, but God himself gave them the

means of remaining equal and free, by placing them upon a boundless

continent, which is open to their exertions. General prosperity is

favorable to the stability of all governments, but more particularly of

a democratic constitution, which depends upon the dispositions of the

majority, and more particularly of that portion of the community which

is most exposed to feel the pressure of want. When the people rules, it

must be rendered happy, or it will overturn the State, and misery is

apt to stimulate it to those excesses to which ambition rouses kings.

The physical causes, independent of the laws, which contribute to

promote general prosperity, are more numerous in America than they have

ever been in any other country in the world, at any other period of

history. In the United States not only is legislation democratic, but

nature herself favors the cause of the people.

In what part of human tradition can be found anything at all similar to

that which is occurring under our eyes in North America? The celebrated

communities of antiquity were all founded in the midst of hostile

nations, which they were obliged to subjugate before they could

flourish in their place. Even the moderns have found, in some parts of

South America, vast regions inhabited by a people of inferior

civilization, but which occupied and cultivated the soil. To found

their new states it was necessary to extirpate or to subdue a numerous

population, until civilization has been made to blush for their

success. But North America was only inhabited by wandering tribes, who

took no thought of the natural riches of the soil, and that vast

country was still, properly speaking, an empty continent, a desert land

awaiting its inhabitants.

Everything is extraordinary in America, the social condition of the

inhabitants, as well as the laws; but the soil upon which these

institutions are founded is more extraordinary than all the rest. When

man was first placed upon the earth by the Creator, the earth was

inexhaustible in its youth, but man was weak and ignorant; and when he

had learned to explore the treasures which it contained, hosts of his

fellow creatures covered its surface, and he was obliged to earn an

asylum for repose and for freedom by the sword. At that same period

North America was discovered, as if it had been kept in reserve by the

Deity, and had just risen from beneath the waters of the deluge.

That continent still presents, as it did in the primeval time, rivers

which rise from never-failing sources, green and moist solitudes, and

fields which the ploughshare of the husbandman has never turned. In

this state it is offered to man, not in the barbarous and isolated

condition of the early ages, but to a being who is already in

possession of the most potent secrets of the natural world, who is

united to his fellow-men, and instructed by the experience of fifty

centuries. At this very time thirteen millions of civilized Europeans

are peaceably spreading over those fertile plains, with whose resources

and whose extent they are not yet themselves accurately acquainted.

Three or four thousand soldiers drive the wandering races of the

aborigines before them; these are followed by the pioneers, who pierce

the woods, scare off the beasts of prey, explore the courses of the

inland streams, and make ready the triumphal procession of civilization

across the waste.

The favorable influence of the temporal prosperity of America upon the

institutions of that country has been so often described by others, and

adverted to by myself, that I shall not enlarge upon it beyond the

addition of a few facts. An erroneous notion is generally entertained

that the deserts of America are peopled by European emigrants, who

annually disembark upon the coasts of the New World, whilst the

American population increases and multiplies upon the soil which its

forefathers tilled. The European settler, however, usually arrives in

the United States without friends, and sometimes without resources; in

order to subsist he is obliged to work for hire, and he rarely proceeds

beyond that belt of industrious population which adjoins the ocean. The

desert cannot be explored without capital or credit; and the body must

be accustomed to the rigors of a new climate before it can be exposed

to the chances of forest life. It is the Americans themselves who daily

quit the spots which gave them birth to acquire extensive domains in a

remote country. Thus the European leaves his cottage for the

trans-Atlantic shores; and the American, who is born on that very

coast, plunges in his turn into the wilds of Central America. This

double emigration is incessant; it begins in the remotest parts of

Europe, it crosses the Atlantic Ocean, and it advances over the

solitudes of the New World. Millions of men are marching at once

towards the same horizon; their language, their religion, their manners

differ, their object is the same. The gifts of fortune are promised in

the West, and to the West they bend their course. \*b

b

[ [The number of foreign immigrants into the United States in the last

fifty years (from 1820 to 1871) is stated to be 7,556,007. Of these,

4,104,553 spoke English—that is, they came from Great Britain, Ireland,

or the British colonies; 2,643,069 came from Germany or northern

Europe; and about half a million from the south of Europe.]]

No event can be compared with this continuous removal of the human

race, except perhaps those irruptions which preceded the fall of the

Roman Empire. Then, as well as now, generations of men were impelled

forwards in the same direction to meet and struggle on the same spot;

but the designs of Providence were not the same; then, every newcomer

was the harbinger of destruction and of death; now, every adventurer

brings with him the elements of prosperity and of life. The future

still conceals from us the ulterior consequences of this emigration of

the Americans towards the West; but we can readily apprehend its more

immediate results. As a portion of the inhabitants annually leave the

States in which they were born, the population of these States

increases very slowly, although they have long been established: thus

in Connecticut, which only contains fifty-nine inhabitants to the

square mile, the population has not increased by more than one-quarter

in forty years, whilst that of England has been augmented by one-third

in the lapse of the same period. The European emigrant always lands,

therefore, in a country which is but half full, and where hands are in

request: he becomes a workman in easy circumstances; his son goes to

seek his fortune in unpeopled regions, and he becomes a rich landowner.

The former amasses the capital which the latter invests, and the

stranger as well as the native is unacquainted with want.

The laws of the United States are extremely favorable to the division

of property; but a cause which is more powerful than the laws prevents

property from being divided to excess. \*c This is very perceptible in

the States which are beginning to be thickly peopled; Massachusetts is

the most populous part of the Union, but it contains only eighty

inhabitants to the square mile, which is must less than in France,

where 162 are reckoned to the same extent of country. But in

Massachusetts estates are very rarely divided; the eldest son takes the

land, and the others go to seek their fortune in the desert. The law

has abolished the rights of primogeniture, but circumstances have

concurred to re-establish it under a form of which none can complain,

and by which no just rights are impaired.

c

[ In New England the estates are exceedingly small, but they are rarely

subjected to further division.]

A single fact will suffice to show the prodigious number of individuals

who leave New England, in this manner, to settle themselves in the

wilds. We were assured in 1830 that thirty-six of the members of

Congress were born in the little State of Connecticut. The population

of Connecticut, which constitutes only one forty-third part of that of

the United States, thus furnished one-eighth of the whole body of

representatives. The States of Connecticut, however, only sends five

delegates to Congress; and the thirty-one others sit for the new

Western States. If these thirty-one individuals had remained in

Connecticut, it is probable that instead of becoming rich landowners

they would have remained humble laborers, that they would have lived in

obscurity without being able to rise into public life, and that, far

from becoming useful members of the legislature, they might have been

unruly citizens.

These reflections do not escape the observation of the Americans any

more than of ourselves. “It cannot be doubted,” says Chancellor Kent in

his “Treatise on American Law,” “that the division of landed estates

must produce great evils when it is carried to such excess as that each

parcel of land is insufficient to support a family; but these

disadvantages have never been felt in the United States, and many

generations must elapse before they can be felt. The extent of our

inhabited territory, the abundance of adjacent land, and the continual

stream of emigration flowing from the shores of the Atlantic towards

the interior of the country, suffice as yet, and will long suffice, to

prevent the parcelling out of estates.”

It is difficult to describe the rapacity with which the American rushes

forward to secure the immense booty which fortune proffers to him. In

the pursuit he fearlessly braves the arrow of the Indian and the

distempers of the forest; he is unimpressed by the silence of the

woods; the approach of beasts of prey does not disturb him; for he is

goaded onwards by a passion more intense than the love of life. Before

him lies a boundless continent, and he urges onwards as if time

pressed, and he was afraid of finding no room for his exertions. I have

spoken of the emigration from the older States, but how shall I

describe that which takes place from the more recent ones? Fifty years

have scarcely elapsed since that of Ohio was founded; the greater part

of its inhabitants were not born within its confines; its capital has

only been built thirty years, and its territory is still covered by an

immense extent of uncultivated fields; nevertheless the population of

Ohio is already proceeding westward, and most of the settlers who

descend to the fertile savannahs of Illinois are citizens of Ohio.

These men left their first country to improve their condition; they

quit their resting-place to ameliorate it still more; fortune awaits

them everywhere, but happiness they cannot attain. The desire of

prosperity is become an ardent and restless passion in their minds

which grows by what it gains. They early broke the ties which bound

them to their natal earth, and they have contracted no fresh ones on

their way. Emigration was at first necessary to them as a means of

subsistence; and it soon becomes a sort of game of chance, which they

pursue for the emotions it excites as much as for the gain it procures.

Sometimes the progress of man is so rapid that the desert reappears

behind him. The woods stoop to give him a passage, and spring up again

when he has passed. It is not uncommon in crossing the new States of

the West to meet with deserted dwellings in the midst of the wilds; the

traveller frequently discovers the vestiges of a log house in the most

solitary retreats, which bear witness to the power, and no less to the

inconstancy of man. In these abandoned fields, and over these ruins of

a day, the primeval forest soon scatters a fresh vegetation, the beasts

resume the haunts which were once their own, and Nature covers the

traces of man’s path with branches and with flowers, which obliterate

his evanescent track.

I remember that, in crossing one of the woodland districts which still

cover the State of New York, I reached the shores of a lake embosomed

in forests coeval with the world. A small island, covered with woods

whose thick foliage concealed its banks, rose from the centre of the

waters. Upon the shores of the lake no object attested the presence of

man except a column of smoke which might be seen on the horizon rising

from the tops of the trees to the clouds, and seeming to hang from

heaven rather than to be mounting to the sky. An Indian shallop was

hauled up on the sand, which tempted me to visit the islet that had

first attracted my attention, and in a few minutes I set foot upon its

banks. The whole island formed one of those delicious solitudes of the

New World which almost lead civilized man to regret the haunts of the

savage. A luxuriant vegetation bore witness to the incomparable

fruitfulness of the soil. The deep silence which is common to the wilds

of North America was only broken by the hoarse cooing of the

wood-pigeon, and the tapping of the woodpecker upon the bark of trees.

I was far from supposing that this spot had ever been inhabited, so

completely did Nature seem to be left to her own caprices; but when I

reached the centre of the isle I thought that I discovered some traces

of man. I then proceeded to examine the surrounding objects with care,

and I soon perceived that a European had undoubtedly been led to seek a

refuge in this retreat. Yet what changes had taken place in the scene

of his labors! The logs which he had hastily hewn to build himself a

shed had sprouted afresh; the very props were intertwined with living

verdure, and his cabin was transformed into a bower. In the midst of

these shrubs a few stones were to be seen, blackened with fire and

sprinkled with thin ashes; here the hearth had no doubt been, and the

chimney in falling had covered it with rubbish. I stood for some time

in silent admiration of the exuberance of Nature and the littleness of

man: and when I was obliged to leave that enchanting solitude, I

exclaimed with melancholy, “Are ruins, then, already here?”

In Europe we are wont to look upon a restless disposition, an unbounded

desire of riches, and an excessive love of independence, as

propensities very formidable to society. Yet these are the very

elements which ensure a long and peaceful duration to the republics of

America. Without these unquiet passions the population would collect in

certain spots, and would soon be subject to wants like those of the Old

World, which it is difficult to satisfy; for such is the present good

fortune of the New World, that the vices of its inhabitants are

scarcely less favorable to society than their virtues. These

circumstances exercise a great influence on the estimation in which

human actions are held in the two hemispheres. The Americans frequently

term what we should call cupidity a laudable industry; and they blame

as faint-heartedness what we consider to be the virtue of moderate

desires.

In France, simple tastes, orderly manners, domestic affections, and the

attachments which men feel to the place of their birth, are looked upon

as great guarantees of the tranquillity and happiness of the State. But

in America nothing seems to be more prejudicial to society than these

virtues. The French Canadians, who have faithfully preserved the

traditions of their pristine manners, are already embarrassed for room

upon their small territory; and this little community, which has so

recently begun to exist, will shortly be a prey to the calamities

incident to old nations. In Canada, the most enlightened, patriotic,

and humane inhabitants make extraordinary efforts to render the people

dissatisfied with those simple enjoyments which still content it.

There, the seductions of wealth are vaunted with as much zeal as the

charms of an honest but limited income in the Old World, and more

exertions are made to excite the passions of the citizens there than to

calm them elsewhere. If we listen to their eulogies, we shall hear that

nothing is more praiseworthy than to exchange the pure and homely

pleasures which even the poor man tastes in his own country for the

dull delights of prosperity under a foreign sky; to leave the

patrimonial hearth and the turf beneath which his forefathers sleep; in

short, to abandon the living and the dead in quest of fortune.

At the present time America presents a field for human effort far more

extensive than any sum of labor which can be applied to work it. In

America too much knowledge cannot be diffused; for all knowledge,

whilst it may serve him who possesses it, turns also to the advantage

of those who are without it. New wants are not to be feared, since they

can be satisfied without difficulty; the growth of human passions need

not be dreaded, since all passions may find an easy and a legitimate

object; nor can men be put in possession of too much freedom, since

they are scarcely ever tempted to misuse their liberties.

The American republics of the present day are like companies of

adventurers formed to explore in common the waste lands of the New

World, and busied in a flourishing trade. The passions which agitate

the Americans most deeply are not their political but their commercial

passions; or, to speak more correctly, they introduce the habits they

contract in business into their political life. They love order,

without which affairs do not prosper; and they set an especial value

upon a regular conduct, which is the foundation of a solid business;

they prefer the good sense which amasses large fortunes to that

enterprising spirit which frequently dissipates them; general ideas

alarm their minds, which are accustomed to positive calculations, and

they hold practice in more honor than theory.

It is in America that one learns to understand the influence which

physical prosperity exercises over political actions, and even over

opinions which ought to acknowledge no sway but that of reason; and it

is more especially amongst strangers that this truth is perceptible.

Most of the European emigrants to the New World carry with them that

wild love of independence and of change which our calamities are so apt

to engender. I sometimes met with Europeans in the United States who

had been obliged to leave their own country on account of their

political opinions. They all astonished me by the language they held,

but one of them surprised me more than all the rest. As I was crossing

one of the most remote districts of Pennsylvania I was benighted, and

obliged to beg for hospitality at the gate of a wealthy planter, who

was a Frenchman by birth. He bade me sit down beside his fire, and we

began to talk with that freedom which befits persons who meet in the

backwoods, two thousand leagues from their native country. I was aware

that my host had been a great leveller and an ardent demagogue forty

years ago, and that his name was not unknown to fame. I was, therefore,

not a little surprised to hear him discuss the rights of property as an

economist or a landowner might have done: he spoke of the necessary

gradations which fortune establishes among men, of obedience to

established laws, of the influence of good morals in commonwealths, and

of the support which religious opinions give to order and to freedom;

he even went to far as to quote an evangelical authority in

corroboration of one of his political tenets.

I listened, and marvelled at the feebleness of human reason. A

proposition is true or false, but no art can prove it to be one or the

other, in the midst of the uncertainties of science and the conflicting

lessons of experience, until a new incident disperses the clouds of

doubt; I was poor, I become rich, and I am not to expect that

prosperity will act upon my conduct, and leave my judgment free; my

opinions change with my fortune, and the happy circumstances which I

turn to my advantage furnish me with that decisive argument which was

before wanting. The influence of prosperity acts still more freely upon

the American than upon strangers. The American has always seen the

connection of public order and public prosperity, intimately united as

they are, go on before his eyes; he does not conceive that one can

subsist without the other; he has therefore nothing to forget; nor has

he, like so many Europeans, to unlearn the lessons of his early

education.

Chapter XVII: Principal Causes Maintaining The Democratic

Republic—Part II

Influence Of The Laws Upon The Maintenance Of The Democratic Republic

In The United States

Three principal causes of the maintenance of the democratic

republic—Federal Constitutions—Municipal institutions—Judicial power.

The principal aim of this book has been to make known the laws of the

United States; if this purpose has been accomplished, the reader is

already enabled to judge for himself which are the laws that really

tend to maintain the democratic republic, and which endanger its

existence. If I have not succeeded in explaining this in the whole

course of my work, I cannot hope to do so within the limits of a single

chapter. It is not my intention to retrace the path I have already

pursued, and a very few lines will suffice to recapitulate what I have

previously explained.

Three circumstances seem to me to contribute most powerfully to the

maintenance of the democratic republic in the United States.

The first is that Federal form of Government which the Americans have

adopted, and which enables the Union to combine the power of a great

empire with the security of a small State.

The second consists in those municipal institutions which limit the

despotism of the majority, and at the same time impart a taste for

freedom and a knowledge of the art of being free to the people.

The third is to be met with in the constitution of the judicial power.

I have shown in what manner the courts of justice serve to repress the

excesses of democracy, and how they check and direct the impulses of

the majority without stopping its activity.

Influence Of Manners Upon The Maintenance Of The Democratic Republic In

The United States

I have previously remarked that the manners of the people may be

considered as one of the general causes to which the maintenance of a

democratic republic in the United States is attributable. I here used

the word manners with the meaning which the ancients attached to the

word mores, for I apply it not only to manners in their proper sense of

what constitutes the character of social intercourse, but I extend it

to the various notions and opinions current among men, and to the mass

of those ideas which constitute their character of mind. I comprise,

therefore, under this term the whole moral and intellectual condition

of a people. My intention is not to draw a picture of American manners,

but simply to point out such features of them as are favorable to the

maintenance of political institutions.

Religion Considered As A Political Institution, Which Powerfully

Contributes To The Maintenance Of The Democratic Republic Amongst The

Americans

North America peopled by men who professed a democratic and republican

Christianity—Arrival of the Catholics—For what reason the Catholics

form the most democratic and the most republican class at the present

time.

Every religion is to be found in juxtaposition to a political opinion

which is connected with it by affinity. If the human mind be left to

follow its own bent, it will regulate the temporal and spiritual

institutions of society upon one uniform principle; and man will

endeavor, if I may use the expression, to harmonize the state in which

he lives upon earth with the state which he believes to await him in

heaven. The greatest part of British America was peopled by men who,

after having shaken off the authority of the Pope, acknowledged no

other religious supremacy; they brought with them into the New World a

form of Christianity which I cannot better describe than by styling it

a democratic and republican religion. This sect contributed powerfully

to the establishment of a democracy and a republic, and from the

earliest settlement of the emigrants politics and religion contracted

an alliance which has never been dissolved.

About fifty years ago Ireland began to pour a Catholic population into

the United States; on the other hand, the Catholics of America made

proselytes, and at the present moment more than a million of Christians

professing the truths of the Church of Rome are to be met with in the

Union. \*d The Catholics are faithful to the observances of their

religion; they are fervent and zealous in the support and belief of

their doctrines. Nevertheless they constitute the most republican and

the most democratic class of citizens which exists in the United

States; and although this fact may surprise the observer at first, the

causes by which it is occasioned may easily be discovered upon

reflection.

d

[ [It is difficult to ascertain with accuracy the amount of the Roman

Catholic population of the United States, but in 1868 an able writer in

the “Edinburgh Review” (vol. cxxvii. p. 521) affirmed that the whole

Catholic population of the United States was then about 4,000,000,

divided into 43 dioceses, with 3,795 churches, under the care of 45

bishops and 2,317 clergymen. But this rapid increase is mainly

supported by immigration from the Catholic countries of Europe.]]

I think that the Catholic religion has erroneously been looked upon as

the natural enemy of democracy. Amongst the various sects of

Christians, Catholicism seems to me, on the contrary, to be one of

those which are most favorable to the equality of conditions. In the

Catholic Church, the religious community is composed of only two

elements, the priest and the people. The priest alone rises above the

rank of his flock, and all below him are equal.

On doctrinal points the Catholic faith places all human capacities upon

the same level; it subjects the wise and ignorant, the man of genius

and the vulgar crowd, to the details of the same creed; it imposes the

same observances upon the rich and needy, it inflicts the same

austerities upon the strong and the weak, it listens to no compromise

with mortal man, but, reducing all the human race to the same standard,

it confounds all the distinctions of society at the foot of the same

altar, even as they are confounded in the sight of God. If Catholicism

predisposes the faithful to obedience, it certainly does not prepare

them for inequality; but the contrary may be said of Protestantism,

which generally tends to make men independent, more than to render them

equal.

Catholicism is like an absolute monarchy; if the sovereign be removed,

all the other classes of society are more equal than they are in

republics. It has not unfrequently occurred that the Catholic priest

has left the service of the altar to mix with the governing powers of

society, and to take his place amongst the civil gradations of men.

This religious influence has sometimes been used to secure the

interests of that political state of things to which he belonged. At

other times Catholics have taken the side of aristocracy from a spirit

of religion.

But no sooner is the priesthood entirely separated from the government,

as is the case in the United States, than is found that no class of men

are more naturally disposed than the Catholics to transfuse the

doctrine of the equality of conditions into the political world. If,

then, the Catholic citizens of the United States are not forcibly led

by the nature of their tenets to adopt democratic and republican

principles, at least they are not necessarily opposed to them; and

their social position, as well as their limited number, obliges them to

adopt these opinions. Most of the Catholics are poor, and they have no

chance of taking a part in the government unless it be open to all the

citizens. They constitute a minority, and all rights must be respected

in order to insure to them the free exercise of their own privileges.

These two causes induce them, unconsciously, to adopt political

doctrines, which they would perhaps support with less zeal if they were

rich and preponderant.

The Catholic clergy of the United States has never attempted to oppose

this political tendency, but it seeks rather to justify its results.

The priests in America have divided the intellectual world into two

parts: in the one they place the doctrines of revealed religion, which

command their assent; in the other they leave those truths which they

believe to have been freely left open to the researches of political

inquiry. Thus the Catholics of the United States are at the same time

the most faithful believers and the most zealous citizens.

It may be asserted that in the United States no religious doctrine

displays the slightest hostility to democratic and republican

institutions. The clergy of all the different sects hold the same

language, their opinions are consonant to the laws, and the human

intellect flows onwards in one sole current.

I happened to be staying in one of the largest towns in the Union, when

I was invited to attend a public meeting which had been called for the

purpose of assisting the Poles, and of sending them supplies of arms

and money. I found two or three thousand persons collected in a vast

hall which had been prepared to receive them. In a short time a priest

in his ecclesiastical robes advanced to the front of the hustings: the

spectators rose, and stood uncovered, whilst he spoke in the following

terms:—

“Almighty God! the God of Armies! Thou who didst strengthen the hearts

and guide the arms of our fathers when they were fighting for the

sacred rights of national independence; Thou who didst make them

triumph over a hateful oppression, and hast granted to our people the

benefits of liberty and peace; Turn, O Lord, a favorable eye upon the

other hemisphere; pitifully look down upon that heroic nation which is

even now struggling as we did in the former time, and for the same

rights which we defended with our blood. Thou, who didst create Man in

the likeness of the same image, let not tyranny mar Thy work, and

establish inequality upon the earth. Almighty God! do Thou watch over

the destiny of the Poles, and render them worthy to be free. May Thy

wisdom direct their councils, and may Thy strength sustain their arms!

Shed forth Thy terror over their enemies, scatter the powers which take

counsel against them; and vouchsafe that the injustice which the world

has witnessed for fifty years, be not consummated in our time. O Lord,

who holdest alike the hearts of nations and of men in Thy powerful

hand; raise up allies to the sacred cause of right; arouse the French

nation from the apathy in which its rulers retain it, that it go forth

again to fight for the liberties of the world.

“Lord, turn not Thou Thy face from us, and grant that we may always be

the most religious as well as the freest people of the earth. Almighty

God, hear our supplications this day. Save the Poles, we beseech Thee,

in the name of Thy well-beloved Son, our Lord Jesus Christ, who died

upon the cross for the salvation of men. Amen.”

The whole meeting responded “Amen!” with devotion.

Indirect Influence Of Religious Opinions Upon Political Society In The

United States

Christian morality common to all sects—Influence of religion upon the

manners of the Americans—Respect for the marriage tie—In what manner

religion confines the imagination of the Americans within certain

limits, and checks the passion of innovation—Opinion of the Americans

on the political utility of religion—Their exertions to extend and

secure its predominance.

I have just shown what the direct influence of religion upon politics

is in the United States, but its indirect influence appears to me to be

still more considerable, and it never instructs the Americans more

fully in the art of being free than when it says nothing of freedom.

The sects which exist in the United States are innumerable. They all

differ in respect to the worship which is due from man to his Creator,

but they all agree in respect to the duties which are due from man to

man. Each sect adores the Deity in its own peculiar manner, but all the

sects preach the same moral law in the name of God. If it be of the

highest importance to man, as an individual, that his religion should

be true, the case of society is not the same. Society has no future

life to hope for or to fear; and provided the citizens profess a

religion, the peculiar tenets of that religion are of very little

importance to its interests. Moreover, almost all the sects of the

United States are comprised within the great unity of Christianity, and

Christian morality is everywhere the same.

It may be believed without unfairness that a certain number of

Americans pursue a peculiar form of worship, from habit more than from

conviction. In the United States the sovereign authority is religious,

and consequently hypocrisy must be common; but there is no country in

the whole world in which the Christian religion retains a greater

influence over the souls of men than in America; and there can be no

greater proof of its utility, and of its conformity to human nature,

than that its influence is most powerfully felt over the most

enlightened and free nation of the earth.

I have remarked that the members of the American clergy in general,

without even excepting those who do not admit religious liberty, are

all in favor of civil freedom; but they do not support any particular

political system. They keep aloof from parties and from public affairs.

In the United States religion exercises but little influence upon the

laws and upon the details of public opinion, but it directs the manners

of the community, and by regulating domestic life it regulates the

State.

I do not question that the great austerity of manners which is

observable in the United States, arises, in the first instance, from

religious faith. Religion is often unable to restrain man from the

numberless temptations of fortune; nor can it check that passion for

gain which every incident of his life contributes to arouse, but its

influence over the mind of woman is supreme, and women are the

protectors of morals. There is certainly no country in the world where

the tie of marriage is so much respected as in America, or where

conjugal happiness is more highly or worthily appreciated. In Europe

almost all the disturbances of society arise from the irregularities of

domestic life. To despise the natural bonds and legitimate pleasures of

home, is to contract a taste for excesses, a restlessness of heart, and

the evil of fluctuating desires. Agitated by the tumultuous passions

which frequently disturb his dwelling, the European is galled by the

obedience which the legislative powers of the State exact. But when the

American retires from the turmoil of public life to the bosom of his

family, he finds in it the image of order and of peace. There his

pleasures are simple and natural, his joys are innocent and calm; and

as he finds that an orderly life is the surest path to happiness, he

accustoms himself without difficulty to moderate his opinions as well

as his tastes. Whilst the European endeavors to forget his domestic

troubles by agitating society, the American derives from his own home

that love of order which he afterwards carries with him into public

affairs.

In the United States the influence of religion is not confined to the

manners, but it extends to the intelligence of the people. Amongst the

Anglo-Americans, there are some who profess the doctrines of

Christianity from a sincere belief in them, and others who do the same

because they are afraid to be suspected of unbelief. Christianity,

therefore, reigns without any obstacle, by universal consent; the

consequence is, as I have before observed, that every principle of the

moral world is fixed and determinate, although the political world is

abandoned to the debates and the experiments of men. Thus the human

mind is never left to wander across a boundless field; and, whatever

may be its pretensions, it is checked from time to time by barriers

which it cannot surmount. Before it can perpetrate innovation, certain

primal and immutable principles are laid down, and the boldest

conceptions of human device are subjected to certain forms which retard

and stop their completion.

The imagination of the Americans, even in its greatest flights, is

circumspect and undecided; its impulses are checked, and its works

unfinished. These habits of restraint recur in political society, and

are singularly favorable both to the tranquillity of the people and to

the durability of the institutions it has established. Nature and

circumstances concurred to make the inhabitants of the United States

bold men, as is sufficiently attested by the enterprising spirit with

which they seek for fortune. If the mind of the Americans were free

from all trammels, they would very shortly become the most daring

innovators and the most implacable disputants in the world. But the

revolutionists of America are obliged to profess an ostensible respect

for Christian morality and equity, which does not easily permit them to

violate the laws that oppose their designs; nor would they find it easy

to surmount the scruples of their partisans, even if they were able to

get over their own. Hitherto no one in the United States has dared to

advance the maxim, that everything is permissible with a view to the

interests of society; an impious adage which seems to have been

invented in an age of freedom to shelter all the tyrants of future

ages. Thus whilst the law permits the Americans to do what they please,

religion prevents them from conceiving, and forbids them to commit,

what is rash or unjust.

Religion in America takes no direct part in the government of society,

but it must nevertheless be regarded as the foremost of the political

institutions of that country; for if it does not impart a taste for

freedom, it facilitates the use of free institutions. Indeed, it is in

this same point of view that the inhabitants of the United States

themselves look upon religious belief. I do not know whether all the

Americans have a sincere faith in their religion, for who can search

the human heart? but I am certain that they hold it to be indispensable

to the maintenance of republican institutions. This opinion is not

peculiar to a class of citizens or to a party, but it belongs to the

whole nation, and to every rank of society.

In the United States, if a political character attacks a sect, this may

not prevent even the partisans of that very sect from supporting him;

but if he attacks all the sects together, everyone abandons him, and he

remains alone.

Whilst I was in America, a witness, who happened to be called at the

assizes of the county of Chester (State of New York), declared that he

did not believe in the existence of God, or in the immortality of the

soul. The judge refused to admit his evidence, on the ground that the

witness had destroyed beforehand all the confidence of the Court in

what he was about to say. \*e The newspapers related the fact without

any further comment.

e

[ The New York “Spectator” of August 23, 1831, relates the fact in the

following terms:—“The Court of Common Pleas of Chester county (New

York) a few days since rejected a witness who declared his disbelief in

the existence of God. The presiding judge remarked that he had not

before been aware that there was a man living who did not believe in

the existence of God; that this belief constituted the sanction of all

testimony in a court of justice, and that he knew of no cause in a

Christian country where a witness had been permitted to testify without

such belief.”]

The Americans combine the notions of Christianity and of liberty so

intimately in their minds, that it is impossible to make them conceive

the one without the other; and with them this conviction does not

spring from that barren traditionary faith which seems to vegetate in

the soul rather than to live.

I have known of societies formed by the Americans to send out ministers

of the Gospel into the new Western States to found schools and churches

there, lest religion should be suffered to die away in those remote

settlements, and the rising States be less fitted to enjoy free

institutions than the people from which they emanated. I met with

wealthy New Englanders who abandoned the country in which they were

born in order to lay the foundations of Christianity and of freedom on

the banks of the Missouri, or in the prairies of Illinois. Thus

religious zeal is perpetually stimulated in the United States by the

duties of patriotism. These men do not act from an exclusive

consideration of the promises of a future life; eternity is only one

motive of their devotion to the cause; and if you converse with these

missionaries of Christian civilization, you will be surprised to find

how much value they set upon the goods of this world, and that you meet

with a politician where you expected to find a priest. They will tell

you that “all the American republics are collectively involved with

each other; if the republics of the West were to fall into anarchy, or

to be mastered by a despot, the republican institutions which now

flourish upon the shores of the Atlantic Ocean would be in great peril.

It is, therefore, our interest that the new States should be religious,

in order to maintain our liberties.”

Such are the opinions of the Americans, and if any hold that the

religious spirit which I admire is the very thing most amiss in

America, and that the only element wanting to the freedom and happiness

of the human race is to believe in some blind cosmogony, or to assert

with Cabanis the secretion of thought by the brain, I can only reply

that those who hold this language have never been in America, and that

they have never seen a religious or a free nation. When they return

from their expedition, we shall hear what they have to say.

There are persons in France who look upon republican institutions as a

temporary means of power, of wealth, and distinction; men who are the

condottieri of liberty, and who fight for their own advantage, whatever

be the colors they wear: it is not to these that I address myself. But

there are others who look forward to the republican form of government

as a tranquil and lasting state, towards which modern society is daily

impelled by the ideas and manners of the time, and who sincerely desire

to prepare men to be free. When these men attack religious opinions,

they obey the dictates of their passions to the prejudice of their

interests. Despotism may govern without faith, but liberty cannot.

Religion is much more necessary in the republic which they set forth in

glowing colors than in the monarchy which they attack; and it is more

needed in democratic republics than in any others. How is it possible

that society should escape destruction if the moral tie be not

strengthened in proportion as the political tie is relaxed? and what

can be done with a people which is its own master, if it be not

submissive to the Divinity?

Chapter XVII: Principal Causes Maintaining The Democratic

Republic—Part III

Principal Causes Which Render Religion Powerful In America Care taken

by the Americans to separate the Church from the State—The laws, public

opinion, and even the exertions of the clergy concur to promote this

end—Influence of religion upon the mind in the United States

attributable to this cause—Reason of this—What is the natural state of

men with regard to religion at the present time—What are the peculiar

and incidental causes which prevent men, in certain countries, from

arriving at this state.

The philosophers of the eighteenth century explained the gradual decay

of religious faith in a very simple manner. Religious zeal, said they,

must necessarily fail, the more generally liberty is established and

knowledge diffused. Unfortunately, facts are by no means in accordance

with their theory. There are certain populations in Europe whose

unbelief is only equalled by their ignorance and their debasement,

whilst in America one of the freest and most enlightened nations in the

world fulfils all the outward duties of religious fervor.

Upon my arrival in the United States, the religious aspect of the

country was the first thing that struck my attention; and the longer I

stayed there the more did I perceive the great political consequences

resulting from this state of things, to which I was unaccustomed. In

France I had almost always seen the spirit of religion and the spirit

of freedom pursuing courses diametrically opposed to each other; but in

America I found that they were intimately united, and that they reigned

in common over the same country. My desire to discover the causes of

this phenomenon increased from day to day. In order to satisfy it I

questioned the members of all the different sects; and I more

especially sought the society of the clergy, who are the depositaries

of the different persuasions, and who are more especially interested in

their duration. As a member of the Roman Catholic Church I was more

particularly brought into contact with several of its priests, with

whom I became intimately acquainted. To each of these men I expressed

my astonishment and I explained my doubts; I found that they differed

upon matters of detail alone; and that they mainly attributed the

peaceful dominion of religion in their country to the separation of

Church and State. I do not hesitate to affirm that during my stay in

America I did not meet with a single individual, of the clergy or of

the laity, who was not of the same opinion upon this point.

This led me to examine more attentively than I had hitherto done, the

station which the American clergy occupy in political society. I

learned with surprise that they filled no public appointments; \*f not

one of them is to be met with in the administration, and they are not

even represented in the legislative assemblies. In several States \*g

the law excludes them from political life, public opinion in all. And

when I came to inquire into the prevailing spirit of the clergy I found

that most of its members seemed to retire of their own accord from the

exercise of power, and that they made it the pride of their profession

to abstain from politics.

f

[ Unless this term be applied to the functions which many of them fill

in the schools. Almost all education is entrusted to the clergy.]

g

[ See the Constitution of New York, art. 7, Section 4:— “And whereas

the ministers of the gospel are, by their profession, dedicated to the

service of God and the care of souls, and ought not to be diverted from

the great duties of their functions: therefore no minister of the

gospel, or priest of any denomination whatsoever, shall at any time

hereafter, under any pretence or description whatever, be eligible to,

or capable of holding, any civil or military office or place within

this State.”

See also the constitutions of North Carolina, art. 31; Virginia; South

Carolina, art. I, Section 23; Kentucky, art. 2, Section 26; Tennessee,

art. 8, Section I; Louisiana, art. 2, Section 22.]

I heard them inveigh against ambition and deceit, under whatever

political opinions these vices might chance to lurk; but I learned from

their discourses that men are not guilty in the eye of God for any

opinions concerning political government which they may profess with

sincerity, any more than they are for their mistakes in building a

house or in driving a furrow. I perceived that these ministers of the

gospel eschewed all parties with the anxiety attendant upon personal

interest. These facts convinced me that what I had been told was true;

and it then became my object to investigate their causes, and to

inquire how it happened that the real authority of religion was

increased by a state of things which diminished its apparent force:

these causes did not long escape my researches.

The short space of threescore years can never content the imagination

of man; nor can the imperfect joys of this world satisfy his heart. Man

alone, of all created beings, displays a natural contempt of existence,

and yet a boundless desire to exist; he scorns life, but he dreads

annihilation. These different feelings incessantly urge his soul to the

contemplation of a future state, and religion directs his musings

thither. Religion, then, is simply another form of hope; and it is no

less natural to the human heart than hope itself. Men cannot abandon

their religious faith without a kind of aberration of intellect, and a

sort of violent distortion of their true natures; but they are

invincibly brought back to more pious sentiments; for unbelief is an

accident, and faith is the only permanent state of mankind. If we only

consider religious institutions in a purely human point of view, they

may be said to derive an inexhaustible element of strength from man

himself, since they belong to one of the constituent principles of

human nature.

I am aware that at certain times religion may strengthen this

influence, which originates in itself, by the artificial power of the

laws, and by the support of those temporal institutions which direct

society. Religions, intimately united to the governments of the earth,

have been known to exercise a sovereign authority derived from the

twofold source of terror and of faith; but when a religion contracts an

alliance of this nature, I do not hesitate to affirm that it commits

the same error as a man who should sacrifice his future to his present

welfare; and in obtaining a power to which it has no claim, it risks

that authority which is rightfully its own. When a religion founds its

empire upon the desire of immortality which lives in every human heart,

it may aspire to universal dominion; but when it connects itself with a

government, it must necessarily adopt maxims which are only applicable

to certain nations. Thus, in forming an alliance with a political

power, religion augments its authority over a few, and forfeits the

hope of reigning over all.

As long as a religion rests upon those sentiments which are the

consolation of all affliction, it may attract the affections of

mankind. But if it be mixed up with the bitter passions of the world,

it may be constrained to defend allies whom its interests, and not the

principle of love, have given to it; or to repel as antagonists men who

are still attached to its own spirit, however opposed they may be to

the powers to which it is allied. The Church cannot share the temporal

power of the State without being the object of a portion of that

animosity which the latter excites.

The political powers which seem to be most firmly established have

frequently no better guarantee for their duration than the opinions of

a generation, the interests of the time, or the life of an individual.

A law may modify the social condition which seems to be most fixed and

determinate; and with the social condition everything else must change.

The powers of society are more or less fugitive, like the years which

we spend upon the earth; they succeed each other with rapidity, like

the fleeting cares of life; and no government has ever yet been founded

upon an invariable disposition of the human heart, or upon an

imperishable interest.

As long as a religion is sustained by those feelings, propensities, and

passions which are found to occur under the same forms, at all the

different periods of history, it may defy the efforts of time; or at

least it can only be destroyed by another religion. But when religion

clings to the interests of the world, it becomes almost as fragile a

thing as the powers of earth. It is the only one of them all which can

hope for immortality; but if it be connected with their ephemeral

authority, it shares their fortunes, and may fall with those transient

passions which supported them for a day. The alliance which religion

contracts with political powers must needs be onerous to itself; since

it does not require their assistance to live, and by giving them its

assistance it may be exposed to decay.

The danger which I have just pointed out always exists, but it is not

always equally visible. In some ages governments seem to be

imperishable; in others, the existence of society appears to be more

precarious than the life of man. Some constitutions plunge the citizens

into a lethargic somnolence, and others rouse them to feverish

excitement. When governments appear to be so strong, and laws so

stable, men do not perceive the dangers which may accrue from a union

of Church and State. When governments display so much weakness, and

laws so much inconstancy, the danger is self-evident, but it is no

longer possible to avoid it; to be effectual, measures must be taken to

discover its approach.

In proportion as a nation assumes a democratic condition of society,

and as communities display democratic propensities, it becomes more and

more dangerous to connect religion with political institutions; for the

time is coming when authority will be bandied from hand to hand, when

political theories will succeed each other, and when men, laws, and

constitutions will disappear, or be modified from day to day, and this,

not for a season only, but unceasingly. Agitation and mutability are

inherent in the nature of democratic republics, just as stagnation and

inertness are the law of absolute monarchies.

If the Americans, who change the head of the Government once in four

years, who elect new legislators every two years, and renew the

provincial officers every twelvemonth; if the Americans, who have

abandoned the political world to the attempts of innovators, had not

placed religion beyond their reach, where could it abide in the ebb and

flow of human opinions? where would that respect which belongs to it be

paid, amidst the struggles of faction? and what would become of its

immortality, in the midst of perpetual decay? The American clergy were

the first to perceive this truth, and to act in conformity with it.

They saw that they must renounce their religious influence, if they

were to strive for political power; and they chose to give up the

support of the State, rather than to share its vicissitudes.

In America, religion is perhaps less powerful than it has been at

certain periods in the history of certain peoples; but its influence is

more lasting. It restricts itself to its own resources, but of those

none can deprive it: its circle is limited to certain principles, but

those principles are entirely its own, and under its undisputed

control.

On every side in Europe we hear voices complaining of the absence of

religious faith, and inquiring the means of restoring to religion some

remnant of its pristine authority. It seems to me that we must first

attentively consider what ought to be the natural state of men with

regard to religion at the present time; and when we know what we have

to hope and to fear, we may discern the end to which our efforts ought

to be directed.

The two great dangers which threaten the existence of religions are

schism and indifference. In ages of fervent devotion, men sometimes

abandon their religion, but they only shake it off in order to adopt

another. Their faith changes the objects to which it is directed, but

it suffers no decline. The old religion then excites enthusiastic

attachment or bitter enmity in either party; some leave it with anger,

others cling to it with increased devotedness, and although persuasions

differ, irreligion is unknown. Such, however, is not the case when a

religious belief is secretly undermined by doctrines which may be

termed negative, since they deny the truth of one religion without

affirming that of any other. Prodigious revolutions then take place in

the human mind, without the apparent co-operation of the passions of

man, and almost without his knowledge. Men lose the objects of their

fondest hopes, as if through forgetfulness. They are carried away by an

imperceptible current which they have not the courage to stem, but

which they follow with regret, since it bears them from a faith they

love, to a scepticism that plunges them into despair.

In ages which answer to this description, men desert their religious

opinions from lukewarmness rather than from dislike; they do not reject

them, but the sentiments by which they were once fostered disappear.

But if the unbeliever does not admit religion to be true, he still

considers it useful. Regarding religious institutions in a human point

of view, he acknowledges their influence upon manners and legislation.

He admits that they may serve to make men live in peace with one

another, and to prepare them gently for the hour of death. He regrets

the faith which he has lost; and as he is deprived of a treasure which

he has learned to estimate at its full value, he scruples to take it

from those who still possess it.

On the other hand, those who continue to believe are not afraid openly

to avow their faith. They look upon those who do not share their

persuasion as more worthy of pity than of opposition; and they are

aware that to acquire the esteem of the unbelieving, they are not

obliged to follow their example. They are hostile to no one in the

world; and as they do not consider the society in which they live as an

arena in which religion is bound to face its thousand deadly foes, they

love their contemporaries, whilst they condemn their weaknesses and

lament their errors.

As those who do not believe, conceal their incredulity; and as those

who believe, display their faith, public opinion pronounces itself in

favor of religion: love, support, and honor are bestowed upon it, and

it is only by searching the human soul that we can detect the wounds

which it has received. The mass of mankind, who are never without the

feeling of religion, do not perceive anything at variance with the

established faith. The instinctive desire of a future life brings the

crowd about the altar, and opens the hearts of men to the precepts and

consolations of religion.

But this picture is not applicable to us: for there are men amongst us

who have ceased to believe in Christianity, without adopting any other

religion; others who are in the perplexities of doubt, and who already

affect not to believe; and others, again, who are afraid to avow that

Christian faith which they still cherish in secret.

Amidst these lukewarm partisans and ardent antagonists a small number

of believers exist, who are ready to brave all obstacles and to scorn

all dangers in defence of their faith. They have done violence to human

weakness, in order to rise superior to public opinion. Excited by the

effort they have made, they scarcely knew where to stop; and as they

know that the first use which the French made of independence was to

attack religion, they look upon their contemporaries with dread, and

they recoil in alarm from the liberty which their fellow-citizens are

seeking to obtain. As unbelief appears to them to be a novelty, they

comprise all that is new in one indiscriminate animosity. They are at

war with their age and country, and they look upon every opinion which

is put forth there as the necessary enemy of the faith.

Such is not the natural state of men with regard to religion at the

present day; and some extraordinary or incidental cause must be at work

in France to prevent the human mind from following its original

propensities and to drive it beyond the limits at which it ought

naturally to stop. I am intimately convinced that this extraordinary

and incidental cause is the close connection of politics and religion.

The unbelievers of Europe attack the Christians as their political

opponents, rather than as their religious adversaries; they hate the

Christian religion as the opinion of a party, much more than as an

error of belief; and they reject the clergy less because they are the

representatives of the Divinity than because they are the allies of

authority.

In Europe, Christianity has been intimately united to the powers of the

earth. Those powers are now in decay, and it is, as it were, buried

under their ruins. The living body of religion has been bound down to

the dead corpse of superannuated polity: cut but the bonds which

restrain it, and that which is alive will rise once more. I know not

what could restore the Christian Church of Europe to the energy of its

earlier days; that power belongs to God alone; but it may be the effect

of human policy to leave the faith in the full exercise of the strength

which it still retains.

How The Instruction, The Habits, And The Practical Experience Of The

Americans Promote The Success Of Their Democratic Institutions

What is to be understood by the instruction of the American people—The

human mind more superficially instructed in the United States than in

Europe—No one completely uninstructed—Reason of this—Rapidity with

which opinions are diffused even in the uncultivated States of the

West—Practical experience more serviceable to the Americans than

book-learning.

I have but little to add to what I have already said concerning the

influence which the instruction and the habits of the Americans

exercise upon the maintenance of their political institutions.

America has hitherto produced very few writers of distinction; it

possesses no great historians, and not a single eminent poet. The

inhabitants of that country look upon what are properly styled literary

pursuits with a kind of disapprobation; and there are towns of very

second-rate importance in Europe in which more literary works are

annually published than in the twenty-four States of the Union put

together. The spirit of the Americans is averse to general ideas; and

it does not seek theoretical discoveries. Neither politics nor

manufactures direct them to these occupations; and although new laws

are perpetually enacted in the United States, no great writers have

hitherto inquired into the general principles of their legislation. The

Americans have lawyers and commentators, but no jurists; \*h and they

furnish examples rather than lessons to the world. The same observation

applies to the mechanical arts. In America, the inventions of Europe

are adopted with sagacity; they are perfected, and adapted with

admirable skill to the wants of the country. Manufactures exist, but

the science of manufacture is not cultivated; and they have good

workmen, but very few inventors. Fulton was obliged to proffer his

services to foreign nations for a long time before he was able to

devote them to his own country.

h

[ [This cannot be said with truth of the country of Kent, Story, and

Wheaton.]]

The observer who is desirous of forming an opinion on the state of

instruction amongst the Anglo-Americans must consider the same object

from two different points of view. If he only singles out the learned,

he will be astonished to find how rare they are; but if he counts the

ignorant, the American people will appear to be the most enlightened

community in the world. The whole population, as I observed in another

place, is situated between these two extremes. In New England, every

citizen receives the elementary notions of human knowledge; he is

moreover taught the doctrines and the evidences of his religion, the

history of his country, and the leading features of its Constitution.

In the States of Connecticut and Massachusetts, it is extremely rare to

find a man imperfectly acquainted with all these things, and a person

wholly ignorant of them is a sort of phenomenon.

When I compare the Greek and Roman republics with these American

States; the manuscript libraries of the former, and their rude

population, with the innumerable journals and the enlightened people of

the latter; when I remember all the attempts which are made to judge

the modern republics by the assistance of those of antiquity, and to

infer what will happen in our time from what took place two thousand

years ago, I am tempted to burn my books, in order to apply none but

novel ideas to so novel a condition of society.

What I have said of New England must not, however, be applied

indistinctly to the whole Union; as we advance towards the West or the

South, the instruction of the people diminishes. In the States which

are adjacent to the Gulf of Mexico, a certain number of individuals may

be found, as in our own countries, who are devoid of the rudiments of

instruction. But there is not a single district in the United States

sunk in complete ignorance; and for a very simple reason: the peoples

of Europe started from the darkness of a barbarous condition, to

advance toward the light of civilization; their progress has been

unequal; some of them have improved apace, whilst others have loitered

in their course, and some have stopped, and are still sleeping upon the

way. \*i

i

[ [In the Northern States the number of persons destitute of

instruction is inconsiderable, the largest number being 241,152 in the

State of New York (according to Spaulding’s “Handbook of American

Statistics” for 1874); but in the South no less than 1,516,339 whites

and 2,671,396 colored persons are returned as “illiterate.”]]

Such has not been the case in the United States. The Anglo-Americans

settled in a state of civilization, upon that territory which their

descendants occupy; they had not to begin to learn, and it was

sufficient for them not to forget. Now the children of these same

Americans are the persons who, year by year, transport their dwellings

into the wilds; and with their dwellings their acquired information and

their esteem for knowledge. Education has taught them the utility of

instruction, and has enabled them to transmit that instruction to their

posterity. In the United States society has no infancy, but it is born

in man’s estate.

The Americans never use the word “peasant,” because they have no idea

of the peculiar class which that term denotes; the ignorance of more

remote ages, the simplicity of rural life, and the rusticity of the

villager have not been preserved amongst them; and they are alike

unacquainted with the virtues, the vices, the coarse habits, and the

simple graces of an early stage of civilization. At the extreme borders

of the Confederate States, upon the confines of society and of the

wilderness, a population of bold adventurers have taken up their abode,

who pierce the solitudes of the American woods, and seek a country

there, in order to escape that poverty which awaited them in their

native provinces. As soon as the pioneer arrives upon the spot which is

to serve him for a retreat, he fells a few trees and builds a loghouse.

Nothing can offer a more miserable aspect than these isolated

dwellings. The traveller who approaches one of them towards nightfall,

sees the flicker of the hearth-flame through the chinks in the walls;

and at night, if the wind rises, he hears the roof of boughs shake to

and fro in the midst of the great forest trees. Who would not suppose

that this poor hut is the asylum of rudeness and ignorance? Yet no sort

of comparison can be drawn between the pioneer and the dwelling which

shelters him. Everything about him is primitive and unformed, but he is

himself the result of the labor and the experience of eighteen

centuries. He wears the dress, and he speaks the language of cities; he

is acquainted with the past, curious of the future, and ready for

argument upon the present; he is, in short, a highly civilized being,

who consents, for a time, to inhabit the backwoods, and who penetrates

into the wilds of the New World with the Bible, an axe, and a file of

newspapers.

It is difficult to imagine the incredible rapidity with which public

opinion circulates in the midst of these deserts. \*j I do not think

that so much intellectual intercourse takes place in the most

enlightened and populous districts of France. \*k It cannot be doubted

that, in the United States, the instruction of the people powerfully

contributes to the support of a democratic republic; and such must

always be the case, I believe, where instruction which awakens the

understanding is not separated from moral education which amends the

heart. But I by no means exaggerate this benefit, and I am still

further from thinking, as so many people do think in Europe, that men

can be instantaneously made citizens by teaching them to read and

write. True information is mainly derived from experience; and if the

Americans had not been gradually accustomed to govern themselves, their

book-learning would not assist them much at the present day.

j

[ I travelled along a portion of the frontier of the United States in a

sort of cart which was termed the mail. We passed, day and night, with

great rapidity along the roads which were scarcely marked out, through

immense forests; when the gloom of the woods became impenetrable the

coachman lighted branches of fir, and we journeyed along by the light

they cast. From time to time we came to a hut in the midst of the

forest, which was a post-office. The mail dropped an enormous bundle of

letters at the door of this isolated dwelling, and we pursued our way

at full gallop, leaving the inhabitants of the neighboring log houses

to send for their share of the treasure.

[When the author visited America the locomotive and the railroad were

scarcely invented, and not yet introduced in the United States. It is

superfluous to point out the immense effect of those inventions in

extending civilization and developing the resources of that vast

continent. In 1831 there were 51 miles of railway in the United States;

in 1872 there were 60,000 miles of railway.]]

k

[ In 1832 each inhabitant of Michigan paid a sum equivalent to 1 fr. 22

cent. (French money) to the post-office revenue, and each inhabitant of

the Floridas paid 1 fr. 5 cent. (See “National Calendar,” 1833, p.

244.) In the same year each inhabitant of the Departement du Nord paid

1 fr. 4 cent. to the revenue of the French post-office. (See the

“Compte rendu de l’administration des Finances,” 1833, p. 623.) Now the

State of Michigan only contained at that time 7 inhabitants per square

league and Florida only 5: the public instruction and the commercial

activity of these districts is inferior to that of most of the States

in the Union, whilst the Departement du Nord, which contains 3,400

inhabitants per square league, is one of the most enlightened and

manufacturing parts of France.]

I have lived a great deal with the people in the United States, and I

cannot express how much I admire their experience and their good sense.

An American should never be allowed to speak of Europe; for he will

then probably display a vast deal of presumption and very foolish

pride. He will take up with those crude and vague notions which are so

useful to the ignorant all over the world. But if you question him

respecting his own country, the cloud which dimmed his intelligence

will immediately disperse; his language will become as clear and as

precise as his thoughts. He will inform you what his rights are, and by

what means he exercises them; he will be able to point out the customs

which obtain in the political world. You will find that he is well

acquainted with the rules of the administration, and that he is

familiar with the mechanism of the laws. The citizen of the United

States does not acquire his practical science and his positive notions

from books; the instruction he has acquired may have prepared him for

receiving those ideas, but it did not furnish them. The American learns

to know the laws by participating in the act of legislation; and he

takes a lesson in the forms of government from governing. The great

work of society is ever going on beneath his eyes, and, as it were,

under his hands.

In the United States politics are the end and aim of education; in

Europe its principal object is to fit men for private life. The

interference of the citizens in public affairs is too rare an

occurrence for it to be anticipated beforehand. Upon casting a glance

over society in the two hemispheres, these differences are indicated

even by its external aspect.

In Europe we frequently introduce the ideas and the habits of private

life into public affairs; and as we pass at once from the domestic

circle to the government of the State, we may frequently be heard to

discuss the great interests of society in the same manner in which we

converse with our friends. The Americans, on the other hand, transfuse

the habits of public life into their manners in private; and in their

country the jury is introduced into the games of schoolboys, and

parliamentary forms are observed in the order of a feast.

Chapter XVII: Principal Causes Maintaining The Democratic

Republic—Part IV

The Laws Contribute More To The Maintenance Of The Democratic Republic

In The United States Than The Physical Circumstances Of The Country,

And The Manners More Than The Laws

All the nations of America have a democratic state of society—Yet

democratic institutions only subsist amongst the Anglo-Americans—The

Spaniards of South America, equally favored by physical causes as the

Anglo-Americans, unable to maintain a democratic republic—Mexico, which

has adopted the Constitution of the United States, in the same

predicament—The Anglo-Americans of the West less able to maintain it

than those of the East—Reason of these different results.

I have remarked that the maintenance of democratic institutions in the

United States is attributable to the circumstances, the laws, and the

manners of that country. \*l Most Europeans are only acquainted with the

first of these three causes, and they are apt to give it a

preponderating importance which it does not really possess.

l

[ I remind the reader of the general signification which I give to the

word “manners,” namely, the moral and intellectual characteristics of

social man taken collectively.]

It is true that the Anglo-Saxons settled in the New World in a state of

social equality; the low-born and the noble were not to be found

amongst them; and professional prejudices were always as entirely

unknown as the prejudices of birth. Thus, as the condition of society

was democratic, the empire of democracy was established without

difficulty. But this circumstance is by no means peculiar to the United

States; almost all the trans-Atlantic colonies were founded by men

equal amongst themselves, or who became so by inhabiting them. In no

one part of the New World have Europeans been able to create an

aristocracy. Nevertheless, democratic institutions prosper nowhere but

in the United States.

The American Union has no enemies to contend with; it stands in the

wilds like an island in the ocean. But the Spaniards of South America

were no less isolated by nature; yet their position has not relieved

them from the charge of standing armies. They make war upon each other

when they have no foreign enemies to oppose; and the Anglo-American

democracy is the only one which has hitherto been able to maintain

itself in peace. \*m

m

[ [A remark which, since the great Civil War of 1861-65, ceases to be

applicable.]]

The territory of the Union presents a boundless field to human

activity, and inexhaustible materials for industry and labor. The

passion of wealth takes the place of ambition, and the warmth of

faction is mitigated by a sense of prosperity. But in what portion of

the globe shall we meet with more fertile plains, with mightier rivers,

or with more unexplored and inexhaustible riches than in South America?

Nevertheless, South America has been unable to maintain democratic

institutions. If the welfare of nations depended on their being placed

in a remote position, with an unbounded space of habitable territory

before them, the Spaniards of South America would have no reason to

complain of their fate. And although they might enjoy less prosperity

than the inhabitants of the United States, their lot might still be

such as to excite the envy of some nations in Europe. There are,

however, no nations upon the face of the earth more miserable than

those of South America.

Thus, not only are physical causes inadequate to produce results

analogous to those which occur in North America, but they are unable to

raise the population of South America above the level of European

States, where they act in a contrary direction. Physical causes do not,

therefore, affect the destiny of nations so much as has been supposed.

I have met with men in New England who were on the point of leaving a

country, where they might have remained in easy circumstances, to go to

seek their fortune in the wilds. Not far from that district I found a

French population in Canada, which was closely crowded on a narrow

territory, although the same wilds were at hand; and whilst the

emigrant from the United States purchased an extensive estate with the

earnings of a short term of labor, the Canadian paid as much for land

as he would have done in France. Nature offers the solitudes of the New

World to Europeans; but they are not always acquainted with the means

of turning her gifts to account. Other peoples of America have the same

physical conditions of prosperity as the Anglo-Americans, but without

their laws and their manners; and these peoples are wretched. The laws

and manners of the Anglo-Americans are therefore that efficient cause

of their greatness which is the object of my inquiry.

I am far from supposing that the American laws are preeminently good in

themselves; I do not hold them to be applicable to all democratic

peoples; and several of them seem to be dangerous, even in the United

States. Nevertheless, it cannot be denied that the American

legislation, taken collectively, is extremely well adapted to the

genius of the people and the nature of the country which it is intended

to govern. The American laws are therefore good, and to them must be

attributed a large portion of the success which attends the government

of democracy in America: but I do not believe them to be the principal

cause of that success; and if they seem to me to have more influence

upon the social happiness of the Americans than the nature of the

country, on the other hand there is reason to believe that their effect

is still inferior to that produced by the manners of the people.

The Federal laws undoubtedly constitute the most important part of the

legislation of the United States. Mexico, which is not less fortunately

situated than the Anglo-American Union, has adopted the same laws, but

is unable to accustom itself to the government of democracy. Some other

cause is therefore at work, independently of those physical

circumstances and peculiar laws which enable the democracy to rule in

the United States.

Another still more striking proof may be adduced. Almost all the

inhabitants of the territory of the Union are the descendants of a

common stock; they speak the same language, they worship God in the

same manner, they are affected by the same physical causes, and they

obey the same laws. Whence, then, do their characteristic differences

arise? Why, in the Eastern States of the Union, does the republican

government display vigor and regularity, and proceed with mature

deliberation? Whence does it derive the wisdom and the durability which

mark its acts, whilst in the Western States, on the contrary, society

seems to be ruled by the powers of chance? There, public business is

conducted with an irregularity and a passionate and feverish

excitement, which does not announce a long or sure duration.

I am no longer comparing the Anglo-American States to foreign nations;

but I am contrasting them with each other, and endeavoring to discover

why they are so unlike. The arguments which are derived from the nature

of the country and the difference of legislation are here all set

aside. Recourse must be had to some other cause; and what other cause

can there be except the manners of the people?

It is in the Eastern States that the Anglo-Americans have been longest

accustomed to the government of democracy, and that they have adopted

the habits and conceived the notions most favorable to its maintenance.

Democracy has gradually penetrated into their customs, their opinions,

and the forms of social intercourse; it is to be found in all the

details of daily life equally as in the laws. In the Eastern States the

instruction and practical education of the people have been most

perfected, and religion has been most thoroughly amalgamated with

liberty. Now these habits, opinions, customs, and convictions are

precisely the constituent elements of that which I have denominated

manners.

In the Western States, on the contrary, a portion of the same

advantages is still wanting. Many of the Americans of the West were

born in the woods, and they mix the ideas and the customs of savage

life with the civilization of their parents. Their passions are more

intense; their religious morality less authoritative; and their

convictions less secure. The inhabitants exercise no sort of control

over their fellow-citizens, for they are scarcely acquainted with each

other. The nations of the West display, to a certain extent, the

inexperience and the rude habits of a people in its infancy; for

although they are composed of old elements, their assemblage is of

recent date.

The manners of the Americans of the United States are, then, the real

cause which renders that people the only one of the American nations

that is able to support a democratic government; and it is the

influence of manners which produces the different degrees of order and

of prosperity that may be distinguished in the several Anglo-American

democracies. Thus the effect which the geographical position of a

country may have upon the duration of democratic institutions is

exaggerated in Europe. Too much importance is attributed to

legislation, too little to manners. These three great causes serve, no

doubt, to regulate and direct the American democracy; but if they were

to be classed in their proper order, I should say that the physical

circumstances are less efficient than the laws, and the laws very

subordinate to the manners of the people. I am convinced that the most

advantageous situation and the best possible laws cannot maintain a

constitution in spite of the manners of a country; whilst the latter

may turn the most unfavorable positions and the worst laws to some

advantage. The importance of manners is a common truth to which study

and experience incessantly direct our attention. It may be regarded as

a central point in the range of human observation, and the common

termination of all inquiry. So seriously do I insist upon this head,

that if I have hitherto failed in making the reader feel the important

influence which I attribute to the practical experience, the habits,

the opinions, in short, to the manners of the Americans, upon the

maintenance of their institutions, I have failed in the principal

object of my work.

Whether Laws And Manners Are Sufficient To Maintain Democratic

Institutions In Other Countries Besides America

The Anglo-Americans, if transported into Europe, would be obliged to

modify their laws—Distinction to be made between democratic

institutions and American institutions—Democratic laws may be conceived

better than, or at least different from, those which the American

democracy has adopted—The example of America only proves that it is

possible to regulate democracy by the assistance of manners and

legislation.

I have asserted that the success of democratic institutions in the

United States is more intimately connected with the laws themselves,

and the manners of the people, than with the nature of the country. But

does it follow that the same causes would of themselves produce the

same results, if they were put into operation elsewhere; and if the

country is no adequate substitute for laws and manners, can laws and

manners in their turn prove a substitute for the country? It will

readily be understood that the necessary elements of a reply to this

question are wanting: other peoples are to be found in the New World

besides the Anglo-Americans, and as these people are affected by the

same physical circumstances as the latter, they may fairly be compared

together. But there are no nations out of America which have adopted

the same laws and manners, being destitute of the physical advantages

peculiar to the Anglo-Americans. No standard of comparison therefore

exists, and we can only hazard an opinion upon this subject.

It appears to me, in the first place, that a careful distinction must

be made between the institutions of the United States and democratic

institutions in general. When I reflect upon the state of Europe, its

mighty nations, its populous cities, its formidable armies, and the

complex nature of its politics, I cannot suppose that even the

Anglo-Americans, if they were transported to our hemisphere, with their

ideas, their religion, and their manners, could exist without

considerably altering their laws. But a democratic nation may be

imagined, organized differently from the American people. It is not

impossible to conceive a government really established upon the will of

the majority; but in which the majority, repressing its natural

propensity to equality, should consent, with a view to the order and

the stability of the State, to invest a family or an individual with

all the prerogatives of the executive. A democratic society might

exist, in which the forces of the nation would be more centralized than

they are in the United States; the people would exercise a less direct

and less irresistible influence upon public affairs, and yet every

citizen invested with certain rights would participate, within his

sphere, in the conduct of the government. The observations I made

amongst the Anglo-Americans induce me to believe that democratic

institutions of this kind, prudently introduced into society, so as

gradually to mix with the habits and to be interfused with the opinions

of the people, might subsist in other countries besides America. If the

laws of the United States were the only imaginable democratic laws, or

the most perfect which it is possible to conceive, I should admit that

the success of those institutions affords no proof of the success of

democratic institutions in general, in a country less favored by

natural circumstances. But as the laws of America appear to me to be

defective in several respects, and as I can readily imagine others of

the same general nature, the peculiar advantages of that country do not

prove that democratic institutions cannot succeed in a nation less

favored by circumstances, if ruled by better laws.

If human nature were different in America from what it is elsewhere; or

if the social condition of the Americans engendered habits and opinions

amongst them different from those which originate in the same social

condition in the Old World, the American democracies would afford no

means of predicting what may occur in other democracies. If the

Americans displayed the same propensities as all other democratic

nations, and if their legislators had relied upon the nature of the

country and the favor of circumstances to restrain those propensities

within due limits, the prosperity of the United States would be

exclusively attributable to physical causes, and it would afford no

encouragement to a people inclined to imitate their example, without

sharing their natural advantages. But neither of these suppositions is

borne out by facts.

In America the same passions are to be met with as in Europe; some

originating in human nature, others in the democratic condition of

society. Thus in the United States I found that restlessness of heart

which is natural to men, when all ranks are nearly equal and the

chances of elevation are the same to all. I found the democratic

feeling of envy expressed under a thousand different forms. I remarked

that the people frequently displayed, in the conduct of affairs, a

consummate mixture of ignorance and presumption; and I inferred that in

America, men are liable to the same failings and the same absurdities

as amongst ourselves. But upon examining the state of society more

attentively, I speedily discovered that the Americans had made great

and successful efforts to counteract these imperfections of human

nature, and to correct the natural defects of democracy. Their divers

municipal laws appeared to me to be a means of restraining the ambition

of the citizens within a narrow sphere, and of turning those same

passions which might have worked havoc in the State, to the good of the

township or the parish. The American legislators have succeeded to a

certain extent in opposing the notion of rights to the feelings of

envy; the permanence of the religious world to the continual shifting

of politics; the experience of the people to its theoretical ignorance;

and its practical knowledge of business to the impatience of its

desires.

The Americans, then, have not relied upon the nature of their country

to counterpoise those dangers which originate in their Constitution and

in their political laws. To evils which are common to all democratic

peoples they have applied remedies which none but themselves had ever

thought of before; and although they were the first to make the

experiment, they have succeeded in it.

The manners and laws of the Americans are not the only ones which may

suit a democratic people; but the Americans have shown that it would be

wrong to despair of regulating democracy by the aid of manners and of

laws. If other nations should borrow this general and pregnant idea

from the Americans, without however intending to imitate them in the

peculiar application which they have made of it; if they should attempt

to fit themselves for that social condition, which it seems to be the

will of Providence to impose upon the generations of this age, and so

to escape from the despotism or the anarchy which threatens them; what

reason is there to suppose that their efforts would not be crowned with

success? The organization and the establishment of democracy in

Christendom is the great political problem of the time. The Americans,

unquestionably, have not resolved this problem, but they furnish useful

data to those who undertake the task.

Importance Of What Precedes With Respect To The State Of Europe

It may readily be discovered with what intention I undertook the

foregoing inquiries. The question here discussed is interesting not

only to the United States, but to the whole world; it concerns, not a

nation, but all mankind. If those nations whose social condition is

democratic could only remain free as long as they are inhabitants of

the wilds, we could not but despair of the future destiny of the human

race; for democracy is rapidly acquiring a more extended sway, and the

wilds are gradually peopled with men. If it were true that laws and

manners are insufficient to maintain democratic institutions, what

refuge would remain open to the nations, except the despotism of a

single individual? I am aware that there are many worthy persons at the

present time who are not alarmed at this latter alternative, and who

are so tired of liberty as to be glad of repose, far from those storms

by which it is attended. But these individuals are ill acquainted with

the haven towards which they are bound. They are so deluded by their

recollections, as to judge the tendency of absolute power by what it

was formerly, and not by what it might become at the present time.

If absolute power were re-established amongst the democratic nations of

Europe, I am persuaded that it would assume a new form, and appear

under features unknown to our forefathers. There was a time in Europe

when the laws and the consent of the people had invested princes with

almost unlimited authority; but they scarcely ever availed themselves

of it. I do not speak of the prerogatives of the nobility, of the

authority of supreme courts of justice, of corporations and their

chartered rights, or of provincial privileges, which served to break

the blows of the sovereign authority, and to maintain a spirit of

resistance in the nation. Independently of these political

institutions—which, however opposed they might be to personal liberty,

served to keep alive the love of freedom in the mind of the public, and

which may be esteemed to have been useful in this respect—the manners

and opinions of the nation confined the royal authority within barriers

which were not less powerful, although they were less conspicuous.

Religion, the affections of the people, the benevolence of the prince,

the sense of honor, family pride, provincial prejudices, custom, and

public opinion limited the power of kings, and restrained their

authority within an invisible circle. The constitution of nations was

despotic at that time, but their manners were free. Princes had the

right, but they had neither the means nor the desire, of doing whatever

they pleased.

But what now remains of those barriers which formerly arrested the

aggressions of tyranny? Since religion has lost its empire over the

souls of men, the most prominent boundary which divided good from evil

is overthrown; the very elements of the moral world are indeterminate;

the princes and the peoples of the earth are guided by chance, and none

can define the natural limits of despotism and the bounds of license.

Long revolutions have forever destroyed the respect which surrounded

the rulers of the State; and since they have been relieved from the

burden of public esteem, princes may henceforward surrender themselves

without fear to the seductions of arbitrary power.

When kings find that the hearts of their subjects are turned towards

them, they are clement, because they are conscious of their strength,

and they are chary of the affection of their people, because the

affection of their people is the bulwark of the throne. A mutual

interchange of good-will then takes place between the prince and the

people, which resembles the gracious intercourse of domestic society.

The subjects may murmur at the sovereign’s decree, but they are grieved

to displease him; and the sovereign chastises his subjects with the

light hand of parental affection.

But when once the spell of royalty is broken in the tumult of

revolution; when successive monarchs have crossed the throne, so as

alternately to display to the people the weakness of their right and

the harshness of their power, the sovereign is no longer regarded by

any as the Father of the State, and he is feared by all as its master.

If he be weak, he is despised; if he be strong, he is detested. He

himself is full of animosity and alarm; he finds that he is as a

stranger in his own country, and he treats his subjects like conquered

enemies.

When the provinces and the towns formed so many different nations in

the midst of their common country, each of them had a will of its own,

which was opposed to the general spirit of subjection; but now that all

the parts of the same empire, after having lost their immunities, their

customs, their prejudices, their traditions, and their names, are

subjected and accustomed to the same laws, it is not more difficult to

oppress them collectively than it was formerly to oppress them singly.

Whilst the nobles enjoyed their power, and indeed long after that power

was lost, the honor of aristocracy conferred an extraordinary degree of

force upon their personal opposition. They afford instances of men who,

notwithstanding their weakness, still entertained a high opinion of

their personal value, and dared to cope single-handed with the efforts

of the public authority. But at the present day, when all ranks are

more and more confounded, when the individual disappears in the throng,

and is easily lost in the midst of a common obscurity, when the honor

of monarchy has almost lost its empire without being succeeded by

public virtue, and when nothing can enable man to rise above himself,

who shall say at what point the exigencies of power and the servility

of weakness will stop?

As long as family feeling was kept alive, the antagonist of oppression

was never alone; he looked about him, and found his clients, his

hereditary friends, and his kinsfolk. If this support was wanting, he

was sustained by his ancestors and animated by his posterity. But when

patrimonial estates are divided, and when a few years suffice to

confound the distinctions of a race, where can family feeling be found?

What force can there be in the customs of a country which has changed

and is still perpetually changing its aspect; in which every act of

tyranny has a precedent, and every crime an example; in which there is

nothing so old that its antiquity can save it from destruction, and

nothing so unparalleled that its novelty can prevent it from being

done? What resistance can be offered by manners of so pliant a make

that they have already often yielded? What strength can even public

opinion have retained, when no twenty persons are connected by a common

tie; when not a man, nor a family, nor chartered corporation, nor

class, nor free institution, has the power of representing or exerting

that opinion; and when every citizen—being equally weak, equally poor,

and equally dependent—has only his personal impotence to oppose to the

organized force of the government?

The annals of France furnish nothing analogous to the condition in

which that country might then be thrown. But it may more aptly be

assimilated to the times of old, and to those hideous eras of Roman

oppression, when the manners of the people were corrupted, their

traditions obliterated, their habits destroyed, their opinions shaken,

and freedom, expelled from the laws, could find no refuge in the land;

when nothing protected the citizens, and the citizens no longer

protected themselves; when human nature was the sport of man, and

princes wearied out the clemency of Heaven before they exhausted the

patience of their subjects. Those who hope to revive the monarchy of

Henry IV or of Louis XIV, appear to me to be afflicted with mental

blindness; and when I consider the present condition of several

European nations—a condition to which all the others tend—I am led to

believe that they will soon be left with no other alternative than

democratic liberty, or the tyranny of the Caesars. \*n

n

[ [This prediction of the return of France to imperial despotism, and

of the true character of that despotic power, was written in 1832, and

realized to the letter in 1852.]]

And indeed it is deserving of consideration, whether men are to be

entirely emancipated or entirely enslaved; whether their rights are to

be made equal, or wholly taken away from them. If the rulers of society

were reduced either gradually to raise the crowd to their own level, or

to sink the citizens below that of humanity, would not the doubts of

many be resolved, the consciences of many be healed, and the community

prepared to make great sacrifices with little difficulty? In that case,

the gradual growth of democratic manners and institutions should be

regarded, not as the best, but as the only means of preserving freedom;

and without liking the government of democracy, it might be adopted as

the most applicable and the fairest remedy for the present ills of

society.

It is difficult to associate a people in the work of government; but it

is still more difficult to supply it with experience, and to inspire it

with the feelings which it requires in order to govern well. I grant

that the caprices of democracy are perpetual; its instruments are rude;

its laws imperfect. But if it were true that soon no just medium would

exist between the empire of democracy and the dominion of a single arm,

should we not rather incline towards the former than submit voluntarily

to the latter? And if complete equality be our fate, is it not better

to be levelled by free institutions than by despotic power?

Those who, after having read this book, should imagine that my

intention in writing it has been to propose the laws and manners of the

Anglo-Americans for the imitation of all democratic peoples, would

commit a very great mistake; they must have paid more attention to the

form than to the substance of my ideas. My aim has been to show, by the

example of America, that laws, and especially manners, may exist which

will allow a democratic people to remain free. But I am very far from

thinking that we ought to follow the example of the American democracy,

and copy the means which it has employed to attain its ends; for I am

well aware of the influence which the nature of a country and its

political precedents exercise upon a constitution; and I should regard

it as a great misfortune for mankind if liberty were to exist all over

the world under the same forms.

But I am of opinion that if we do not succeed in gradually introducing

democratic institutions into France, and if we despair of imparting to

the citizens those ideas and sentiments which first prepare them for

freedom, and afterwards allow them to enjoy it, there will be no

independence at all, either for the middling classes or the nobility,

for the poor or for the rich, but an equal tyranny over all; and I

foresee that if the peaceable empire of the majority be not founded

amongst us in time, we shall sooner or later arrive at the unlimited

authority of a single despot.

Chapter XVIII: Future Condition Of Three Races In The United

States—Part I

The Present And Probable Future Condition Of The Three Races Which

Inhabit The Territory Of The United States

The principal part of the task which I had imposed upon myself is now

performed. I have shown, as far as I was able, the laws and the manners

of the American democracy. Here I might stop; but the reader would

perhaps feel that I had not satisfied his expectations.

The absolute supremacy of democracy is not all that we meet with in

America; the inhabitants of the New World may be considered from more

than one point of view. In the course of this work my subject has often

led me to speak of the Indians and the Negroes; but I have never been

able to stop in order to show what place these two races occupy in the

midst of the democratic people whom I was engaged in describing. I have

mentioned in what spirit, and according to what laws, the

Anglo-American Union was formed; but I could only glance at the dangers

which menace that confederation, whilst it was equally impossible for

me to give a detailed account of its chances of duration, independently

of its laws and manners. When speaking of the united republican States,

I hazarded no conjectures upon the permanence of republican forms in

the New World, and when making frequent allusion to the commercial

activity which reigns in the Union, I was unable to inquire into the

future condition of the Americans as a commercial people.

These topics are collaterally connected with my subject without forming

a part of it; they are American without being democratic; and to

portray democracy has been my principal aim. It was therefore necessary

to postpone these questions, which I now take up as the proper

termination of my work.

The territory now occupied or claimed by the American Union spreads

from the shores of the Atlantic to those of the Pacific Ocean. On the

east and west its limits are those of the continent itself. On the

south it advances nearly to the tropic, and it extends upwards to the

icy regions of the North. The human beings who are scattered over this

space do not form, as in Europe, so many branches of the same stock.

Three races, naturally distinct, and, I might almost say, hostile to

each other, are discoverable amongst them at the first glance. Almost

insurmountable barriers had been raised between them by education and

by law, as well as by their origin and outward characteristics; but

fortune has brought them together on the same soil, where, although

they are mixed, they do not amalgamate, and each race fulfils its

destiny apart.

Amongst these widely differing families of men, the first which

attracts attention, the superior in intelligence, in power and in

enjoyment, is the white or European, the man pre-eminent; and in

subordinate grades, the negro and the Indian. These two unhappy races

have nothing in common; neither birth, nor features, nor language, nor

habits. Their only resemblance lies in their misfortunes. Both of them

occupy an inferior rank in the country they inhabit; both suffer from

tyranny; and if their wrongs are not the same, they originate, at any

rate, with the same authors.

If we reasoned from what passes in the world, we should almost say that

the European is to the other races of mankind, what man is to the lower

animals;—he makes them subservient to his use; and when he cannot

subdue, he destroys them. Oppression has, at one stroke, deprived the

descendants of the Africans of almost all the privileges of humanity.

The negro of the United States has lost all remembrance of his country;

the language which his forefathers spoke is never heard around him; he

abjured their religion and forgot their customs when he ceased to

belong to Africa, without acquiring any claim to European privileges.

But he remains half way between the two communities; sold by the one,

repulsed by the other; finding not a spot in the universe to call by

the name of country, except the faint image of a home which the shelter

of his master’s roof affords.

The negro has no family; woman is merely the temporary companion of his

pleasures, and his children are upon an equality with himself from the

moment of their birth. Am I to call it a proof of God’s mercy or a

visitation of his wrath, that man in certain states appears to be

insensible to his extreme wretchedness, and almost affects, with a

depraved taste, the cause of his misfortunes? The negro, who is plunged

in this abyss of evils, scarcely feels his own calamitous situation.

Violence made him a slave, and the habit of servitude gives him the

thoughts and desires of a slave; he admires his tyrants more than he

hates them, and finds his joy and his pride in the servile imitation of

those who oppress him: his understanding is degraded to the level of

his soul.

The negro enters upon slavery as soon as he is born: nay, he may have

been purchased in the womb, and have begun his slavery before he began

his existence. Equally devoid of wants and of enjoyment, and useless to

himself, he learns, with his first notions of existence, that he is the

property of another, who has an interest in preserving his life, and

that the care of it does not devolve upon himself; even the power of

thought appears to him a useless gift of Providence, and he quietly

enjoys the privileges of his debasement. If he becomes free,

independence is often felt by him to be a heavier burden than slavery;

for having learned, in the course of his life, to submit to everything

except reason, he is too much unacquainted with her dictates to obey

them. A thousand new desires beset him, and he is destitute of the

knowledge and energy necessary to resist them: these are masters which

it is necessary to contend with, and he has learnt only to submit and

obey. In short, he sinks to such a depth of wretchedness, that while

servitude brutalizes, liberty destroys him.

Oppression has been no less fatal to the Indian than to the negro race,

but its effects are different. Before the arrival of white men in the

New World, the inhabitants of North America lived quietly in their

woods, enduring the vicissitudes and practising the virtues and vices

common to savage nations. The Europeans, having dispersed the Indian

tribes and driven them into the deserts, condemned them to a wandering

life full of inexpressible sufferings.

Savage nations are only controlled by opinion and by custom. When the

North American Indians had lost the sentiment of attachment to their

country; when their families were dispersed, their traditions obscured,

and the chain of their recollections broken; when all their habits were

changed, and their wants increased beyond measure, European tyranny

rendered them more disorderly and less civilized than they were before.

The moral and physical condition of these tribes continually grew

worse, and they became more barbarous as they became more wretched.

Nevertheless, the Europeans have not been able to metamorphose the

character of the Indians; and though they have had power to destroy

them, they have never been able to make them submit to the rules of

civilized society.

The lot of the negro is placed on the extreme limit of servitude, while

that of the Indian lies on the uttermost verge of liberty; and slavery

does not produce more fatal effects upon the first, than independence

upon the second. The negro has lost all property in his own person, and

he cannot dispose of his existence without committing a sort of fraud:

but the savage is his own master as soon as he is able to act; parental

authority is scarcely known to him; he has never bent his will to that

of any of his kind, nor learned the difference between voluntary

obedience and a shameful subjection; and the very name of law is

unknown to him. To be free, with him, signifies to escape from all the

shackles of society. As he delights in this barbarous independence, and

would rather perish than sacrifice the least part of it, civilization

has little power over him.

The negro makes a thousand fruitless efforts to insinuate himself

amongst men who repulse him; he conforms to the tastes of his

oppressors, adopts their opinions, and hopes by imitating them to form

a part of their community. Having been told from infancy that his race

is naturally inferior to that of the whites, he assents to the

proposition and is ashamed of his own nature. In each of his features

he discovers a trace of slavery, and, if it were in his power, he would

willingly rid himself of everything that makes him what he is.

The Indian, on the contrary, has his imagination inflated with the

pretended nobility of his origin, and lives and dies in the midst of

these dreams of pride. Far from desiring to conform his habits to ours,

he loves his savage life as the distinguishing mark of his race, and he

repels every advance to civilization, less perhaps from the hatred

which he entertains for it, than from a dread of resembling the

Europeans. \*a While he has nothing to oppose to our perfection in the

arts but the resources of the desert, to our tactics nothing but

undisciplined courage; whilst our well-digested plans are met by the

spontaneous instincts of savage life, who can wonder if he fails in

this unequal contest?

a

[ The native of North America retains his opinions and the most

insignificant of his habits with a degree of tenacity which has no

parallel in history. For more than two hundred years the wandering

tribes of North America have had daily intercourse with the whites, and

they have never derived from them either a custom or an idea. Yet the

Europeans have exercised a powerful influence over the savages: they

have made them more licentious, but not more European. In the summer of

1831 I happened to be beyond Lake Michigan, at a place called Green

Bay, which serves as the extreme frontier between the United States and

the Indians on the north-western side. Here I became acquainted with an

American officer, Major H., who, after talking to me at length on the

inflexibility of the Indian character, related the following fact:—“I

formerly knew a young Indian,” said he, “who had been educated at a

college in New England, where he had greatly distinguished himself, and

had acquired the external appearance of a member of civilized society.

When the war broke out between ourselves and the English in 1810, I saw

this young man again; he was serving in our army, at the head of the

warriors of his tribe, for the Indians were admitted amongst the ranks

of the Americans, upon condition that they would abstain from their

horrible custom of scalping their victims. On the evening of the battle

of . . ., C. came and sat himself down by the fire of our bivouac. I

asked him what had been his fortune that day: he related his exploits;

and growing warm and animated by the recollection of them, he concluded

by suddenly opening the breast of his coat, saying, ‘You must not

betray me—see here!’ And I actually beheld,” said the Major, “between

his body and his shirt, the skin and hair of an English head, still

dripping with gore.”]

The negro, who earnestly desires to mingle his race with that of the

European, cannot effect if; while the Indian, who might succeed to a

certain extent, disdains to make the attempt. The servility of the one

dooms him to slavery, the pride of the other to death.

I remember that while I was travelling through the forests which still

cover the State of Alabama, I arrived one day at the log house of a

pioneer. I did not wish to penetrate into the dwelling of the American,

but retired to rest myself for a while on the margin of a spring, which

was not far off, in the woods. While I was in this place (which was in

the neighborhood of the Creek territory), an Indian woman appeared,

followed by a negress, and holding by the hand a little white girl of

five or six years old, whom I took to be the daughter of the pioneer. A

sort of barbarous luxury set off the costume of the Indian; rings of

metal were hanging from her nostrils and ears; her hair, which was

adorned with glass beads, fell loosely upon her shoulders; and I saw

that she was not married, for she still wore that necklace of shells

which the bride always deposits on the nuptial couch. The negress was

clad in squalid European garments. They all three came and seated

themselves upon the banks of the fountain; and the young Indian, taking

the child in her arms, lavished upon her such fond caresses as mothers

give; while the negress endeavored by various little artifices to

attract the attention of the young Creole.

The child displayed in her slightest gestures a consciousness of

superiority which formed a strange contrast with her infantine

weakness; as if she received the attentions of her companions with a

sort of condescension. The negress was seated on the ground before her

mistress, watching her smallest desires, and apparently divided between

strong affection for the child and servile fear; whilst the savage

displayed, in the midst of her tenderness, an air of freedom and of

pride which was almost ferocious. I had approached the group, and I

contemplated them in silence; but my curiosity was probably displeasing

to the Indian woman, for she suddenly rose, pushed the child roughly

from her, and giving me an angry look plunged into the thicket. I had

often chanced to see individuals met together in the same place, who

belonged to the three races of men which people North America. I had

perceived from many different results the preponderance of the whites.

But in the picture which I have just been describing there was

something peculiarly touching; a bond of affection here united the

oppressors with the oppressed, and the effort of nature to bring them

together rendered still more striking the immense distance placed

between them by prejudice and by law.

The Present And Probable Future Condition Of The Indian Tribes Which

Inhabit The Territory Possessed By The Union

Gradual disappearance of the native tribes—Manner in which it takes

place—Miseries accompanying the forced migrations of the Indians—The

savages of North America had only two ways of escaping destruction; war

or civilization—They are no longer able to make war—Reasons why they

refused to become civilized when it was in their power, and why they

cannot become so now that they desire it—Instance of the Creeks and

Cherokees—Policy of the particular States towards these Indians—Policy

of the Federal Government.

None of the Indian tribes which formerly inhabited the territory of New

England—the Naragansetts, the Mohicans, the Pecots—have any existence

but in the recollection of man. The Lenapes, who received William Penn,

a hundred and fifty years ago, upon the banks of the Delaware, have

disappeared; and I myself met with the last of the Iroquois, who were

begging alms. The nations I have mentioned formerly covered the country

to the sea-coast; but a traveller at the present day must penetrate

more than a hundred leagues into the interior of the continent to find

an Indian. Not only have these wild tribes receded, but they are

destroyed; \*b and as they give way or perish, an immense and increasing

people fills their place. There is no instance upon record of so

prodigious a growth, or so rapid a destruction: the manner in which the

latter change takes place is not difficult to describe.

b

[ In the thirteen original States there are only 6,273 Indians

remaining. (See Legislative Documents, 20th Congress, No. 117, p. 90.)

[The decrease in now far greater, and is verging on extinction. See

page 360 of this volume.]]

When the Indians were the sole inhabitants of the wilds from whence

they have since been expelled, their wants were few. Their arms were of

their own manufacture, their only drink was the water of the brook, and

their clothes consisted of the skins of animals, whose flesh furnished

them with food.

The Europeans introduced amongst the savages of North America

fire-arms, ardent spirits, and iron: they taught them to exchange for

manufactured stuffs, the rough garments which had previously satisfied

their untutored simplicity. Having acquired new tastes, without the

arts by which they could be gratified, the Indians were obliged to have

recourse to the workmanship of the whites; but in return for their

productions the savage had nothing to offer except the rich furs which

still abounded in his woods. Hence the chase became necessary, not

merely to provide for his subsistence, but in order to procure the only

objects of barter which he could furnish to Europe. \*c Whilst the wants

of the natives were thus increasing, their resources continued to

diminish.

c

[ Messrs. Clarke and Cass, in their Report to Congress on February 4,

1829, p. 23, expressed themselves thus:—“The time when the Indians

generally could supply themselves with food and clothing, without any

of the articles of civilized life, has long since passed away. The more

remote tribes, beyond the Mississippi, who live where immense herds of

buffalo are yet to be found and who follow those animals in their

periodical migrations, could more easily than any others recur to the

habits of their ancestors, and live without the white man or any of his

manufactures. But the buffalo is constantly receding. The smaller

animals, the bear, the deer, the beaver, the otter, the muskrat, etc.,

principally minister to the comfort and support of the Indians; and

these cannot be taken without guns, ammunition, and traps. Among the

Northwestern Indians particularly, the labor of supplying a family with

food is excessive. Day after day is spent by the hunter without

success, and during this interval his family must subsist upon bark or

roots, or perish. Want and misery are around them and among them. Many

die every winter from actual starvation.”

The Indians will not live as Europeans live, and yet they can neither

subsist without them, nor exactly after the fashion of their fathers.

This is demonstrated by a fact which I likewise give upon official

authority. Some Indians of a tribe on the banks of Lake Superior had

killed a European; the American government interdicted all traffic with

the tribe to which the guilty parties belonged, until they were

delivered up to justice. This measure had the desired effect.]

From the moment when a European settlement is formed in the

neighborhood of the territory occupied by the Indians, the beasts of

chase take the alarm. \*d Thousands of savages, wandering in the forests

and destitute of any fixed dwelling, did not disturb them; but as soon

as the continuous sounds of European labor are heard in their

neighborhood, they begin to flee away, and retire to the West, where

their instinct teaches them that they will find deserts of immeasurable

extent. “The buffalo is constantly receding,” say Messrs. Clarke and

Cass in their Report of the year 1829; “a few years since they

approached the base of the Alleghany; and a few years hence they may

even be rare upon the immense plains which extend to the base of the

Rocky Mountains.” I have been assured that this effect of the approach

of the whites is often felt at two hundred leagues’ distance from their

frontier. Their influence is thus exerted over tribes whose name is

unknown to them; and who suffer the evils of usurpation long before

they are acquainted with the authors of their distress. \*e

d

[ “Five years ago,” (says Volney in his “Tableau des Etats-Unis,” p.

370) “in going from Vincennes to Kaskaskia, a territory which now forms

part of the State of Illinois, but which at the time I mention was

completely wild (1797), you could not cross a prairie without seeing

herds of from four to five hundred buffaloes. There are now none

remaining; they swam across the Mississippi to escape from the hunters,

and more particularly from the bells of the American cows.”]

e

[ The truth of what I here advance may be easily proved by consulting

the tabular statement of Indian tribes inhabiting the United States and

their territories. (Legislative Documents, 20th Congress, No. 117, pp.

90-105.) It is there shown that the tribes in the centre of America are

rapidly decreasing, although the Europeans are still at a considerable

distance from them.]

Bold adventurers soon penetrate into the country the Indians have

deserted, and when they have advanced about fifteen or twenty leagues

from the extreme frontiers of the whites, they begin to build

habitations for civilized beings in the midst of the wilderness. This

is done without difficulty, as the territory of a hunting-nation is

ill-defined; it is the common property of the tribe, and belongs to no

one in particular, so that individual interests are not concerned in

the protection of any part of it.

A few European families, settled in different situations at a

considerable distance from each other, soon drive away the wild animals

which remain between their places of abode. The Indians, who had

previously lived in a sort of abundance, then find it difficult to

subsist, and still more difficult to procure the articles of barter

which they stand in need of.

To drive away their game is to deprive them of the means of existence,

as effectually as if the fields of our agriculturists were stricken

with barrenness; and they are reduced, like famished wolves, to prowl

through the forsaken woods in quest of prey. Their instinctive love of

their country attaches them to the soil which gave them birth, \*f even

after it has ceased to yield anything but misery and death. At length

they are compelled to acquiesce, and to depart: they follow the traces

of the elk, the buffalo, and the beaver, and are guided by these wild

animals in the choice of their future country. Properly speaking,

therefore, it is not the Europeans who drive away the native

inhabitants of America; it is famine which compels them to recede; a

happy distinction which had escaped the casuists of former times, and

for which we are indebted to modern discovery!

f

[ “The Indians,” say Messrs. Clarke and Cass in their Report to

Congress, p. 15, “are attached to their country by the same feelings

which bind us to ours; and, besides, there are certain superstitious

notions connected with the alienation of what the Great Spirit gave to

their ancestors, which operate strongly upon the tribes who have made

few or no cessions, but which are gradually weakened as our intercourse

with them is extended. ‘We will not sell the spot which contains the

bones of our fathers,’ is almost always the first answer to a

proposition for a sale.”]

It is impossible to conceive the extent of the sufferings which attend

these forced emigrations. They are undertaken by a people already

exhausted and reduced; and the countries to which the newcomers betake

themselves are inhabited by other tribes which receive them with

jealous hostility. Hunger is in the rear; war awaits them, and misery

besets them on all sides. In the hope of escaping from such a host of

enemies, they separate, and each individual endeavors to procure the

means of supporting his existence in solitude and secrecy, living in

the immensity of the desert like an outcast in civilized society. The

social tie, which distress had long since weakened, is then dissolved;

they have lost their country, and their people soon desert them: their

very families are obliterated; the names they bore in common are

forgotten, their language perishes, and all traces of their origin

disappear. Their nation has ceased to exist, except in the recollection

of the antiquaries of America and a few of the learned of Europe.

I should be sorry to have my reader suppose that I am coloring the

picture too highly; I saw with my own eyes several of the cases of

misery which I have been describing; and I was the witness of

sufferings which I have not the power to portray.

At the end of the year 1831, whilst I was on the left bank of the

Mississippi at a place named by Europeans, Memphis, there arrived a

numerous band of Choctaws (or Chactas, as they are called by the French

in Louisiana). These savages had left their country, and were

endeavoring to gain the right bank of the Mississippi, where they hoped

to find an asylum which had been promised them by the American

government. It was then the middle of winter, and the cold was

unusually severe; the snow had frozen hard upon the ground, and the

river was drifting huge masses of ice. The Indians had their families

with them; and they brought in their train the wounded and sick, with

children newly born, and old men upon the verge of death. They

possessed neither tents nor wagons, but only their arms and some

provisions. I saw them embark to pass the mighty river, and never will

that solemn spectacle fade from my remembrance. No cry, no sob was

heard amongst the assembled crowd; all were silent. Their calamities

were of ancient date, and they knew them to be irremediable. The

Indians had all stepped into the bark which was to carry them across,

but their dogs remained upon the bank. As soon as these animals

perceived that their masters were finally leaving the shore, they set

up a dismal howl, and, plunging all together into the icy waters of the

Mississippi, they swam after the boat.

The ejectment of the Indians very often takes place at the present day,

in a regular, and, as it were, a legal manner. When the European

population begins to approach the limit of the desert inhabited by a

savage tribe, the government of the United States usually dispatches

envoys to them, who assemble the Indians in a large plain, and having

first eaten and drunk with them, accost them in the following manner:

“What have you to do in the land of your fathers? Before long, you must

dig up their bones in order to live. In what respect is the country you

inhabit better than another? Are there no woods, marshes, or prairies,

except where you dwell? And can you live nowhere but under your own

sun? Beyond those mountains which you see at the horizon, beyond the

lake which bounds your territory on the west, there lie vast countries

where beasts of chase are found in great abundance; sell your lands to

us, and go to live happily in those solitudes.” After holding this

language, they spread before the eyes of the Indians firearms, woollen

garments, kegs of brandy, glass necklaces, bracelets of tinsel,

earrings, and looking-glasses. \*g If, when they have beheld all these

riches, they still hesitate, it is insinuated that they have not the

means of refusing their required consent, and that the government

itself will not long have the power of protecting them in their rights.

What are they to do? Half convinced, and half compelled, they go to

inhabit new deserts, where the importunate whites will not let them

remain ten years in tranquillity. In this manner do the Americans

obtain, at a very low price, whole provinces, which the richest

sovereigns of Europe could not purchase. \*h

g

[ See, in the Legislative Documents of Congress (Doc. 117), the

narrative of what takes place on these occasions. This curious passage

is from the above-mentioned report, made to Congress by Messrs. Clarke

and Cass in February, 1829. Mr. Cass is now the Secretary of War.

“The Indians,” says the report, “reach the treaty-ground poor and

almost naked. Large quantities of goods are taken there by the traders,

and are seen and examined by the Indians. The women and children become

importunate to have their wants supplied, and their influence is soon

exerted to induce a sale. Their improvidence is habitual and

unconquerable. The gratification of his immediate wants and desires is

the ruling passion of an Indian. The expectation of future advantages

seldom produces much effect. The experience of the past is lost, and

the prospects of the future disregarded. It would be utterly hopeless

to demand a cession of land, unless the means were at hand of

gratifying their immediate wants; and when their condition and

circumstances are fairly considered, it ought not to surprise us that

they are so anxious to relieve themselves.”]

h

[ On May 19, 1830, Mr. Edward Everett affirmed before the House of

Representatives, that the Americans had already acquired by treaty, to

the east and west of the Mississippi, 230,000,000 of acres. In 1808 the

Osages gave up 48,000,000 acres for an annual payment of $1,000. In

1818 the Quapaws yielded up 29,000,000 acres for $4,000. They reserved

for themselves a territory of 1,000,000 acres for a hunting-ground. A

solemn oath was taken that it should be respected: but before long it

was invaded like the rest. Mr. Bell, in his Report of the Committee on

Indian Affairs, February 24, 1830, has these words:—“To pay an Indian

tribe what their ancient hunting-grounds are worth to them, after the

game is fled or destroyed, as a mode of appropriating wild lands

claimed by Indians, has been found more convenient, and certainly it is

more agreeable to the forms of justice, as well as more merciful, than

to assert the possession of them by the sword. Thus the practice of

buying Indian titles is but the substitute which humanity and

expediency have imposed, in place of the sword, in arriving at the

actual enjoyment of property claimed by the right of discovery, and

sanctioned by the natural superiority allowed to the claims of

civilized communities over those of savage tribes. Up to the present

time so invariable has been the operation of certain causes, first in

diminishing the value of forest lands to the Indians, and secondly in

disposing them to sell readily, that the plan of buying their right of

occupancy has never threatened to retard, in any perceptible degree,

the prosperity of any of the States.” (Legislative Documents, 21st

Congress, No. 227, p. 6.)]

Chapter XVIII: Future Condition Of Three Races—Part II

These are great evils; and it must be added that they appear to me to

be irremediable. I believe that the Indian nations of North America are

doomed to perish; and that whenever the Europeans shall be established

on the shores of the Pacific Ocean, that race of men will be no more.

\*i The Indians had only the two alternatives of war or civilization; in

other words, they must either have destroyed the Europeans or become

their equals.

i

[ This seems, indeed, to be the opinion of almost all American

statesmen. “Judging of the future by the past,” says Mr. Cass, “we

cannot err in anticipating a progressive diminution of their numbers,

and their eventual extinction, unless our border should become

stationary, and they be removed beyond it, or unless some radical

change should take place in the principles of our intercourse with

them, which it is easier to hope for than to expect.”]

At the first settlement of the colonies they might have found it

possible, by uniting their forces, to deliver themselves from the small

bodies of strangers who landed on their continent. \*j They several

times attempted to do it, and were on the point of succeeding; but the

disproportion of their resources, at the present day, when compared

with those of the whites, is too great to allow such an enterprise to

be thought of. Nevertheless, there do arise from time to time among the

Indians men of penetration, who foresee the final destiny which awaits

the native population, and who exert themselves to unite all the tribes

in common hostility to the Europeans; but their efforts are unavailing.

Those tribes which are in the neighborhood of the whites, are too much

weakened to offer an effectual resistance; whilst the others, giving

way to that childish carelessness of the morrow which characterizes

savage life, wait for the near approach of danger before they prepare

to meet it; some are unable, the others are unwilling, to exert

themselves.

j

[ Amongst other warlike enterprises, there was one of the Wampanaogs,

and other confederate tribes, under Metacom in 1675, against the

colonists of New England; the English were also engaged in war in

Virginia in 1622.]

It is easy to foresee that the Indians will never conform to

civilization; or that it will be too late, whenever they may be

inclined to make the experiment.

Civilization is the result of a long social process which takes place

in the same spot, and is handed down from one generation to another,

each one profiting by the experience of the last. Of all nations, those

submit to civilization with the most difficulty which habitually live

by the chase. Pastoral tribes, indeed, often change their place of

abode; but they follow a regular order in their migrations, and often

return again to their old stations, whilst the dwelling of the hunter

varies with that of the animals he pursues.

Several attempts have been made to diffuse knowledge amongst the

Indians, without controlling their wandering propensities; by the

Jesuits in Canada, and by the Puritans in New England; \*k but none of

these endeavors were crowned by any lasting success. Civilization began

in the cabin, but it soon retired to expire in the woods. The great

error of these legislators of the Indians was their not understanding

that, in order to succeed in civilizing a people, it is first necessary

to fix it; which cannot be done without inducing it to cultivate the

soil; the Indians ought in the first place to have been accustomed to

agriculture. But not only are they destitute of this indispensable

preliminary to civilization, they would even have great difficulty in

acquiring it. Men who have once abandoned themselves to the restless

and adventurous life of the hunter, feel an insurmountable disgust for

the constant and regular labor which tillage requires. We see this

proved in the bosom of our own society; but it is far more visible

among peoples whose partiality for the chase is a part of their

national character.

k

[ See the “Histoire de la Nouvelle France,” by Charlevoix, and the work

entitled “Lettres edifiantes.”]

Independently of this general difficulty, there is another, which

applies peculiarly to the Indians; they consider labor not merely as an

evil, but as a disgrace; so that their pride prevents them from

becoming civilized, as much as their indolence. \*l

l

[ “In all the tribes,” says Volney, in his “Tableau des Etats-Unis,” p.

423, “there still exists a generation of old warriors, who cannot

forbear, when they see their countrymen using the hoe, from exclaiming

against the degradation of ancient manners, and asserting that the

savages owe their decline to these innovations; adding, that they have

only to return to their primitive habits in order to recover their

power and their glory.”]

There is no Indian so wretched as not to retain under his hut of bark a

lofty idea of his personal worth; he considers the cares of industry

and labor as degrading occupations; he compares the husbandman to the

ox which traces the furrow; and even in our most ingenious handicraft,

he can see nothing but the labor of slaves. Not that he is devoid of

admiration for the power and intellectual greatness of the whites; but

although the result of our efforts surprises him, he contemns the means

by which we obtain it; and while he acknowledges our ascendancy, he

still believes in his superiority. War and hunting are the only

pursuits which appear to him worthy to be the occupations of a man. \*m

The Indian, in the dreary solitude of his woods, cherishes the same

ideas, the same opinions as the noble of the Middle Ages in his castle,

and he only requires to become a conqueror to complete the resemblance;

thus, however strange it may seem, it is in the forests of the New

World, and not amongst the Europeans who people its coasts, that the

ancient prejudices of Europe are still in existence.

m

[ The following description occurs in an official document: “Until a

young man has been engaged with an enemy, and has performed some acts

of valor, he gains no consideration, but is regarded nearly as a woman.

In their great war-dances all the warriors in succession strike the

post, as it is called, and recount their exploits. On these occasions

their auditory consists of the kinsmen, friends, and comrades of the

narrator. The profound impression which his discourse produces on them

is manifested by the silent attention it receives, and by the loud

shouts which hail its termination. The young man who finds himself at

such a meeting without anything to recount is very unhappy; and

instances have sometimes occurred of young warriors, whose passions had

been thus inflamed, quitting the war-dance suddenly, and going off

alone to seek for trophies which they might exhibit, and adventures

which they might be allowed to relate.”]

More than once, in the course of this work, I have endeavored to

explain the prodigious influence which the social condition appears to

exercise upon the laws and the manners of men; and I beg to add a few

words on the same subject.

When I perceive the resemblance which exists between the political

institutions of our ancestors, the Germans, and of the wandering tribes

of North America; between the customs described by Tacitus, and those

of which I have sometimes been a witness, I cannot help thinking that

the same cause has brought about the same results in both hemispheres;

and that in the midst of the apparent diversity of human affairs, a

certain number of primary facts may be discovered, from which all the

others are derived. In what we usually call the German institutions,

then, I am inclined only to perceive barbarian habits; and the opinions

of savages in what we style feudal principles.

However strongly the vices and prejudices of the North American Indians

may be opposed to their becoming agricultural and civilized, necessity

sometimes obliges them to it. Several of the Southern nations, and

amongst others the Cherokees and the Creeks, \*n were surrounded by

Europeans, who had landed on the shores of the Atlantic; and who,

either descending the Ohio or proceeding up the Mississippi, arrived

simultaneously upon their borders. These tribes have not been driven

from place to place, like their Northern brethren; but they have been

gradually enclosed within narrow limits, like the game within the

thicket, before the huntsmen plunge into the interior. The Indians who

were thus placed between civilization and death, found themselves

obliged to live by ignominious labor like the whites. They took to

agriculture, and without entirely forsaking their old habits or

manners, sacrificed only as much as was necessary to their existence.

n

[ These nations are now swallowed up in the States of Georgia,

Tennessee, Alabama, and Mississippi. There were formerly in the South

four great nations (remnants of which still exist), the Choctaws, the

Chickasaws, the Creeks, and the Cherokees. The remnants of these four

nations amounted, in 1830, to about 75,000 individuals. It is computed

that there are now remaining in the territory occupied or claimed by

the Anglo-American Union about 300,000 Indians. (See Proceedings of the

Indian Board in the City of New York.) The official documents supplied

to Congress make the number amount to 313,130. The reader who is

curious to know the names and numerical strength of all the tribes

which inhabit the Anglo-American territory should consult the documents

I refer to. (Legislative Documents, 20th Congress, No. 117, pp.

90-105.) [In the Census of 1870 it is stated that the Indian population

of the United States is only 25,731, of whom 7,241 are in California.]]

The Cherokees went further; they created a written language;

established a permanent form of government; and as everything proceeds

rapidly in the New World, before they had all of them clothes, they set

up a newspaper. \*o

o

[ I brought back with me to France one or two copies of this singular

publication.]

The growth of European habits has been remarkably accelerated among

these Indians by the mixed race which has sprung up. \*p Deriving

intelligence from their father’s side, without entirely losing the

savage customs of the mother, the half-blood forms the natural link

between civilization and barbarism. Wherever this race has multiplied

the savage state has become modified, and a great change has taken

place in the manners of the people. \*q

p

[ See in the Report of the Committee on Indian Affairs, 21st Congress,

No. 227, p. 23, the reasons for the multiplication of Indians of mixed

blood among the Cherokees. The principal cause dates from the War of

Independence. Many Anglo-Americans of Georgia, having taken the side of

England, were obliged to retreat among the Indians, where they

married.]

q

[ Unhappily the mixed race has been less numerous and less influential

in North America than in any other country. The American continent was

peopled by two great nations of Europe, the French and the English. The

former were not slow in connecting themselves with the daughters of the

natives, but there was an unfortunate affinity between the Indian

character and their own: instead of giving the tastes and habits of

civilized life to the savages, the French too often grew passionately

fond of the state of wild freedom they found them in. They became the

most dangerous of the inhabitants of the desert, and won the friendship

of the Indian by exaggerating his vices and his virtues. M. de

Senonville, the governor of Canada, wrote thus to Louis XIV in 1685:

“It has long been believed that in order to civilize the savages we

ought to draw them nearer to us. But there is every reason to suppose

we have been mistaken. Those which have been brought into contact with

us have not become French, and the French who have lived among them are

changed into savages, affecting to dress and live like them.” (“History

of New France,” by Charlevoix, vol. ii., p. 345.) The Englishman, on

the contrary, continuing obstinately attached to the customs and the

most insignificant habits of his forefathers, has remained in the midst

of the American solitudes just what he was in the bosom of European

cities; he would not allow of any communication with savages whom he

despised, and avoided with care the union of his race with theirs. Thus

while the French exercised no salutary influence over the Indians, the

English have always remained alien from them.]

The success of the Cherokees proves that the Indians are capable of

civilization, but it does not prove that they will succeed in it. This

difficulty which the Indians find in submitting to civilization

proceeds from the influence of a general cause, which it is almost

impossible for them to escape. An attentive survey of history

demonstrates that, in general, barbarous nations have raised themselves

to civilization by degrees, and by their own efforts. Whenever they

derive knowledge from a foreign people, they stood towards it in the

relation of conquerors, and not of a conquered nation. When the

conquered nation is enlightened, and the conquerors are half savage, as

in the case of the invasion of Rome by the Northern nations or that of

China by the Mongols, the power which victory bestows upon the

barbarian is sufficient to keep up his importance among civilized men,

and permit him to rank as their equal, until he becomes their rival:

the one has might on his side, the other has intelligence; the former

admires the knowledge and the arts of the conquered, the latter envies

the power of the conquerors. The barbarians at length admit civilized

man into their palaces, and he in turn opens his schools to the

barbarians. But when the side on which the physical force lies, also

possesses an intellectual preponderance, the conquered party seldom

become civilized; it retreats, or is destroyed. It may therefore be

said, in a general way, that savages go forth in arms to seek

knowledge, but that they do not receive it when it comes to them.

If the Indian tribes which now inhabit the heart of the continent could

summon up energy enough to attempt to civilize themselves, they might

possibly succeed. Superior already to the barbarous nations which

surround them, they would gradually gain strength and experience, and

when the Europeans should appear upon their borders, they would be in a

state, if not to maintain their independence, at least to assert their

right to the soil, and to incorporate themselves with the conquerors.

But it is the misfortune of Indians to be brought into contact with a

civilized people, which is also (it must be owned) the most avaricious

nation on the globe, whilst they are still semi-barbarian: to find

despots in their instructors, and to receive knowledge from the hand of

oppression. Living in the freedom of the woods, the North American

Indian was destitute, but he had no feeling of inferiority towards

anyone; as soon, however, as he desires to penetrate into the social

scale of the whites, he takes the lowest rank in society, for he

enters, ignorant and poor, within the pale of science and wealth. After

having led a life of agitation, beset with evils and dangers, but at

the same time filled with proud emotions, \*r he is obliged to submit to

a wearisome, obscure, and degraded state; and to gain the bread which

nourishes him by hard and ignoble labor; such are in his eyes the only

results of which civilization can boast: and even this much he is not

sure to obtain.

r

[ There is in the adventurous life of the hunter a certain irresistible

charm, which seizes the heart of man and carries him away in spite of

reason and experience. This is plainly shown by the memoirs of Tanner.

Tanner is a European who was carried away at the age of six by the

Indians, and has remained thirty years with them in the woods. Nothing

can be conceived more appalling that the miseries which he describes.

He tells us of tribes without a chief, families without a nation to

call their own, men in a state of isolation, wrecks of powerful tribes

wandering at random amid the ice and snow and desolate solitudes of

Canada. Hunger and cold pursue them; every day their life is in

jeopardy. Amongst these men, manners have lost their empire, traditions

are without power. They become more and more savage. Tanner shared in

all these miseries; he was aware of his European origin; he was not

kept away from the whites by force; on the contrary, he came every year

to trade with them, entered their dwellings, and witnessed their

enjoyments; he knew that whenever he chose to return to civilized life

he was perfectly able to do so—and he remained thirty years in the

deserts. When he came into civilized society he declared that the rude

existence which he described, had a secret charm for him which he was

unable to define: he returned to it again and again: at length he

abandoned it with poignant regret; and when he was at length fixed

among the whites, several of his children refused to share his tranquil

and easy situation. I saw Tanner myself at the lower end of Lake

Superior; he seemed to me to be more like a savage than a civilized

being. His book is written without either taste or order; but he gives,

even unconsciously, a lively picture of the prejudices, the passions,

the vices, and, above all, of the destitution in which he lived.]

When the Indians undertake to imitate their European neighbors, and to

till the earth like the settlers, they are immediately exposed to a

very formidable competition. The white man is skilled in the craft of

agriculture; the Indian is a rough beginner in an art with which he is

unacquainted. The former reaps abundant crops without difficulty, the

latter meets with a thousand obstacles in raising the fruits of the

earth.

The European is placed amongst a population whose wants he knows and

partakes. The savage is isolated in the midst of a hostile people, with

whose manners, language, and laws he is imperfectly acquainted, but

without whose assistance he cannot live. He can only procure the

materials of comfort by bartering his commodities against the goods of

the European, for the assistance of his countrymen is wholly

insufficient to supply his wants. When the Indian wishes to sell the

produce of his labor, he cannot always meet with a purchaser, whilst

the European readily finds a market; and the former can only produce at

a considerable cost that which the latter vends at a very low rate.

Thus the Indian has no sooner escaped those evils to which barbarous

nations are exposed, than he is subjected to the still greater miseries

of civilized communities; and he finds is scarcely less difficult to

live in the midst of our abundance, than in the depth of his own

wilderness.

He has not yet lost the habits of his erratic life; the traditions of

his fathers and his passion for the chase are still alive within him.

The wild enjoyments which formerly animated him in the woods, painfully

excite his troubled imagination; and his former privations appear to be

less keen, his former perils less appalling. He contrasts the

independence which he possessed amongst his equals with the servile

position which he occupies in civilized society. On the other hand, the

solitudes which were so long his free home are still at hand; a few

hours’ march will bring him back to them once more. The whites offer

him a sum, which seems to him to be considerable, for the ground which

he has begun to clear. This money of the Europeans may possibly furnish

him with the means of a happy and peaceful subsistence in remoter

regions; and he quits the plough, resumes his native arms, and returns

to the wilderness forever. \*s The condition of the Creeks and

Cherokees, to which I have already alluded, sufficiently corroborates

the truth of this deplorable picture.

s

[ The destructive influence of highly civilized nations upon others

which are less so, has been exemplified by the Europeans themselves.

About a century ago the French founded the town of Vincennes up on the

Wabash, in the middle of the desert; and they lived there in great

plenty until the arrival of the American settlers, who first ruined the

previous inhabitants by their competition, and afterwards purchased

their lands at a very low rate. At the time when M. de Volney, from

whom I borrow these details, passed through Vincennes, the number of

the French was reduced to a hundred individuals, most of whom were

about to pass over to Louisiana or to Canada. These French settlers

were worthy people, but idle and uninstructed: they had contracted many

of the habits of savages. The Americans, who were perhaps their

inferiors, in a moral point of view, were immeasurably superior to them

in intelligence: they were industrious, well informed, rich, and

accustomed to govern their own community.

I myself saw in Canada, where the intellectual difference between the

two races is less striking, that the English are the masters of

commerce and manufacture in the Canadian country, that they spread on

all sides, and confine the French within limits which scarcely suffice

to contain them. In like manner, in Louisiana, almost all activity in

commerce and manufacture centres in the hands of the Anglo-Americans.

But the case of Texas is still more striking: the State of Texas is a

part of Mexico, and lies upon the frontier between that country and the

United States. In the course of the last few years the Anglo-Americans

have penetrated into this province, which is still thinly peopled; they

purchase land, they produce the commodities of the country, and

supplant the original population. It may easily be foreseen that if

Mexico takes no steps to check this change, the province of Texas will

very shortly cease to belong to that government.

If the different degrees—comparatively so slight—which exist in

European civilization produce results of such magnitude, the

consequences which must ensue from the collision of the most perfect

European civilization with Indian savages may readily be conceived.]

The Indians, in the little which they have done, have unquestionably

displayed as much natural genius as the peoples of Europe in their most

important designs; but nations as well as men require time to learn,

whatever may be their intelligence and their zeal. Whilst the savages

were engaged in the work of civilization, the Europeans continued to

surround them on every side, and to confine them within narrower

limits; the two races gradually met, and they are now in immediate

juxtaposition to each other. The Indian is already superior to his

barbarous parent, but he is still very far below his white neighbor.

With their resources and acquired knowledge, the Europeans soon

appropriated to themselves most of the advantages which the natives

might have derived from the possession of the soil; they have settled

in the country, they have purchased land at a very low rate or have

occupied it by force, and the Indians have been ruined by a competition

which they had not the means of resisting. They were isolated in their

own country, and their race only constituted a colony of troublesome

aliens in the midst of a numerous and domineering people. \*t

t

[ See in the Legislative Documents (21st Congress, No. 89) instances of

excesses of every kind committed by the whites upon the territory of

the Indians, either in taking possession of a part of their lands,

until compelled to retire by the troops of Congress, or carrying off

their cattle, burning their houses, cutting down their corn, and doing

violence to their persons. It appears, nevertheless, from all these

documents that the claims of the natives are constantly protected by

the government from the abuse of force. The Union has a representative

agent continually employed to reside among the Indians; and the report

of the Cherokee agent, which is among the documents I have referred to,

is almost always favorable to the Indians. “The intrusion of whites,”

he says, “upon the lands of the Cherokees would cause ruin to the poor,

helpless, and inoffensive inhabitants.” And he further remarks upon the

attempt of the State of Georgia to establish a division line for the

purpose of limiting the boundaries of the Cherokees, that the line

drawn having been made by the whites, and entirely upon ex parte

evidence of their several rights, was of no validity whatever.]

Washington said in one of his messages to Congress, “We are more

enlightened and more powerful than the Indian nations, we are therefore

bound in honor to treat them with kindness and even with generosity.”

But this virtuous and high-minded policy has not been followed. The

rapacity of the settlers is usually backed by the tyranny of the

government. Although the Cherokees and the Creeks are established upon

the territory which they inhabited before the settlement of the

Europeans, and although the Americans have frequently treated with them

as with foreign nations, the surrounding States have not consented to

acknowledge them as independent peoples, and attempts have been made to

subject these children of the woods to Anglo-American magistrates,

laws, and customs. \*u Destitution had driven these unfortunate Indians

to civilization, and oppression now drives them back to their former

condition: many of them abandon the soil which they had begun to clear,

and return to their savage course of life.

u

[ In 1829 the State of Alabama divided the Creek territory into

counties, and subjected the Indian population to the power of European

magistrates.

In 1830 the State of Mississippi assimilated the Choctaws and

Chickasaws to the white population, and declared that any of them that

should take the title of chief would be punished by a fine of $1,000

and a year’s imprisonment. When these laws were enforced upon the

Choctaws, who inhabited that district, the tribe assembled, their chief

communicated to them the intentions of the whites, and read to them

some of the laws to which it was intended that they should submit; and

they unanimously declared that it was better at once to retreat again

into the wilds.]

Chapter XVIII: Future Condition Of Three Races—Part III

If we consider the tyrannical measures which have been adopted by the

legislatures of the Southern States, the conduct of their Governors,

and the decrees of their courts of justice, we shall be convinced that

the entire expulsion of the Indians is the final result to which the

efforts of their policy are directed. The Americans of that part of the

Union look with jealousy upon the aborigines, \*v they are aware that

these tribes have not yet lost the traditions of savage life, and

before civilization has permanently fixed them to the soil, it is

intended to force them to recede by reducing them to despair. The

Creeks and Cherokees, oppressed by the several States, have appealed to

the central government, which is by no means insensible to their

misfortunes, and is sincerely desirous of saving the remnant of the

natives, and of maintaining them in the free possession of that

territory, which the Union is pledged to respect. \*w But the several

States oppose so formidable a resistance to the execution of this

design, that the government is obliged to consent to the extirpation of

a few barbarous tribes in order not to endanger the safety of the

American Union.

v

[ The Georgians, who are so much annoyed by the proximity of the

Indians, inhabit a territory which does not at present contain more

than seven inhabitants to the square mile. In France there are one

hundred and sixty-two inhabitants to the same extent of country.]

w

[ In 1818 Congress appointed commissioners to visit the Arkansas

Territory, accompanied by a deputation of Creeks, Choctaws, and

Chickasaws. This expedition was commanded by Messrs. Kennerly, M’Coy,

Wash Hood, and John Bell. See the different reports of the

commissioners, and their journal, in the Documents of Congress, No. 87,

House of Representatives.]

But the federal government, which is not able to protect the Indians,

would fain mitigate the hardships of their lot; and, with this

intention, proposals have been made to transport them into more remote

regions at the public cost.

Between the thirty-third and thirty-seventh degrees of north latitude,

a vast tract of country lies, which has taken the name of Arkansas,

from the principal river that waters its extent. It is bounded on the

one side by the confines of Mexico, on the other by the Mississippi.

Numberless streams cross it in every direction; the climate is mild,

and the soil productive, but it is only inhabited by a few wandering

hordes of savages. The government of the Union wishes to transport the

broken remnants of the indigenous population of the South to the

portion of this country which is nearest to Mexico, and at a great

distance from the American settlements.

We were assured, towards the end of the year 1831, that 10,000 Indians

had already gone down to the shores of the Arkansas; and fresh

detachments were constantly following them; but Congress has been

unable to excite a unanimous determination in those whom it is disposed

to protect. Some, indeed, are willing to quit the seat of oppression,

but the most enlightened members of the community refuse to abandon

their recent dwellings and their springing crops; they are of opinion

that the work of civilization, once interrupted, will never be resumed;

they fear that those domestic habits which have been so recently

contracted, may be irrevocably lost in the midst of a country which is

still barbarous, and where nothing is prepared for the subsistence of

an agricultural people; they know that their entrance into those wilds

will be opposed by inimical hordes, and that they have lost the energy

of barbarians, without acquiring the resources of civilization to

resist their attacks. Moreover, the Indians readily discover that the

settlement which is proposed to them is merely a temporary expedient.

Who can assure them that they will at length be allowed to dwell in

peace in their new retreat? The United States pledge themselves to the

observance of the obligation; but the territory which they at present

occupy was formerly secured to them by the most solemn oaths of

Anglo-American faith. \*x The American government does not indeed rob

them of their lands, but it allows perpetual incursions to be made on

them. In a few years the same white population which now flocks around

them, will track them to the solitudes of the Arkansas; they will then

be exposed to the same evils without the same remedies, and as the

limits of the earth will at last fail them, their only refuge is the

grave.

x

[ The fifth article of the treaty made with the Creeks in August, 1790,

is in the following words:—“The United States solemnly guarantee to the

Creek nation all their land within the limits of the United States.”

The seventh article of the treaty concluded in 1791 with the Cherokees

says:—“The United States solemnly guarantee to the Cherokee nation all

their lands not hereby ceded.” The following article declared that if

any citizen of the United States or other settler not of the Indian

race should establish himself upon the territory of the Cherokees, the

United States would withdraw their protection from that individual, and

give him up to be punished as the Cherokee nation should think fit.]

The Union treats the Indians with less cupidity and rigor than the

policy of the several States, but the two governments are alike

destitute of good faith. The States extend what they are pleased to

term the benefits of their laws to the Indians, with a belief that the

tribes will recede rather than submit; and the central government,

which promises a permanent refuge to these unhappy beings is well aware

of its inability to secure it to them. \*y

y

[ This does not prevent them from promising in the most solemn manner

to do so. See the letter of the President addressed to the Creek

Indians, March 23, 1829 (Proceedings of the Indian Board, in the city

of New York, p. 5): “Beyond the great river Mississippi, where a part

of your nation has gone, your father has provided a country large

enough for all of you, and he advises you to remove to it. There your

white brothers will not trouble you; they will have no claim to the

land, and you can live upon it, you and all your children, as long as

the grass grows, or the water runs, in peace and plenty. It will be

yours forever.”

The Secretary of War, in a letter written to the Cherokees, April 18,

1829, (see the same work, p. 6), declares to them that they cannot

expect to retain possession of the lands at that time occupied by them,

but gives them the most positive assurance of uninterrupted peace if

they would remove beyond the Mississippi: as if the power which could

not grant them protection then, would be able to afford it them

hereafter!]

Thus the tyranny of the States obliges the savages to retire, the

Union, by its promises and resources, facilitates their retreat; and

these measures tend to precisely the same end. \*z “By the will of our

Father in Heaven, the Governor of the whole world,” said the Cherokees

in their petition to Congress, \*a “the red man of America has become

small, and the white man great and renowned. When the ancestors of the

people of these United States first came to the shores of America they

found the red man strong: though he was ignorant and savage, yet he

received them kindly, and gave them dry land to rest their weary feet.

They met in peace, and shook hands in token of friendship. Whatever the

white man wanted and asked of the Indian, the latter willingly gave. At

that time the Indian was the lord, and the white man the suppliant. But

now the scene has changed. The strength of the red man has become

weakness. As his neighbors increased in numbers his power became less

and less, and now, of the many and powerful tribes who once covered

these United States, only a few are to be seen—a few whom a sweeping

pestilence has left. The northern tribes, who were once so numerous and

powerful, are now nearly extinct. Thus it has happened to the red man

of America. Shall we, who are remnants, share the same fate?”

z

[ To obtain a correct idea of the policy pursued by the several States

and the Union with respect to the Indians, it is necessary to consult,

1st, “The Laws of the Colonial and State Governments relating to the

Indian Inhabitants.” (See the Legislative Documents, 21st Congress, No.

319.) 2d, The Laws of the Union on the same subject, and especially

that of March 30, 1802. (See Story’s “Laws of the United States.”) 3d,

The Report of Mr. Cass, Secretary of War, relative to Indian Affairs,

November 29, 1823.]

a

[ December 18, 1829.]

“The land on which we stand we have received as an inheritance from our

fathers, who possessed it from time immemorial, as a gift from our

common Father in Heaven. They bequeathed it to us as their children,

and we have sacredly kept it, as containing the remains of our beloved

men. This right of inheritance we have never ceded nor ever forfeited.

Permit us to ask what better right can the people have to a country

than the right of inheritance and immemorial peaceable possession? We

know it is said of late by the State of Georgia and by the Executive of

the United States, that we have forfeited this right; but we think this

is said gratuitously. At what time have we made the forfeit? What great

crime have we committed, whereby we must forever be divested of our

country and rights? Was it when we were hostile to the United States,

and took part with the King of Great Britain, during the struggle for

independence? If so, why was not this forfeiture declared in the first

treaty of peace between the United States and our beloved men? Why was

not such an article as the following inserted in the treaty:—‘The

United States give peace to the Cherokees, but, for the part they took

in the late war, declare them to be but tenants at will, to be removed

when the convenience of the States, within whose chartered limits they

live, shall require it’? That was the proper time to assume such a

possession. But it was not thought of, nor would our forefathers have

agreed to any treaty whose tendency was to deprive them of their rights

and their country.”

Such is the language of the Indians: their assertions are true, their

forebodings inevitable. From whichever side we consider the destinies

of the aborigines of North America, their calamities appear to be

irremediable: if they continue barbarous, they are forced to retire; if

they attempt to civilize their manners, the contact of a more civilized

community subjects them to oppression and destitution. They perish if

they continue to wander from waste to waste, and if they attempt to

settle they still must perish; the assistance of Europeans is necessary

to instruct them, but the approach of Europeans corrupts and repels

them into savage life; they refuse to change their habits as long as

their solitudes are their own, and it is too late to change them when

they are constrained to submit.

The Spaniards pursued the Indians with bloodhounds, like wild beasts;

they sacked the New World with no more temper or compassion than a city

taken by storm; but destruction must cease, and frenzy be stayed; the

remnant of the Indian population which had escaped the massacre mixed

with its conquerors, and adopted in the end their religion and their

manners. \*b The conduct of the Americans of the United States towards

the aborigines is characterized, on the other hand, by a singular

attachment to the formalities of law. Provided that the Indians retain

their barbarous condition, the Americans take no part in their affairs;

they treat them as independent nations, and do not possess themselves

of their hunting grounds without a treaty of purchase; and if an Indian

nation happens to be so encroached upon as to be unable to subsist upon

its territory, they afford it brotherly assistance in transporting it

to a grave sufficiently remote from the land of its fathers.

b

[ The honor of this result is, however, by no means due to the

Spaniards. If the Indian tribes had not been tillers of the ground at

the time of the arrival of the Europeans, they would unquestionably

have been destroyed in South as well as in North America.]

The Spaniards were unable to exterminate the Indian race by those

unparalleled atrocities which brand them with indelible shame, nor did

they even succeed in wholly depriving it of its rights; but the

Americans of the United States have accomplished this twofold purpose

with singular felicity; tranquilly, legally, philanthropically, without

shedding blood, and without violating a single great principle of

morality in the eyes of the world. \*c It is impossible to destroy men

with more respect for the laws of humanity.

c

[ See, amongst other documents, the report made by Mr. Bell in the name

of the Committee on Indian Affairs, February 24, 1830, in which is most

logically established and most learnedly proved, that “the fundamental

principle that the Indians had no right by virtue of their ancient

possession either of will or sovereignty, has never been abandoned

either expressly or by implication.” In perusing this report, which is

evidently drawn up by an experienced hand, one is astonished at the

facility with which the author gets rid of all arguments founded upon

reason and natural right, which he designates as abstract and

theoretical principles. The more I contemplate the difference between

civilized and uncivilized man with regard to the principles of justice,

the more I observe that the former contests the justice of those rights

which the latter simply violates.]

[I leave this chapter wholly unchanged, for it has always appeared to

me to be one of the most eloquent and touching parts of this book. But

it has ceased to be prophetic; the destruction of the Indian race in

the United States is already consummated. In 1870 there remained but

25,731 Indians in the whole territory of the Union, and of these by far

the largest part exist in California, Michigan, Wisconsin, Dakota, and

New Mexico and Nevada. In New England, Pennsylvania, and New York the

race is extinct; and the predictions of M. de Tocqueville are

fulfilled. —Translator’s Note.]

Situation Of The Black Population In The United States, And Dangers

With Which Its Presence Threatens The Whites

Why it is more difficult to abolish slavery, and to efface all vestiges

of it amongst the moderns than it was amongst the ancients—In the

United States the prejudices of the Whites against the Blacks seem to

increase in proportion as slavery is abolished—Situation of the Negroes

in the Northern and Southern States—Why the Americans abolish

slavery—Servitude, which debases the slave, impoverishes the

master—Contrast between the left and the right bank of the Ohio—To what

attributable—The Black race, as well as slavery, recedes towards the

South—Explanation of this fact—Difficulties attendant upon the

abolition of slavery in the South—Dangers to come—General

anxiety—Foundation of a Black colony in Africa—Why the Americans of the

South increase the hardships of slavery, whilst they are distressed at

its continuance.

The Indians will perish in the same isolated condition in which they

have lived; but the destiny of the negroes is in some measure

interwoven with that of the Europeans. These two races are attached to

each other without intermingling, and they are alike unable entirely to

separate or to combine. The most formidable of all the ills which

threaten the future existence of the Union arises from the presence of

a black population upon its territory; and in contemplating the cause

of the present embarrassments or of the future dangers of the United

States, the observer is invariably led to consider this as a primary

fact.

The permanent evils to which mankind is subjected are usually produced

by the vehement or the increasing efforts of men; but there is one

calamity which penetrated furtively into the world, and which was at

first scarcely distinguishable amidst the ordinary abuses of power; it

originated with an individual whose name history has not preserved; it

was wafted like some accursed germ upon a portion of the soil, but it

afterwards nurtured itself, grew without effort, and spreads naturally

with the society to which it belongs. I need scarcely add that this

calamity is slavery. Christianity suppressed slavery, but the

Christians of the sixteenth century re-established it—as an exception,

indeed, to their social system, and restricted to one of the races of

mankind; but the wound thus inflicted upon humanity, though less

extensive, was at the same time rendered far more difficult of cure.

It is important to make an accurate distinction between slavery itself

and its consequences. The immediate evils which are produced by slavery

were very nearly the same in antiquity as they are amongst the moderns;

but the consequences of these evils were different. The slave, amongst

the ancients, belonged to the same race as his master, and he was often

the superior of the two in education \*d and instruction. Freedom was

the only distinction between them; and when freedom was conferred they

were easily confounded together. The ancients, then, had a very simple

means of avoiding slavery and its evil consequences, which was that of

affranchisement; and they succeeded as soon as they adopted this

measure generally. Not but, in ancient States, the vestiges of

servitude subsisted for some time after servitude itself was abolished.

There is a natural prejudice which prompts men to despise whomsoever

has been their inferior long after he is become their equal; and the

real inequality which is produced by fortune or by law is always

succeeded by an imaginary inequality which is implanted in the manners

of the people. Nevertheless, this secondary consequence of slavery was

limited to a certain term amongst the ancients, for the freedman bore

so entire a resemblance to those born free, that it soon became

impossible to distinguish him from amongst them.

d

[ It is well known that several of the most distinguished authors of

antiquity, and amongst them Aesop and Terence, were, or had been

slaves. Slaves were not always taken from barbarous nations, and the

chances of war reduced highly civilized men to servitude.]

The greatest difficulty in antiquity was that of altering the law;

amongst the moderns it is that of altering the manners; and, as far as

we are concerned, the real obstacles begin where those of the ancients

left off. This arises from the circumstance that, amongst the moderns,

the abstract and transient fact of slavery is fatally united to the

physical and permanent fact of color. The tradition of slavery

dishonors the race, and the peculiarity of the race perpetuates the

tradition of slavery. No African has ever voluntarily emigrated to the

shores of the New World; whence it must be inferred, that all the

blacks who are now to be found in that hemisphere are either slaves or

freedmen. Thus the negro transmits the eternal mark of his ignominy to

all his descendants; and although the law may abolish slavery, God

alone can obliterate the traces of its existence.

The modern slave differs from his master not only in his condition, but

in his origin. You may set the negro free, but you cannot make him

otherwise than an alien to the European. Nor is this all; we scarcely

acknowledge the common features of mankind in this child of debasement

whom slavery has brought amongst us. His physiognomy is to our eyes

hideous, his understanding weak, his tastes low; and we are almost

inclined to look upon him as a being intermediate between man and the

brutes. \*e The moderns, then, after they have abolished slavery, have

three prejudices to contend against, which are less easy to attack and

far less easy to conquer than the mere fact of servitude: the prejudice

of the master, the prejudice of the race, and the prejudice of color.

e

[ To induce the whites to abandon the opinion they have conceived of

the moral and intellectual inferiority of their former slaves, the

negroes must change; but as long as this opinion subsists, to change is

impossible.]

It is difficult for us, who have had the good fortune to be born

amongst men like ourselves by nature, and equal to ourselves by law, to

conceive the irreconcilable differences which separate the negro from

the European in America. But we may derive some faint notion of them

from analogy. France was formerly a country in which numerous

distinctions of rank existed, that had been created by the legislation.

Nothing can be more fictitious than a purely legal inferiority; nothing

more contrary to the instinct of mankind than these permanent divisions

which had been established between beings evidently similar.

Nevertheless these divisions subsisted for ages; they still subsist in

many places; and on all sides they have left imaginary vestiges, which

time alone can efface. If it be so difficult to root out an inequality

which solely originates in the law, how are those distinctions to be

destroyed which seem to be based upon the immutable laws of Nature

herself? When I remember the extreme difficulty with which aristocratic

bodies, of whatever nature they may be, are commingled with the mass of

the people; and the exceeding care which they take to preserve the

ideal boundaries of their caste inviolate, I despair of seeing an

aristocracy disappear which is founded upon visible and indelible

signs. Those who hope that the Europeans will ever mix with the

negroes, appear to me to delude themselves; and I am not led to any

such conclusion by my own reason, or by the evidence of facts.

Hitherto, wherever the whites have been the most powerful, they have

maintained the blacks in a subordinate or a servile position; wherever

the negroes have been strongest they have destroyed the whites; such

has been the only retribution which has ever taken place between the

two races.

I see that in a certain portion of the territory of the United States

at the present day, the legal barrier which separated the two races is

tending to fall away, but not that which exists in the manners of the

country; slavery recedes, but the prejudice to which it has given birth

remains stationary. Whosoever has inhabited the United States must have

perceived that in those parts of the Union in which the negroes are no

longer slaves, they have in no wise drawn nearer to the whites. On the

contrary, the prejudice of the race appears to be stronger in the

States which have abolished slavery, than in those where it still

exists; and nowhere is it so intolerant as in those States where

servitude has never been known.

It is true, that in the North of the Union, marriages may be legally

contracted between negroes and whites; but public opinion would

stigmatize a man who should connect himself with a negress as infamous,

and it would be difficult to meet with a single instance of such a

union. The electoral franchise has been conferred upon the negroes in

almost all the States in which slavery has been abolished; but if they

come forward to vote, their lives are in danger. If oppressed, they may

bring an action at law, but they will find none but whites amongst

their judges; and although they may legally serve as jurors, prejudice

repulses them from that office. The same schools do not receive the

child of the black and of the European. In the theatres, gold cannot

procure a seat for the servile race beside their former masters; in the

hospitals they lie apart; and although they are allowed to invoke the

same Divinity as the whites, it must be at a different altar, and in

their own churches, with their own clergy. The gates of Heaven are not

closed against these unhappy beings; but their inferiority is continued

to the very confines of the other world; when the negro is defunct, his

bones are cast aside, and the distinction of condition prevails even in

the equality of death. The negro is free, but he can share neither the

rights, nor the pleasures, nor the labor, nor the afflictions, nor the

tomb of him whose equal he has been declared to be; and he cannot meet

him upon fair terms in life or in death.

In the South, where slavery still exists, the negroes are less

carefully kept apart; they sometimes share the labor and the

recreations of the whites; the whites consent to intermix with them to

a certain extent, and although the legislation treats them more

harshly, the habits of the people are more tolerant and compassionate.

In the South the master is not afraid to raise his slave to his own

standing, because he knows that he can in a moment reduce him to the

dust at pleasure. In the North the white no longer distinctly perceives

the barrier which separates him from the degraded race, and he shuns

the negro with the more pertinacity, since he fears lest they should

some day be confounded together.

Amongst the Americans of the South, nature sometimes reasserts her

rights, and restores a transient equality between the blacks and the

whites; but in the North pride restrains the most imperious of human

passions. The American of the Northern States would perhaps allow the

negress to share his licentious pleasures, if the laws of his country

did not declare that she may aspire to be the legitimate partner of his

bed; but he recoils with horror from her who might become his wife.

Thus it is, in the United States, that the prejudice which repels the

negroes seems to increase in proportion as they are emancipated, and

inequality is sanctioned by the manners whilst it is effaced from the

laws of the country. But if the relative position of the two races

which inhabit the United States is such as I have described, it may be

asked why the Americans have abolished slavery in the North of the

Union, why they maintain it in the South, and why they aggravate its

hardships there? The answer is easily given. It is not for the good of

the negroes, but for that of the whites, that measures are taken to

abolish slavery in the United States.

The first negroes were imported into Virginia about the year 1621. \*f

In America, therefore, as well as in the rest of the globe, slavery

originated in the South. Thence it spread from one settlement to

another; but the number of slaves diminished towards the Northern

States, and the negro population was always very limited in New

England. \*g

f

[ See Beverley’s “History of Virginia.” See also in Jefferson’s

“Memoirs” some curious details concerning the introduction of negroes

into Virginia, and the first Act which prohibited the importation of

them in 1778.]

g

[ The number of slaves was less considerable in the North, but the

advantages resulting from slavery were not more contested there than in

the South. In 1740, the Legislature of the State of New York declared

that the direct importation of slaves ought to be encouraged as much as

possible, and smuggling severely punished in order not to discourage

the fair trader. (Kent’s “Commentaries,” vol. ii. p. 206.) Curious

researches, by Belknap, upon slavery in New England, are to be found in

the “Historical Collection of Massachusetts,” vol. iv. p. 193. It

appears that negroes were introduced there in 1630, but that the

legislation and manners of the people were opposed to slavery from the

first; see also, in the same work, the manner in which public opinion,

and afterwards the laws, finally put an end to slavery.]

A century had scarcely elapsed since the foundation of the colonies,

when the attention of the planters was struck by the extraordinary

fact, that the provinces which were comparatively destitute of slaves,

increased in population, in wealth, and in prosperity more rapidly than

those which contained the greatest number of negroes. In the former,

however, the inhabitants were obliged to cultivate the soil themselves,

or by hired laborers; in the latter they were furnished with hands for

which they paid no wages; yet although labor and expenses were on the

one side, and ease with economy on the other, the former were in

possession of the most advantageous system. This consequence seemed to

be the more difficult to explain, since the settlers, who all belonged

to the same European race, had the same habits, the same civilization,

the same laws, and their shades of difference were extremely slight.

Time, however, continued to advance, and the Anglo-Americans, spreading

beyond the coasts of the Atlantic Ocean, penetrated farther and farther

into the solitudes of the West; they met with a new soil and an

unwonted climate; the obstacles which opposed them were of the most

various character; their races intermingled, the inhabitants of the

South went up towards the North, those of the North descended to the

South; but in the midst of all these causes, the same result occurred

at every step, and in general, the colonies in which there were no

slaves became more populous and more rich than those in which slavery

flourished. The more progress was made, the more was it shown that

slavery, which is so cruel to the slave, is prejudicial to the master.

Chapter XVIII: Future Condition Of Three Races—Part IV

But this truth was most satisfactorily demonstrated when civilization

reached the banks of the Ohio. The stream which the Indians had

distinguished by the name of Ohio, or Beautiful River, waters one of

the most magnificent valleys that has ever been made the abode of man.

Undulating lands extend upon both shores of the Ohio, whose soil

affords inexhaustible treasures to the laborer; on either bank the air

is wholesome and the climate mild, and each of them forms the extreme

frontier of a vast State: That which follows the numerous windings of

the Ohio upon the left is called Kentucky, that upon the right bears

the name of the river. These two States only differ in a single

respect; Kentucky has admitted slavery, but the State of Ohio has

prohibited the existence of slaves within its borders. \*h

h

[ Not only is slavery prohibited in Ohio, but no free negroes are

allowed to enter the territory of that State, or to hold property in

it. See the Statutes of Ohio.]

Thus the traveller who floats down the current of the Ohio to the spot

where that river falls into the Mississippi, may be said to sail

between liberty and servitude; and a transient inspection of the

surrounding objects will convince him as to which of the two is most

favorable to mankind. Upon the left bank of the stream the population

is rare; from time to time one descries a troop of slaves loitering in

the half-desert fields; the primaeval forest recurs at every turn;

society seems to be asleep, man to be idle, and nature alone offers a

scene of activity and of life. From the right bank, on the contrary, a

confused hum is heard which proclaims the presence of industry; the

fields are covered with abundant harvests, the elegance of the

dwellings announces the taste and activity of the laborer, and man

appears to be in the enjoyment of that wealth and contentment which is

the reward of labor. \*i

i

[ The activity of Ohio is not confined to individuals, but the

undertakings of the State are surprisingly great; a canal has been

established between Lake Erie and the Ohio, by means of which the

valley of the Mississippi communicates with the river of the North, and

the European commodities which arrive at New York may be forwarded by

water to New Orleans across five hundred leagues of continent.]

The State of Kentucky was founded in 1775, the State of Ohio only

twelve years later; but twelve years are more in America than half a

century in Europe, and, at the present day, the population of Ohio

exceeds that of Kentucky by two hundred and fifty thousand souls. \*j

These opposite consequences of slavery and freedom may readily be

understood, and they suffice to explain many of the differences which

we remark between the civilization of antiquity and that of our own

time.

j

[ The exact numbers given by the census of 1830 were: Kentucky,

688,-844; Ohio, 937,679. [In 1890 the population of Ohio was 3,672,316,

that of Kentucky, 1,858,635.]]

Upon the left bank of the Ohio labor is confounded with the idea of

slavery, upon the right bank it is identified with that of prosperity

and improvement; on the one side it is degraded, on the other it is

honored; on the former territory no white laborers can be found, for

they would be afraid of assimilating themselves to the negroes; on the

latter no one is idle, for the white population extends its activity

and its intelligence to every kind of employment. Thus the men whose

task it is to cultivate the rich soil of Kentucky are ignorant and

lukewarm; whilst those who are active and enlightened either do nothing

or pass over into the State of Ohio, where they may work without

dishonor.

It is true that in Kentucky the planters are not obliged to pay wages

to the slaves whom they employ; but they derive small profits from

their labor, whilst the wages paid to free workmen would be returned

with interest in the value of their services. The free workman is paid,

but he does his work quicker than the slave, and rapidity of execution

is one of the great elements of economy. The white sells his services,

but they are only purchased at the times at which they may be useful;

the black can claim no remuneration for his toil, but the expense of

his maintenance is perpetual; he must be supported in his old age as

well as in the prime of manhood, in his profitless infancy as well as

in the productive years of youth. Payment must equally be made in order

to obtain the services of either class of men: the free workman

receives his wages in money, the slave in education, in food, in care,

and in clothing. The money which a master spends in the maintenance of

his slaves goes gradually and in detail, so that it is scarcely

perceived; the salary of the free workman is paid in a round sum, which

appears only to enrich the individual who receives it, but in the end

the slave has cost more than the free servant, and his labor is less

productive. \*k

k

[ Independently of these causes, which, wherever free workmen abound,

render their labor more productive and more economical than that of

slaves, another cause may be pointed out which is peculiar to the

United States: the sugar-cane has hitherto been cultivated with success

only upon the banks of the Mississippi, near the mouth of that river in

the Gulf of Mexico. In Louisiana the cultivation of the sugar-cane is

exceedingly lucrative, and nowhere does a laborer earn so much by his

work, and, as there is always a certain relation between the cost of

production and the value of the produce, the price of slaves is very

high in Louisiana. But Louisiana is one of the confederated States, and

slaves may be carried thither from all parts of the Union; the price

given for slaves in New Orleans consequently raises the value of slaves

in all the other markets. The consequence of this is, that in the

countries where the land is less productive, the cost of slave labor is

still very considerable, which gives an additional advantage to the

competition of free labor.]

The influence of slavery extends still further; it affects the

character of the master, and imparts a peculiar tendency to his ideas

and his tastes. Upon both banks of the Ohio, the character of the

inhabitants is enterprising and energetic; but this vigor is very

differently exercised in the two States. The white inhabitant of Ohio,

who is obliged to subsist by his own exertions, regards temporal

prosperity as the principal aim of his existence; and as the country

which he occupies presents inexhaustible resources to his industry and

ever-varying lures to his activity, his acquisitive ardor surpasses the

ordinary limits of human cupidity: he is tormented by the desire of

wealth, and he boldly enters upon every path which fortune opens to

him; he becomes a sailor, a pioneer, an artisan, or a laborer with the

same indifference, and he supports, with equal constancy, the fatigues

and the dangers incidental to these various professions; the resources

of his intelligence are astonishing, and his avidity in the pursuit of

gain amounts to a species of heroism.

But the Kentuckian scorns not only labor, but all the undertakings

which labor promotes; as he lives in an idle independence, his tastes

are those of an idle man; money loses a portion of its value in his

eyes; he covets wealth much less than pleasure and excitement; and the

energy which his neighbor devotes to gain, turns with him to a

passionate love of field sports and military exercises; he delights in

violent bodily exertion, he is familiar with the use of arms, and is

accustomed from a very early age to expose his life in single combat.

Thus slavery not only prevents the whites from becoming opulent, but

even from desiring to become so.

As the same causes have been continually producing opposite effects for

the last two centuries in the British colonies of North America, they

have established a very striking difference between the commercial

capacity of the inhabitants of the South and those of the North. At the

present day it is only the Northern States which are in possession of

shipping, manufactures, railroads, and canals. This difference is

perceptible not only in comparing the North with the South, but in

comparing the several Southern States. Almost all the individuals who

carry on commercial operations, or who endeavor to turn slave labor to

account in the most Southern districts of the Union, have emigrated

from the North. The natives of the Northern States are constantly

spreading over that portion of the American territory where they have

less to fear from competition; they discover resources there which

escaped the notice of the inhabitants; and, as they comply with a

system which they do not approve, they succeed in turning it to better

advantage than those who first founded and who still maintain it.

Were I inclined to continue this parallel, I could easily prove that

almost all the differences which may be remarked between the characters

of the Americans in the Southern and in the Northern States have

originated in slavery; but this would divert me from my subject, and my

present intention is not to point out all the consequences of

servitude, but those effects which it has produced upon the prosperity

of the countries which have admitted it.

The influence of slavery upon the production of wealth must have been

very imperfectly known in antiquity, as slavery then obtained

throughout the civilized world; and the nations which were unacquainted

with it were barbarous. And indeed Christianity only abolished slavery

by advocating the claims of the slave; at the present time it may be

attacked in the name of the master, and, upon this point, interest is

reconciled with morality.

As these truths became apparent in the United States, slavery receded

before the progress of experience. Servitude had begun in the South,

and had thence spread towards the North; but it now retires again.

Freedom, which started from the North, now descends uninterruptedly

towards the South. Amongst the great States, Pennsylvania now

constitutes the extreme limit of slavery to the North: but even within

those limits the slave system is shaken: Maryland, which is immediately

below Pennsylvania, is preparing for its abolition; and Virginia, which

comes next to Maryland, is already discussing its utility and its

dangers. \*l

l

[ A peculiar reason contributes to detach the two last-mentioned States

from the cause of slavery. The former wealth of this part of the Union

was principally derived from the cultivation of tobacco. This

cultivation is specially carried on by slaves; but within the last few

years the market-price of tobacco has diminished, whilst the value of

the slaves remains the same. Thus the ratio between the cost of

production and the value of the produce is changed. The natives of

Maryland and Virginia are therefore more disposed than they were thirty

years ago, to give up slave labor in the cultivation of tobacco, or to

give up slavery and tobacco at the same time.]

No great change takes place in human institutions without involving

amongst its causes the law of inheritance. When the law of

primogeniture obtained in the South, each family was represented by a

wealthy individual, who was neither compelled nor induced to labor; and

he was surrounded, as by parasitic plants, by the other members of his

family who were then excluded by law from sharing the common

inheritance, and who led the same kind of life as himself. The very

same thing then occurred in all the families of the South as still

happens in the wealthy families of some countries in Europe, namely,

that the younger sons remain in the same state of idleness as their

elder brother, without being as rich as he is. This identical result

seems to be produced in Europe and in America by wholly analogous

causes. In the South of the United States the whole race of whites

formed an aristocratic body, which was headed by a certain number of

privileged individuals, whose wealth was permanent, and whose leisure

was hereditary. These leaders of the American nobility kept alive the

traditional prejudices of the white race in the body of which they were

the representatives, and maintained the honor of inactive life. This

aristocracy contained many who were poor, but none who would work; its

members preferred want to labor, consequently no competition was set on

foot against negro laborers and slaves, and, whatever opinion might be

entertained as to the utility of their efforts, it was indispensable to

employ them, since there was no one else to work.

No sooner was the law of primogeniture abolished than fortunes began to

diminish, and all the families of the country were simultaneously

reduced to a state in which labor became necessary to procure the means

of subsistence: several of them have since entirely disappeared, and

all of them learned to look forward to the time at which it would be

necessary for everyone to provide for his own wants. Wealthy

individuals are still to be met with, but they no longer constitute a

compact and hereditary body, nor have they been able to adopt a line of

conduct in which they could persevere, and which they could infuse into

all ranks of society. The prejudice which stigmatized labor was in the

first place abandoned by common consent; the number of needy men was

increased, and the needy were allowed to gain a laborious subsistence

without blushing for their exertions. Thus one of the most immediate

consequences of the partible quality of estates has been to create a

class of free laborers. As soon as a competition was set on foot

between the free laborer and the slave, the inferiority of the latter

became manifest, and slavery was attacked in its fundamental principle,

which is the interest of the master.

As slavery recedes, the black population follows its retrograde course,

and returns with it towards those tropical regions from which it

originally came. However singular this fact may at first appear to be,

it may readily be explained. Although the Americans abolish the

principle of slavery, they do not set their slaves free. To illustrate

this remark, I will quote the example of the State of New York. In

1788, the State of New York prohibited the sale of slaves within its

limits, which was an indirect method of prohibiting the importation of

blacks. Thenceforward the number of negroes could only increase

according to the ratio of the natural increase of population. But eight

years later a more decisive measure was taken, and it was enacted that

all children born of slave parents after July 4, 1799, should be free.

No increase could then take place, and although slaves still existed,

slavery might be said to be abolished.

From the time at which a Northern State prohibited the importation of

slaves, no slaves were brought from the South to be sold in its

markets. On the other hand, as the sale of slaves was forbidden in that

State, an owner was no longer able to get rid of his slave (who thus

became a burdensome possession) otherwise than by transporting him to

the South. But when a Northern State declared that the son of the slave

should be born free, the slave lost a large portion of his market

value, since his posterity was no longer included in the bargain, and

the owner had then a strong interest in transporting him to the South.

Thus the same law prevents the slaves of the South from coming to the

Northern States, and drives those of the North to the South.

The want of free hands is felt in a State in proportion as the number

of slaves decreases. But in proportion as labor is performed by free

hands, slave labor becomes less productive; and the slave is then a

useless or onerous possession, whom it is important to export to those

Southern States where the same competition is not to be feared. Thus

the abolition of slavery does not set the slave free, but it merely

transfers him from one master to another, and from the North to the

South.

The emancipated negroes, and those born after the abolition of slavery,

do not, indeed, migrate from the North to the South; but their

situation with regard to the Europeans is not unlike that of the

aborigines of America; they remain half civilized, and deprived of

their rights in the midst of a population which is far superior to them

in wealth and in knowledge; where they are exposed to the tyranny of

the laws \*m and the intolerance of the people. On some accounts they

are still more to be pitied than the Indians, since they are haunted by

the reminiscence of slavery, and they cannot claim possession of a

single portion of the soil: many of them perish miserably, \*n and the

rest congregate in the great towns, where they perform the meanest

offices, and lead a wretched and precarious existence.

m

[ The States in which slavery is abolished usually do what they can to

render their territory disagreeable to the negroes as a place of

residence; and as a kind of emulation exists between the different

States in this respect, the unhappy blacks can only choose the least of

the evils which beset them.]

n

[ There is a very great difference between the mortality of the blacks

and of the whites in the States in which slavery is abolished; from

1820 to 1831 only one out of forty-two individuals of the white

population died in Philadelphia; but one negro out of twenty-one

individuals of the black population died in the same space of time. The

mortality is by no means so great amongst the negroes who are still

slaves. (See Emerson’s “Medical Statistics,” p. 28.)]

But even if the number of negroes continued to increase as rapidly as

when they were still in a state of slavery, as the number of whites

augments with twofold rapidity since the abolition of slavery, the

blacks would soon be, as it were, lost in the midst of a strange

population.

A district which is cultivated by slaves is in general more scantily

peopled than a district cultivated by free labor: moreover, America is

still a new country, and a State is therefore not half peopled at the

time when it abolishes slavery. No sooner is an end put to slavery than

the want of free labor is felt, and a crowd of enterprising adventurers

immediately arrive from all parts of the country, who hasten to profit

by the fresh resources which are then opened to industry. The soil is

soon divided amongst them, and a family of white settlers takes

possession of each tract of country. Besides which, European emigration

is exclusively directed to the free States; for what would be the fate

of a poor emigrant who crosses the Atlantic in search of ease and

happiness if he were to land in a country where labor is stigmatized as

degrading?

Thus the white population grows by its natural increase, and at the

same time by the immense influx of emigrants; whilst the black

population receives no emigrants, and is upon its decline. The

proportion which existed between the two races is soon inverted. The

negroes constitute a scanty remnant, a poor tribe of vagrants, which is

lost in the midst of an immense people in full possession of the land;

and the presence of the blacks is only marked by the injustice and the

hardships of which they are the unhappy victims.

In several of the Western States the negro race never made its

appearance, and in all the Northern States it is rapidly declining.

Thus the great question of its future condition is confined within a

narrow circle, where it becomes less formidable, though not more easy

of solution.

The more we descend towards the South, the more difficult does it

become to abolish slavery with advantage: and this arises from several

physical causes which it is important to point out.

The first of these causes is the climate; it is well known that in

proportion as Europeans approach the tropics they suffer more from

labor. Many of the Americans even assert that within a certain latitude

the exertions which a negro can make without danger are fatal to them;

\*o but I do not think that this opinion, which is so favorable to the

indolence of the inhabitants of southern regions, is confirmed by

experience. The southern parts of the Union are not hotter than the

South of Italy and of Spain; \*p and it may be asked why the European

cannot work as well there as in the two latter countries. If slavery

has been abolished in Italy and in Spain without causing the

destruction of the masters, why should not the same thing take place in

the Union? I cannot believe that nature has prohibited the Europeans in

Georgia and the Floridas, under pain of death, from raising the means

of subsistence from the soil, but their labor would unquestionably be

more irksome and less productive to them than to the inhabitants of New

England. As the free workman thus loses a portion of his superiority

over the slave in the Southern States, there are fewer inducements to

abolish slavery.

o

[ This is true of the spots in which rice is cultivated; rice-grounds,

which are unwholesome in all countries, are particularly dangerous in

those regions which are exposed to the beams of a tropical sun.

Europeans would not find it easy to cultivate the soil in that part of

the New World if it must be necessarily be made to produce rice; but

may they not subsist without rice-grounds?]

p

[ These States are nearer to the equator than Italy and Spain, but the

temperature of the continent of America is very much lower than that of

Europe.

The Spanish Government formerly caused a certain number of peasants

from the Acores to be transported into a district of Louisiana called

Attakapas, by way of experiment. These settlers still cultivate the

soil without the assistance of slaves, but their industry is so languid

as scarcely to supply their most necessary wants.]

All the plants of Europe grow in the northern parts of the Union; the

South has special productions of its own. It has been observed that

slave labor is a very expensive method of cultivating corn. The farmer

of corn land in a country where slavery is unknown habitually retains a

small number of laborers in his service, and at seed-time and harvest

he hires several additional hands, who only live at his cost for a

short period. But the agriculturist in a slave State is obliged to keep

a large number of slaves the whole year round, in order to sow his

fields and to gather in his crops, although their services are only

required for a few weeks; but slaves are unable to wait till they are

hired, and to subsist by their own labor in the mean time like free

laborers; in order to have their services they must be bought. Slavery,

independently of its general disadvantages, is therefore still more

inapplicable to countries in which corn is cultivated than to those

which produce crops of a different kind. The cultivation of tobacco, of

cotton, and especially of the sugar-cane, demands, on the other hand,

unremitting attention: and women and children are employed in it, whose

services are of but little use in the cultivation of wheat. Thus

slavery is naturally more fitted to the countries from which these

productions are derived. Tobacco, cotton, and the sugar-cane are

exclusively grown in the South, and they form one of the principal

sources of the wealth of those States. If slavery were abolished, the

inhabitants of the South would be constrained to adopt one of two

alternatives: they must either change their system of cultivation, and

then they would come into competition with the more active and more

experienced inhabitants of the North; or, if they continued to

cultivate the same produce without slave labor, they would have to

support the competition of the other States of the South, which might

still retain their slaves. Thus, peculiar reasons for maintaining

slavery exist in the South which do not operate in the North.

But there is yet another motive which is more cogent than all the

others: the South might indeed, rigorously speaking, abolish slavery;

but how should it rid its territory of the black population? Slaves and

slavery are driven from the North by the same law, but this twofold

result cannot be hoped for in the South.

The arguments which I have adduced to show that slavery is more natural

and more advantageous in the South than in the North, sufficiently

prove that the number of slaves must be far greater in the former

districts. It was to the southern settlements that the first Africans

were brought, and it is there that the greatest number of them have

always been imported. As we advance towards the South, the prejudice

which sanctions idleness increases in power. In the States nearest to

the tropics there is not a single white laborer; the negroes are

consequently much more numerous in the South than in the North. And, as

I have already observed, this disproportion increases daily, since the

negroes are transferred to one part of the Union as soon as slavery is

abolished in the other. Thus the black population augments in the

South, not only by its natural fecundity, but by the compulsory

emigration of the negroes from the North; and the African race has

causes of increase in the South very analogous to those which so

powerfully accelerate the growth of the European race in the North.

In the State of Maine there is one negro in 300 inhabitants; in

Massachusetts, one in 100; in New York, two in 100; in Pennsylvania,

three in the same number; in Maryland, thirty-four; in Virginia,

forty-two; and lastly, in South Carolina \*q fifty-five per cent. Such

was the proportion of the black population to the whites in the year

1830. But this proportion is perpetually changing, as it constantly

decreases in the North and augments in the South.

q

[ We find it asserted in an American work, entitled “Letters on the

Colonization Society,” by Mr. Carey, 1833, “That for the last forty

years the black race has increased more rapidly than the white race in

the State of South Carolina; and that if we take the average population

of the five States of the South into which slaves were first

introduced, viz., Maryland, Virginia, South Carolina, North Carolina,

and Georgia, we shall find that from 1790 to 1830 the whites have

augmented in the proportion of 80 to 100, and the blacks in that of 112

to 100.”

In the United States, in 1830, the population of the two races stood as

follows:—

States where slavery is abolished, 6,565,434 whites; 120,520 blacks.

Slave States, 3,960,814 whites; 2,208,102 blacks. [In 1890 the United

States contained a population of 54,983,890 whites, and 7,638,360

negroes.]]

It is evident that the most Southern States of the Union cannot abolish

slavery without incurring very great dangers, which the North had no

reason to apprehend when it emancipated its black population. We have

already shown the system by which the Northern States secure the

transition from slavery to freedom, by keeping the present generation

in chains, and setting their descendants free; by this means the

negroes are gradually introduced into society; and whilst the men who

might abuse their freedom are kept in a state of servitude, those who

are emancipated may learn the art of being free before they become

their own masters. But it would be difficult to apply this method in

the South. To declare that all the negroes born after a certain period

shall be free, is to introduce the principle and the notion of liberty

into the heart of slavery; the blacks whom the law thus maintains in a

state of slavery from which their children are delivered, are

astonished at so unequal a fate, and their astonishment is only the

prelude to their impatience and irritation. Thenceforward slavery

loses, in their eyes, that kind of moral power which it derived from

time and habit; it is reduced to a mere palpable abuse of force. The

Northern States had nothing to fear from the contrast, because in them

the blacks were few in number, and the white population was very

considerable. But if this faint dawn of freedom were to show two

millions of men their true position, the oppressors would have reason

to tremble. After having affranchised the children of their slaves the

Europeans of the Southern States would very shortly be obliged to

extend the same benefit to the whole black population.

Chapter XVIII: Future Condition Of Three Races—Part V

In the North, as I have already remarked, a twofold migration ensues

upon the abolition of slavery, or even precedes that event when

circumstances have rendered it probable; the slaves quit the country to

be transported southwards; and the whites of the Northern States, as

well as the emigrants from Europe, hasten to fill up their place. But

these two causes cannot operate in the same manner in the Southern

States. On the one hand, the mass of slaves is too great for any

expectation of their ever being removed from the country to be

entertained; and on the other hand, the Europeans and Anglo-Americans

of the North are afraid to come to inhabit a country in which labor has

not yet been reinstated in its rightful honors. Besides, they very

justly look upon the States in which the proportion of the negroes

equals or exceeds that of the whites, as exposed to very great dangers;

and they refrain from turning their activity in that direction.

Thus the inhabitants of the South would not be able, like their

Northern countrymen, to initiate the slaves gradually into a state of

freedom by abolishing slavery; they have no means of perceptibly

diminishing the black population, and they would remain unsupported to

repress its excesses. So that in the course of a few years, a great

people of free negroes would exist in the heart of a white nation of

equal size.

The same abuses of power which still maintain slavery, would then

become the source of the most alarming perils which the white

population of the South might have to apprehend. At the present time

the descendants of the Europeans are the sole owners of the land; the

absolute masters of all labor; and the only persons who are possessed

of wealth, knowledge, and arms. The black is destitute of all these

advantages, but he subsists without them because he is a slave. If he

were free, and obliged to provide for his own subsistence, would it be

possible for him to remain without these things and to support life? Or

would not the very instruments of the present superiority of the white,

whilst slavery exists, expose him to a thousand dangers if it were

abolished?

As long as the negro remains a slave, he may be kept in a condition not

very far removed from that of the brutes; but, with his liberty, he

cannot but acquire a degree of instruction which will enable him to

appreciate his misfortunes, and to discern a remedy for them. Moreover,

there exists a singular principle of relative justice which is very

firmly implanted in the human heart. Men are much more forcibly struck

by those inequalities which exist within the circle of the same class,

than with those which may be remarked between different classes. It is

more easy for them to admit slavery, than to allow several millions of

citizens to exist under a load of eternal infamy and hereditary

wretchedness. In the North the population of freed negroes feels these

hardships and resents these indignities; but its numbers and its powers

are small, whilst in the South it would be numerous and strong.

As soon as it is admitted that the whites and the emancipated blacks

are placed upon the same territory in the situation of two alien

communities, it will readily be understood that there are but two

alternatives for the future; the negroes and the whites must either

wholly part or wholly mingle. I have already expressed the conviction

which I entertain as to the latter event. \*r I do not imagine that the

white and black races will ever live in any country upon an equal

footing. But I believe the difficulty to be still greater in the United

States than elsewhere. An isolated individual may surmount the

prejudices of religion, of his country, or of his race, and if this

individual is a king he may effect surprising changes in society; but a

whole people cannot rise, as it were, above itself. A despot who should

subject the Americans and their former slaves to the same yoke, might

perhaps succeed in commingling their races; but as long as the American

democracy remains at the head of affairs, no one will undertake so

difficult a task; and it may be foreseen that the freer the white

population of the United States becomes, the more isolated will it

remain. \*s

r

[ This opinion is sanctioned by authorities infinitely weightier than

anything that I can say: thus, for instance, it is stated in the

“Memoirs of Jefferson” (as collected by M. Conseil), “Nothing is more

clearly written in the book of destiny than the emancipation of the

blacks; and it is equally certain that the two races will never live in

a state of equal freedom under the same government, so insurmountable

are the barriers which nature, habit, and opinions have established

between them.”]

s

[ If the British West India planters had governed themselves, they

would assuredly not have passed the Slave Emancipation Bill which the

mother-country has recently imposed upon them.]

I have previously observed that the mixed race is the true bond of

union between the Europeans and the Indians; just so the mulattoes are

the true means of transition between the white and the negro; so that

wherever mulattoes abound, the intermixture of the two races is not

impossible. In some parts of America, the European and the negro races

are so crossed by one another, that it is rare to meet with a man who

is entirely black, or entirely white: when they are arrived at this

point, the two races may really be said to be combined; or rather to

have been absorbed in a third race, which is connected with both

without being identical with either.

Of all the Europeans the English are those who have mixed least with

the negroes. More mulattoes are to be seen in the South of the Union

than in the North, but still they are infinitely more scarce than in

any other European colony: mulattoes are by no means numerous in the

United States; they have no force peculiar to themselves, and when

quarrels originating in differences of color take place, they generally

side with the whites; just as the lackeys of the great, in Europe,

assume the contemptuous airs of nobility to the lower orders.

The pride of origin, which is natural to the English, is singularly

augmented by the personal pride which democratic liberty fosters

amongst the Americans: the white citizen of the United States is proud

of his race, and proud of himself. But if the whites and the negroes do

not intermingle in the North of the Union, how should they mix in the

South? Can it be supposed for an instant, that an American of the

Southern States, placed, as he must forever be, between the white man

with all his physical and moral superiority and the negro, will ever

think of preferring the latter? The Americans of the Southern States

have two powerful passions which will always keep them aloof; the first

is the fear of being assimilated to the negroes, their former slaves;

and the second the dread of sinking below the whites, their neighbors.

If I were called upon to predict what will probably occur at some

future time, I should say, that the abolition of slavery in the South

will, in the common course of things, increase the repugnance of the

white population for the men of color. I found this opinion upon the

analogous observation which I already had occasion to make in the

North. I there remarked that the white inhabitants of the North avoid

the negroes with increasing care, in proportion as the legal barriers

of separation are removed by the legislature; and why should not the

same result take place in the South? In the North, the whites are

deterred from intermingling with the blacks by the fear of an imaginary

danger; in the South, where the danger would be real, I cannot imagine

that the fear would be less general.

If, on the one hand, it be admitted (and the fact is unquestionable)

that the colored population perpetually accumulates in the extreme

South, and that it increases more rapidly than that of the whites; and

if, on the other hand, it be allowed that it is impossible to foresee a

time at which the whites and the blacks will be so intermingled as to

derive the same benefits from society; must it not be inferred that the

blacks and the whites will, sooner or later, come to open strife in the

Southern States of the Union? But if it be asked what the issue of the

struggle is likely to be, it will readily be understood that we are

here left to form a very vague surmise of the truth. The human mind may

succeed in tracing a wide circle, as it were, which includes the course

of future events; but within that circle a thousand various chances and

circumstances may direct it in as many different ways; and in every

picture of the future there is a dim spot, which the eye of the

understanding cannot penetrate. It appears, however, to be extremely

probable that in the West Indian Islands the white race is destined to

be subdued, and the black population to share the same fate upon the

continent.

In the West India Islands the white planters are surrounded by an

immense black population; on the continent, the blacks are placed

between the ocean and an innumerable people, which already extends over

them in a dense mass, from the icy confines of Canada to the frontiers

of Virginia, and from the banks of the Missouri to the shores of the

Atlantic. If the white citizens of North America remain united, it

cannot be supposed that the negroes will escape the destruction with

which they are menaced; they must be subdued by want or by the sword.

But the black population which is accumulated along the coast of the

Gulf of Mexico, has a chance of success if the American Union is

dissolved when the struggle between the two races begins. If the

federal tie were broken, the citizens of the South would be wrong to

rely upon any lasting succor from their Northern countrymen. The latter

are well aware that the danger can never reach them; and unless they

are constrained to march to the assistance of the South by a positive

obligation, it may be foreseen that the sympathy of color will be

insufficient to stimulate their exertions.

Yet, at whatever period the strife may break out, the whites of the

South, even if they are abandoned to their own resources, will enter

the lists with an immense superiority of knowledge and of the means of

warfare; but the blacks will have numerical strength and the energy of

despair upon their side, and these are powerful resources to men who

have taken up arms. The fate of the white population of the Southern

States will, perhaps, be similar to that of the Moors in Spain. After

having occupied the land for centuries, it will perhaps be forced to

retire to the country whence its ancestors came, and to abandon to the

negroes the possession of a territory, which Providence seems to have

more peculiarly destined for them, since they can subsist and labor in

it more easily that the whites.

The danger of a conflict between the white and the black inhabitants of

the Southern States of the Union—a danger which, however remote it may

be, is inevitable—perpetually haunts the imagination of the Americans.

The inhabitants of the North make it a common topic of conversation,

although they have no direct injury to fear from the struggle; but they

vainly endeavor to devise some means of obviating the misfortunes which

they foresee. In the Southern States the subject is not discussed: the

planter does not allude to the future in conversing with strangers; the

citizen does not communicate his apprehensions to his friends; he seeks

to conceal them from himself; but there is something more alarming in

the tacit forebodings of the South, than in the clamorous fears of the

Northern States.

This all-pervading disquietude has given birth to an undertaking which

is but little known, but which may have the effect of changing the fate

of a portion of the human race. From apprehension of the dangers which

I have just been describing, a certain number of American citizens have

formed a society for the purpose of exporting to the coast of Guinea,

at their own expense, such free negroes as may be willing to escape

from the oppression to which they are subject. \*t In 1820, the society

to which I allude formed a settlement in Africa, upon the seventh

degree of north latitude, which bears the name of Liberia. The most

recent intelligence informs us that 2,500 negroes are collected there;

they have introduced the democratic institutions of America into the

country of their forefathers; and Liberia has a representative system

of government, negro jurymen, negro magistrates, and negro priests;

churches have been built, newspapers established, and, by a singular

change in the vicissitudes of the world, white men are prohibited from

sojourning within the settlement. \*u

t

[ This society assumed the name of “The Society for the Colonization of

the Blacks.” See its annual reports; and more particularly the

fifteenth. See also the pamphlet, to which allusion has already been

made, entitled “Letters on the Colonization Society, and on its

probable Results,” by Mr. Carey, Philadelphia, 1833.]

u

[ This last regulation was laid down by the founders of the settlement;

they apprehended that a state of things might arise in Africa similar

to that which exists on the frontiers of the United States, and that if

the negroes, like the Indians, were brought into collision with a

people more enlightened than themselves, they would be destroyed before

they could be civilized.]

This is indeed a strange caprice of fortune. Two hundred years have now

elapsed since the inhabitants of Europe undertook to tear the negro

from his family and his home, in order to transport him to the shores

of North America; at the present day, the European settlers are engaged

in sending back the descendants of those very negroes to the Continent

from which they were originally taken; and the barbarous Africans have

been brought into contact with civilization in the midst of bondage,

and have become acquainted with free political institutions in slavery.

Up to the present time Africa has been closed against the arts and

sciences of the whites; but the inventions of Europe will perhaps

penetrate into those regions, now that they are introduced by Africans

themselves. The settlement of Liberia is founded upon a lofty and a

most fruitful idea; but whatever may be its results with regard to the

Continent of Africa, it can afford no remedy to the New World.

In twelve years the Colonization Society has transported 2,500 negroes

to Africa; in the same space of time about 700,000 blacks were born in

the United States. If the colony of Liberia were so situated as to be

able to receive thousands of new inhabitants every year, and if the

negroes were in a state to be sent thither with advantage; if the Union

were to supply the society with annual subsidies, \*v and to transport

the negroes to Africa in the vessels of the State, it would still be

unable to counterpoise the natural increase of population amongst the

blacks; and as it could not remove as many men in a year as are born

upon its territory within the same space of time, it would fail in

suspending the growth of the evil which is daily increasing in the

States. \*w The negro race will never leave those shores of the American

continent, to which it was brought by the passions and the vices of

Europeans; and it will not disappear from the New World as long as it

continues to exist. The inhabitants of the United States may retard the

calamities which they apprehend, but they cannot now destroy their

efficient cause.

v

[ Nor would these be the only difficulties attendant upon the

undertaking; if the Union undertook to buy up the negroes now in

America, in order to transport them to Africa, the price of slaves,

increasing with their scarcity, would soon become enormous; and the

States of the North would never consent to expend such great sums for a

purpose which would procure such small advantages to themselves. If the

Union took possession of the slaves in the Southern States by force, or

at a rate determined by law, an insurmountable resistance would arise

in that part of the country. Both alternatives are equally impossible.]

w

[ In 1830 there were in the United States 2,010,327 slaves and 319,439

free blacks, in all 2,329,766 negroes: which formed about one-fifth of

the total population of the United States at that time.]

I am obliged to confess that I do not regard the abolition of slavery

as a means of warding off the struggle of the two races in the United

States. The negroes may long remain slaves without complaining; but if

they are once raised to the level of free men, they will soon revolt at

being deprived of all their civil rights; and as they cannot become the

equals of the whites, they will speedily declare themselves as enemies.

In the North everything contributed to facilitate the emancipation of

the slaves; and slavery was abolished, without placing the free negroes

in a position which could become formidable, since their number was too

small for them ever to claim the exercise of their rights. But such is

not the case in the South. The question of slavery was a question of

commerce and manufacture for the slave-owners in the North; for those

of the South, it is a question of life and death. God forbid that I

should seek to justify the principle of negro slavery, as has been done

by some American writers! But I only observe that all the countries

which formerly adopted that execrable principle are not equally able to

abandon it at the present time.

When I contemplate the condition of the South, I can only discover two

alternatives which may be adopted by the white inhabitants of those

States; viz., either to emancipate the negroes, and to intermingle with

them; or, remaining isolated from them, to keep them in a state of

slavery as long as possible. All intermediate measures seem to me

likely to terminate, and that shortly, in the most horrible of civil

wars, and perhaps in the extirpation of one or other of the two races.

Such is the view which the Americans of the South take of the question,

and they act consistently with it. As they are determined not to mingle

with the negroes, they refuse to emancipate them.

Not that the inhabitants of the South regard slavery as necessary to

the wealth of the planter, for on this point many of them agree with

their Northern countrymen in freely admitting that slavery is

prejudicial to their interest; but they are convinced that, however

prejudicial it may be, they hold their lives upon no other tenure. The

instruction which is now diffused in the South has convinced the

inhabitants that slavery is injurious to the slave-owner, but it has

also shown them, more clearly than before, that no means exist of

getting rid of its bad consequences. Hence arises a singular contrast;

the more the utility of slavery is contested, the more firmly is it

established in the laws; and whilst the principle of servitude is

gradually abolished in the North, that self-same principle gives rise

to more and more rigorous consequences in the South.

The legislation of the Southern States with regard to slaves, presents

at the present day such unparalleled atrocities as suffice to show how

radically the laws of humanity have been perverted, and to betray the

desperate position of the community in which that legislation has been

promulgated. The Americans of this portion of the Union have not,

indeed, augmented the hardships of slavery; they have, on the contrary,

bettered the physical condition of the slaves. The only means by which

the ancients maintained slavery were fetters and death; the Americans

of the South of the Union have discovered more intellectual securities

for the duration of their power. They have employed their despotism and

their violence against the human mind. In antiquity, precautions were

taken to prevent the slave from breaking his chains; at the present day

measures are adopted to deprive him even of the desire of freedom. The

ancients kept the bodies of their slaves in bondage, but they placed no

restraint upon the mind and no check upon education; and they acted

consistently with their established principle, since a natural

termination of slavery then existed, and one day or other the slave

might be set free, and become the equal of his master. But the

Americans of the South, who do not admit that the negroes can ever be

commingled with themselves, have forbidden them to be taught to read or

to write, under severe penalties; and as they will not raise them to

their own level, they sink them as nearly as possible to that of the

brutes.

The hope of liberty had always been allowed to the slave to cheer the

hardships of his condition. But the Americans of the South are well

aware that emancipation cannot but be dangerous, when the freed man can

never be assimilated to his former master. To give a man his freedom,

and to leave him in wretchedness and ignominy, is nothing less than to

prepare a future chief for a revolt of the slaves. Moreover, it has

long been remarked that the presence of a free negro vaguely agitates

the minds of his less fortunate brethren, and conveys to them a dim

notion of their rights. The Americans of the South have consequently

taken measures to prevent slave-owners from emancipating their slaves

in most cases; not indeed by a positive prohibition, but by subjecting

that step to various forms which it is difficult to comply with. I

happened to meet with an old man, in the South of the Union, who had

lived in illicit intercourse with one of his negresses, and had had

several children by her, who were born the slaves of their father. He

had indeed frequently thought of bequeathing to them at least their

liberty; but years had elapsed without his being able to surmount the

legal obstacles to their emancipation, and in the mean while his old

age was come, and he was about to die. He pictured to himself his sons

dragged from market to market, and passing from the authority of a

parent to the rod of the stranger, until these horrid anticipations

worked his expiring imagination into frenzy. When I saw him he was a

prey to all the anguish of despair, and he made me feel how awful is

the retribution of nature upon those who have broken her laws.

These evils are unquestionably great; but they are the necessary and

foreseen consequence of the very principle of modern slavery. When the

Europeans chose their slaves from a race differing from their own,

which many of them considered as inferior to the other races of

mankind, and which they all repelled with horror from any notion of

intimate connection, they must have believed that slavery would last

forever; since there is no intermediate state which can be durable

between the excessive inequality produced by servitude and the complete

equality which originates in independence. The Europeans did

imperfectly feel this truth, but without acknowledging it even to

themselves. Whenever they have had to do with negroes, their conduct

has either been dictated by their interest and their pride, or by their

compassion. They first violated every right of humanity by their

treatment of the negro and they afterwards informed him that those

rights were precious and inviolable. They affected to open their ranks

to the slaves, but the negroes who attempted to penetrate into the

community were driven back with scorn; and they have incautiously and

involuntarily been led to admit of freedom instead of slavery, without

having the courage to be wholly iniquitous, or wholly just.

If it be impossible to anticipate a period at which the Americans of

the South will mingle their blood with that of the negroes, can they

allow their slaves to become free without compromising their own

security? And if they are obliged to keep that race in bondage in order

to save their own families, may they not be excused for availing

themselves of the means best adapted to that end? The events which are

taking place in the Southern States of the Union appear to me to be at

once the most horrible and the most natural results of slavery. When I

see the order of nature overthrown, and when I hear the cry of humanity

in its vain struggle against the laws, my indignation does not light

upon the men of our own time who are the instruments of these outrages;

but I reserve my execration for those who, after a thousand years of

freedom, brought back slavery into the world once more.

Whatever may be the efforts of the Americans of the South to maintain

slavery, they will not always succeed. Slavery, which is now confined

to a single tract of the civilized earth, which is attacked by

Christianity as unjust, and by political economy as prejudicial; and

which is now contrasted with democratic liberties and the information

of our age, cannot survive. By the choice of the master, or by the will

of the slave, it will cease; and in either case great calamities may be

expected to ensue. If liberty be refused to the negroes of the South,

they will in the end seize it for themselves by force; if it be given,

they will abuse it ere long. \*x

x

[ [This chapter is no longer applicable to the condition of the negro

race in the United States, since the abolition of slavery was the

result, though not the object, of the great Civil War, and the negroes

have been raised to the condition not only of freedmen, but of

citizens; and in some States they exercise a preponderating political

power by reason of their numerical majority. Thus, in South Carolina

there were in 1870, 289,667 whites and 415,814 blacks. But the

emancipation of the slaves has not solved the problem, how two races so

different and so hostile are to live together in peace in one country

on equal terms. That problem is as difficult, perhaps more difficult

than ever; and to this difficulty the author’s remarks are still

perfectly applicable.]]

Chapter XVIII: Future Condition Of Three Races—Part VI

What Are The Chances In Favor Of The Duration Of The American Union,

And What Dangers Threaten It \*y

y

[ [This chapter is one of the most curious and interesting portions of

the work, because it embraces almost all the constitutional and social

questions which were raised by the great secession of the South and

decided by the results of the Civil War. But it must be confessed that

the sagacity of the author is sometimes at fault in these speculations,

and did not save him from considerable errors, which the course of

events has since made apparent. He held that “the legislators of the

Constitution of 1789 were not appointed to constitute the government of

a single people, but to regulate the association of several States;

that the Union was formed by the voluntary agreement of the States, and

in uniting together they have not forfeited their nationality, nor have

they been reduced to the condition of one and the same people.” Whence

he inferred that “if one of the States chose to withdraw its name from

the contract, it would be difficult to disprove its right of doing so;

and that the Federal Government would have no means of maintaining its

claims directly, either by force or by right.” This is the Southern

theory of the Constitution, and the whole case of the South in favor of

secession. To many Europeans, and to some American (Northern) jurists,

this view appeared to be sound; but it was vigorously resisted by the

North, and crushed by force of arms.

The author of this book was mistaken in supposing that the “Union was a

vast body which presents no definite object to patriotic feeling.” When

the day of trial came, millions of men were ready to lay down their

lives for it. He was also mistaken in supposing that the Federal

Executive is so weak that it requires the free consent of the governed

to enable it to subsist, and that it would be defeated in a struggle to

maintain the Union against one or more separate States. In 1861 nine

States, with a population of 8,753,000, seceded, and maintained for

four years a resolute but unequal contest for independence, but they

were defeated.

Lastly, the author was mistaken in supposing that a community of

interests would always prevail between North and South sufficiently

powerful to bind them together. He overlooked the influence which the

question of slavery must have on the Union the moment that the majority

of the people of the North declared against it. In 1831, when the

author visited America, the anti-slavery agitation had scarcely begun;

and the fact of Southern slavery was accepted by men of all parties,

even in the States where there were no slaves: and that was

unquestionably the view taken by all the States and by all American

statesmen at the time of the adoption of the Constitution, in 1789. But

in the course of thirty years a great change took place, and the North

refused to perpetuate what had become the “peculiar institution” of the

South, especially as it gave the South a species of aristocratic

preponderance. The result was the ratification, in December, 1865, of

the celebrated 13th article or amendment of the Constitution, which

declared that “neither slavery nor involuntary servitude—except as a

punishment for crime—shall exist within the United States.” To which

was soon afterwards added the 15th article, “The right of citizens to

vote shall not be denied or abridged by the United States, or by any

State, on account of race, color, or previous servitude.” The

emancipation of several millions of negro slaves without compensation,

and the transfer to them of political preponderance in the States in

which they outnumber the white population, were acts of the North

totally opposed to the interests of the South, and which could only

have been carried into effect by conquest.—Translator’s Note.]]

Reason for which the preponderating force lies in the States rather

than in the Union—The Union will only last as long as all the States

choose to belong to it—Causes which tend to keep them united—Utility of

the Union to resist foreign enemies, and to prevent the existence of

foreigners in America—No natural barriers between the several States—No

conflicting interests to divide them—Reciprocal interests of the

Northern, Southern, and Western States—Intellectual ties of

union—Uniformity of opinions—Dangers of the Union resulting from the

different characters and the passions of its citizens—Character of the

citizens in the South and in the North—The rapid growth of the Union

one of its greatest dangers—Progress of the population to the

Northwest—Power gravitates in the same direction—Passions originating

from sudden turns of fortune—Whether the existing Government of the

Union tends to gain strength, or to lose it—Various signs of its

decrease—Internal improvements—Waste lands—Indians—The Bank—The

Tariff—General Jackson.

The maintenance of the existing institutions of the several States

depends in some measure upon the maintenance of the Union itself. It is

therefore important in the first instance to inquire into the probable

fate of the Union. One point may indeed be assumed at once: if the

present confederation were dissolved, it appears to me to be

incontestable that the States of which it is now composed would not

return to their original isolated condition, but that several unions

would then be formed in the place of one. It is not my intention to

inquire into the principles upon which these new unions would probably

be established, but merely to show what the causes are which may effect

the dismemberment of the existing confederation.

With this object I shall be obliged to retrace some of the steps which

I have already taken, and to revert to topics which I have before

discussed. I am aware that the reader may accuse me of repetition, but

the importance of the matter which still remains to be treated is my

excuse; I had rather say too much, than say too little to be thoroughly

understood, and I prefer injuring the author to slighting the subject.

The legislators who formed the Constitution of 1789 endeavored to

confer a distinct and preponderating authority upon the federal power.

But they were confined by the conditions of the task which they had

undertaken to perform. They were not appointed to constitute the

government of a single people, but to regulate the association of

several States; and, whatever their inclinations might be, they could

not but divide the exercise of sovereignty in the end.

In order to understand the consequences of this division, it is

necessary to make a short distinction between the affairs of the

Government. There are some objects which are national by their very

nature, that is to say, which affect the nation as a body, and can only

be intrusted to the man or the assembly of men who most completely

represent the entire nation. Amongst these may be reckoned war and

diplomacy. There are other objects which are provincial by their very

nature, that is to say, which only affect certain localities, and which

can only be properly treated in that locality. Such, for instance, is

the budget of a municipality. Lastly, there are certain objects of a

mixed nature, which are national inasmuch as they affect all the

citizens who compose the nation, and which are provincial inasmuch as

it is not necessary that the nation itself should provide for them all.

Such are the rights which regulate the civil and political condition of

the citizens. No society can exist without civil and political rights.

These rights therefore interest all the citizens alike; but it is not

always necessary to the existence and the prosperity of the nation that

these rights should be uniform, nor, consequently, that they should be

regulated by the central authority.

There are, then, two distinct categories of objects which are submitted

to the direction of the sovereign power; and these categories occur in

all well-constituted communities, whatever the basis of the political

constitution may otherwise be. Between these two extremes the objects

which I have termed mixed may be considered to lie. As these objects

are neither exclusively national nor entirely provincial, they may be

obtained by a national or by a provincial government, according to the

agreement of the contracting parties, without in any way impairing the

contract of association.

The sovereign power is usually formed by the union of separate

individuals, who compose a people; and individual powers or collective

forces, each representing a very small portion of the sovereign

authority, are the sole elements which are subjected to the general

Government of their choice. In this case the general Government is more

naturally called upon to regulate, not only those affairs which are of

essential national importance, but those which are of a more local

interest; and the local governments are reduced to that small share of

sovereign authority which is indispensable to their prosperity.

But sometimes the sovereign authority is composed of preorganized

political bodies, by virtue of circumstances anterior to their union;

and in this case the provincial governments assume the control, not

only of those affairs which more peculiarly belong to their province,

but of all, or of a part of the mixed affairs to which allusion has

been made. For the confederate nations which were independent sovereign

States before their union, and which still represent a very

considerable share of the sovereign power, have only consented to cede

to the general Government the exercise of those rights which are

indispensable to the Union.

When the national Government, independently of the prerogatives

inherent in its nature, is invested with the right of regulating the

affairs which relate partly to the general and partly to the local

interests, it possesses a preponderating influence. Not only are its

own rights extensive, but all the rights which it does not possess

exist by its sufferance, and it may be apprehended that the provincial

governments may be deprived of their natural and necessary prerogatives

by its influence.

When, on the other hand, the provincial governments are invested with

the power of regulating those same affairs of mixed interest, an

opposite tendency prevails in society. The preponderating force resides

in the province, not in the nation; and it may be apprehended that the

national Government may in the end be stripped of the privileges which

are necessary to its existence.

Independent nations have therefore a natural tendency to

centralization, and confederations to dismemberment.

It now only remains for us to apply these general principles to the

American Union. The several States were necessarily possessed of the

right of regulating all exclusively provincial affairs. Moreover these

same States retained the rights of determining the civil and political

competency of the citizens, or regulating the reciprocal relations of

the members of the community, and of dispensing justice; rights which

are of a general nature, but which do not necessarily appertain to the

national Government. We have shown that the Government of the Union is

invested with the power of acting in the name of the whole nation in

those cases in which the nation has to appear as a single and undivided

power; as, for instance, in foreign relations, and in offering a common

resistance to a common enemy; in short, in conducting those affairs

which I have styled exclusively national.

In this division of the rights of sovereignty, the share of the Union

seems at first sight to be more considerable than that of the States;

but a more attentive investigation shows it to be less so. The

undertakings of the Government of the Union are more vast, but their

influence is more rarely felt. Those of the provincial governments are

comparatively small, but they are incessant, and they serve to keep

alive the authority which they represent. The Government of the Union

watches the general interests of the country; but the general interests

of a people have a very questionable influence upon individual

happiness, whilst provincial interests produce a most immediate effect

upon the welfare of the inhabitants. The Union secures the independence

and the greatness of the nation, which do not immediately affect

private citizens; but the several States maintain the liberty, regulate

the rights, protect the fortune, and secure the life and the whole

future prosperity of every citizen.

The Federal Government is very far removed from its subjects, whilst

the provincial governments are within the reach of them all, and are

ready to attend to the smallest appeal. The central Government has upon

its side the passions of a few superior men who aspire to conduct it;

but upon the side of the provincial governments are the interests of

all those second-rate individuals who can only hope to obtain power

within their own State, and who nevertheless exercise the largest share

of authority over the people because they are placed nearest to its

level. The Americans have therefore much more to hope and to fear from

the States than from the Union; and, in conformity with the natural

tendency of the human mind, they are more likely to attach themselves

to the former than to the latter. In this respect their habits and

feelings harmonize with their interests.

When a compact nation divides its sovereignty, and adopts a confederate

form of government, the traditions, the customs, and the manners of the

people are for a long time at variance with their legislation; and the

former tend to give a degree of influence to the central government

which the latter forbids. When a number of confederate states unite to

form a single nation, the same causes operate in an opposite direction.

I have no doubt that if France were to become a confederate republic

like that of the United States, the government would at first display

more energy than that of the Union; and if the Union were to alter its

constitution to a monarchy like that of France, I think that the

American Government would be a long time in acquiring the force which

now rules the latter nation. When the national existence of the

Anglo-Americans began, their provincial existence was already of long

standing; necessary relations were established between the townships

and the individual citizens of the same States; and they were

accustomed to consider some objects as common to them all, and to

conduct other affairs as exclusively relating to their own special

interests.

The Union is a vast body which presents no definite object to patriotic

feeling. The forms and limits of the State are distinct and

circumscribed; since it represents a certain number of objects which

are familiar to the citizens and beloved by all. It is identified with

the very soil, with the right of property and the domestic affections,

with the recollections of the past, the labors of the present, and the

hopes of the future. Patriotism, then, which is frequently a mere

extension of individual egotism, is still directed to the State, and is

not excited by the Union. Thus the tendency of the interests, the

habits, and the feelings of the people is to centre political activity

in the States, in preference to the Union.

It is easy to estimate the different forces of the two governments, by

remarking the manner in which they fulfil their respective functions.

Whenever the government of a State has occasion to address an

individual or an assembly of individuals, its language is clear and

imperative; and such is also the tone of the Federal Government in its

intercourse with individuals, but no sooner has it anything to do with

a State than it begins to parley, to explain its motives and to justify

its conduct, to argue, to advise, and, in short, anything but to

command. If doubts are raised as to the limits of the constitutional

powers of each government, the provincial government prefers its claim

with boldness, and takes prompt and energetic steps to support it. In

the mean while the Government of the Union reasons; it appeals to the

interests, to the good sense, to the glory of the nation; it

temporizes, it negotiates, and does not consent to act until it is

reduced to the last extremity. At first sight it might readily be

imagined that it is the provincial government which is armed with the

authority of the nation, and that Congress represents a single State.

The Federal Government is, therefore, notwithstanding the precautions

of those who founded it, naturally so weak that it more peculiarly

requires the free consent of the governed to enable it to subsist. It

is easy to perceive that its object is to enable the States to realize

with facility their determination of remaining united; and, as long as

this preliminary condition exists, its authority is great, temperate,

and effective. The Constitution fits the Government to control

individuals, and easily to surmount such obstacles as they may be

inclined to offer; but it was by no means established with a view to

the possible separation of one or more of the States from the Union.

If the sovereignty of the Union were to engage in a struggle with that

of the States at the present day, its defeat may be confidently

predicted; and it is not probable that such a struggle would be

seriously undertaken. As often as a steady resistance is offered to the

Federal Government it will be found to yield. Experience has hitherto

shown that whenever a State has demanded anything with perseverance and

resolution, it has invariably succeeded; and that if a separate

government has distinctly refused to act, it was left to do as it

thought fit. \*z

z

[ See the conduct of the Northern States in the war of 1812. “During

that war,” says Jefferson in a letter to General Lafayette, “four of

the Eastern States were only attached to the Union, like so many

inanimate bodies to living men.”]

But even if the Government of the Union had any strength inherent in

itself, the physical situation of the country would render the exercise

of that strength very difficult. \*a The United States cover an immense

territory; they are separated from each other by great distances; and

the population is disseminated over the surface of a country which is

still half a wilderness. If the Union were to undertake to enforce the

allegiance of the confederate States by military means, it would be in

a position very analogous to that of England at the time of the War of

Independence.

a

[ The profound peace of the Union affords no pretext for a standing

army; and without a standing army a government is not prepared to

profit by a favorable opportunity to conquer resistance, and take the

sovereign power by surprise. [This note, and the paragraph in the text

which precedes, have been shown by the results of the Civil War to be a

misconception of the writer.]]

However strong a government may be, it cannot easily escape from the

consequences of a principle which it has once admitted as the

foundation of its constitution. The Union was formed by the voluntary

agreement of the States; and, in uniting together, they have not

forfeited their nationality, nor have they been reduced to the

condition of one and the same people. If one of the States chose to

withdraw its name from the contract, it would be difficult to disprove

its right of doing so; and the Federal Government would have no means

of maintaining its claims directly, either by force or by right. In

order to enable the Federal Government easily to conquer the resistance

which may be offered to it by any one of its subjects, it would be

necessary that one or more of them should be specially interested in

the existence of the Union, as has frequently been the case in the

history of confederations.

If it be supposed that amongst the States which are united by the

federal tie there are some which exclusively enjoy the principal

advantages of union, or whose prosperity depends on the duration of

that union, it is unquestionable that they will always be ready to

support the central Government in enforcing the obedience of the

others. But the Government would then be exerting a force not derived

from itself, but from a principle contrary to its nature. States form

confederations in order to derive equal advantages from their union;

and in the case just alluded to, the Federal Government would derive

its power from the unequal distribution of those benefits amongst the

States.

If one of the confederate States have acquired a preponderance

sufficiently great to enable it to take exclusive possession of the

central authority, it will consider the other States as subject

provinces, and it will cause its own supremacy to be respected under

the borrowed name of the sovereignty of the Union. Great things may

then be done in the name of the Federal Government, but in reality that

Government will have ceased to exist. \*b In both these cases, the power

which acts in the name of the confederation becomes stronger the more

it abandons the natural state and the acknowledged principles of

confederations.

b

[ Thus the province of Holland in the republic of the Low Countries,

and the Emperor in the Germanic Confederation, have sometimes put

themselves in the place of the union, and have employed the federal

authority to their own advantage.]

In America the existing Union is advantageous to all the States, but it

is not indispensable to any one of them. Several of them might break

the federal tie without compromising the welfare of the others,

although their own prosperity would be lessened. As the existence and

the happiness of none of the States are wholly dependent on the present

Constitution, they would none of them be disposed to make great

personal sacrifices to maintain it. On the other hand, there is no

State which seems hitherto to have its ambition much interested in the

maintenance of the existing Union. They certainly do not all exercise

the same influence in the federal councils, but no one of them can hope

to domineer over the rest, or to treat them as its inferiors or as its

subjects.

It appears to me unquestionable that if any portion of the Union

seriously desired to separate itself from the other States, they would

not be able, nor indeed would they attempt, to prevent it; and that the

present Union will only last as long as the States which compose it

choose to continue members of the confederation. If this point be

admitted, the question becomes less difficult; and our object is, not

to inquire whether the States of the existing Union are capable of

separating, but whether they will choose to remain united.

Amongst the various reasons which tend to render the existing Union

useful to the Americans, two principal causes are peculiarly evident to

the observer. Although the Americans are, as it were, alone upon their

continent, their commerce makes them the neighbors of all the nations

with which they trade. Notwithstanding their apparent isolation, the

Americans require a certain degree of strength, which they cannot

retain otherwise than by remaining united to each other. If the States

were to split, they would not only diminish the strength which they are

now able to display towards foreign nations, but they would soon create

foreign powers upon their own territory. A system of inland

custom-houses would then be established; the valleys would be divided

by imaginary boundary lines; the courses of the rivers would be

confined by territorial distinctions; and a multitude of hindrances

would prevent the Americans from exploring the whole of that vast

continent which Providence has allotted to them for a dominion. At

present they have no invasion to fear, and consequently no standing

armies to maintain, no taxes to levy. If the Union were dissolved, all

these burdensome measures might ere long be required. The Americans are

then very powerfully interested in the maintenance of their Union. On

the other hand, it is almost impossible to discover any sort of

material interest which might at present tempt a portion of the Union

to separate from the other States.

When we cast our eyes upon the map of the United States, we perceive

the chain of the Alleghany Mountains, running from the northeast to the

southwest, and crossing nearly one thousand miles of country; and we

are led to imagine that the design of Providence was to raise between

the valley of the Mississippi and the coast of the Atlantic Ocean one

of those natural barriers which break the mutual intercourse of men,

and form the necessary limits of different States. But the average

height of the Alleghanies does not exceed 2,500 feet; their greatest

elevation is not above 4,000 feet; their rounded summits, and the

spacious valleys which they conceal within their passes, are of easy

access from several sides. Besides which, the principal rivers which

fall into the Atlantic Ocean—the Hudson, the Susquehanna, and the

Potomac—take their rise beyond the Alleghanies, in an open district,

which borders upon the valley of the Mississippi. These streams quit

this tract of country, make their way through the barrier which would

seem to turn them westward, and as they wind through the mountains they

open an easy and natural passage to man. No natural barrier exists in

the regions which are now inhabited by the Anglo-Americans; the

Alleghanies are so far from serving as a boundary to separate nations,

that they do not even serve as a frontier to the States. New York,

Pennsylvania, and Virginia comprise them within their borders, and they

extend as much to the west as to the east of the line. The territory

now occupied by the twenty-four States of the Union, and the three

great districts which have not yet acquired the rank of States,

although they already contain inhabitants, covers a surface of

1,002,600 square miles, \*c which is about equal to five times the

extent of France. Within these limits the qualities of the soil, the

temperature, and the produce of the country, are extremely various. The

vast extent of territory occupied by the Anglo-American republics has

given rise to doubts as to the maintenance of their Union. Here a

distinction must be made; contrary interests sometimes arise in the

different provinces of a vast empire, which often terminate in open

dissensions; and the extent of the country is then most prejudicial to

the power of the State. But if the inhabitants of these vast regions

are not divided by contrary interests, the extent of the territory may

be favorable to their prosperity; for the unity of the government

promotes the interchange of the different productions of the soil, and

increases their value by facilitating their consumption.

c

[ See “Darby’s View of the United States,” p. 435. [In 1890 the number

of States and Territories had increased to 51, the population to

62,831,900, and the area of the States, 3,602,990 square miles. This

does not include the Philippine Islands, Hawaii, or Porto Rico. A

conservative estimate of the population of the Philippine Islands is

8,000,000; that of Hawaii, by the census of 1897, was given at 109,020;

and the present estimated population of Porto Rico is 900,000. The area

of the Philippine Islands is about 120,000 square miles, that of Hawaii

is 6,740 square miles, and the area of Porto Rico is about 3,600 square

miles.]]

It is indeed easy to discover different interests in the different

parts of the Union, but I am unacquainted with any which are hostile to

each other. The Southern States are almost exclusively agricultural.

The Northern States are more peculiarly commercial and manufacturing.

The States of the West are at the same time agricultural and

manufacturing. In the South the crops consist of tobacco, of rice, of

cotton, and of sugar; in the North and the West, of wheat and maize.

These are different sources of wealth; but union is the means by which

these sources are opened to all, and rendered equally advantageous to

the several districts.

The North, which ships the produce of the Anglo-Americans to all parts

of the world, and brings back the produce of the globe to the Union, is

evidently interested in maintaining the confederation in its present

condition, in order that the number of American producers and consumers

may remain as large as possible. The North is the most natural agent of

communication between the South and the West of the Union on the one

hand, and the rest of the world upon the other; the North is therefore

interested in the union and prosperity of the South and the West, in

order that they may continue to furnish raw materials for its

manufactures, and cargoes for its shipping.

The South and the West, on their side, are still more directly

interested in the preservation of the Union, and the prosperity of the

North. The produce of the South is, for the most part, exported beyond

seas; the South and the West consequently stand in need of the

commercial resources of the North. They are likewise interested in the

maintenance of a powerful fleet by the Union, to protect them

efficaciously. The South and the West have no vessels, but they cannot

refuse a willing subsidy to defray the expenses of the navy; for if the

fleets of Europe were to blockade the ports of the South and the delta

of the Mississippi, what would become of the rice of the Carolinas, the

tobacco of Virginia, and the sugar and cotton which grow in the valley

of the Mississippi? Every portion of the federal budget does therefore

contribute to the maintenance of material interests which are common to

all the confederate States.

Independently of this commercial utility, the South and the West of the

Union derive great political advantages from their connection with the

North. The South contains an enormous slave population; a population

which is already alarming, and still more formidable for the future.

The States of the West lie in the remotest parts of a single valley;

and all the rivers which intersect their territory rise in the Rocky

Mountains or in the Alleghanies, and fall into the Mississippi, which

bears them onwards to the Gulf of Mexico. The Western States are

consequently entirely cut off, by their position, from the traditions

of Europe and the civilization of the Old World. The inhabitants of the

South, then, are induced to support the Union in order to avail

themselves of its protection against the blacks; and the inhabitants of

the West in order not to be excluded from a free communication with the

rest of the globe, and shut up in the wilds of central America. The

North cannot but desire the maintenance of the Union, in order to

remain, as it now is, the connecting link between that vast body and

the other parts of the world.

The temporal interests of all the several parts of the Union are, then,

intimately connected; and the same assertion holds true respecting

those opinions and sentiments which may be termed the immaterial

interests of men.

Chapter XVIII: Future Condition Of Three Races—Part VII

The inhabitants of the United States talk a great deal of their

attachment to their country; but I confess that I do not rely upon that

calculating patriotism which is founded upon interest, and which a

change in the interests at stake may obliterate. Nor do I attach much

importance to the language of the Americans, when they manifest, in

their daily conversations, the intention of maintaining the federal

system adopted by their forefathers. A government retains its sway over

a great number of citizens, far less by the voluntary and rational

consent of the multitude, than by that instinctive, and to a certain

extent involuntary agreement, which results from similarity of feelings

and resemblances of opinion. I will never admit that men constitute a

social body, simply because they obey the same head and the same laws.

Society can only exist when a great number of men consider a great

number of things in the same point of view; when they hold the same

opinions upon many subjects, and when the same occurrences suggest the

same thoughts and impressions to their minds.

The observer who examines the present condition of the United States

upon this principle, will readily discover, that although the citizens

are divided into twenty-four distinct sovereignties, they nevertheless

constitute a single people; and he may perhaps be led to think that the

state of the Anglo-American Union is more truly a state of society than

that of certain nations of Europe which live under the same legislation

and the same prince.

Although the Anglo-Americans have several religious sects, they all

regard religion in the same manner. They are not always agreed upon the

measures which are most conducive to good government, and they vary

upon some of the forms of government which it is expedient to adopt;

but they are unanimous upon the general principles which ought to rule

human society. From Maine to the Floridas, and from the Missouri to the

Atlantic Ocean, the people is held to be the legitimate source of all

power. The same notions are entertained respecting liberty and

equality, the liberty of the press, the right of association, the jury,

and the responsibility of the agents of Government.

If we turn from their political and religious opinions to the moral and

philosophical principles which regulate the daily actions of life and

govern their conduct, we shall still find the same uniformity. The

Anglo-Americans \*d acknowledge the absolute moral authority of the

reason of the community, as they acknowledge the political authority of

the mass of citizens; and they hold that public opinion is the surest

arbiter of what is lawful or forbidden, true or false. The majority of

them believe that a man will be led to do what is just and good by

following his own interest rightly understood. They hold that every man

is born in possession of the right of self-government, and that no one

has the right of constraining his fellow-creatures to be happy. They

have all a lively faith in the perfectibility of man; they are of

opinion that the effects of the diffusion of knowledge must necessarily

be advantageous, and the consequences of ignorance fatal; they all

consider society as a body in a state of improvement, humanity as a

changing scene, in which nothing is, or ought to be, permanent; and

they admit that what appears to them to be good to-day may be

superseded by something better-to-morrow. I do not give all these

opinions as true, but I quote them as characteristic of the Americans.

d

[ It is scarcely necessary for me to observe that by the expression

Anglo-Americans, I only mean to designate the great majority of the

nation; for a certain number of isolated individuals are of course to

be met with holding very different opinions.]

The Anglo-Americans are not only united together by these common

opinions, but they are separated from all other nations by a common

feeling of pride. For the last fifty years no pains have been spared to

convince the inhabitants of the United States that they constitute the

only religious, enlightened, and free people. They perceive that, for

the present, their own democratic institutions succeed, whilst those of

other countries fail; hence they conceive an overweening opinion of

their superiority, and they are not very remote from believing

themselves to belong to a distinct race of mankind.

The dangers which threaten the American Union do not originate in the

diversity of interests or of opinions, but in the various characters

and passions of the Americans. The men who inhabit the vast territory

of the United States are almost all the issue of a common stock; but

the effects of the climate, and more especially of slavery, have

gradually introduced very striking differences between the British

settler of the Southern States and the British settler of the North. In

Europe it is generally believed that slavery has rendered the interests

of one part of the Union contrary to those of another part; but I by no

means remarked this to be the case: slavery has not created interests

in the South contrary to those of the North, but it has modified the

character and changed the habits of the natives of the South.

I have already explained the influence which slavery has exercised upon

the commercial ability of the Americans in the South; and this same

influence equally extends to their manners. The slave is a servant who

never remonstrates, and who submits to everything without complaint. He

may sometimes assassinate, but he never withstands, his master. In the

South there are no families so poor as not to have slaves. The citizen

of the Southern States of the Union is invested with a sort of domestic

dictatorship, from his earliest years; the first notion he acquires in

life is that he is born to command, and the first habit which he

contracts is that of being obeyed without resistance. His education

tends, then, to give him the character of a supercilious and a hasty

man; irascible, violent, and ardent in his desires, impatient of

obstacles, but easily discouraged if he cannot succeed upon his first

attempt.

The American of the Northern States is surrounded by no slaves in his

childhood; he is even unattended by free servants, and is usually

obliged to provide for his own wants. No sooner does he enter the world

than the idea of necessity assails him on every side: he soon learns to

know exactly the natural limit of his authority; he never expects to

subdue those who withstand him, by force; and he knows that the surest

means of obtaining the support of his fellow-creatures, is to win their

favor. He therefore becomes patient, reflecting, tolerant, slow to act,

and persevering in his designs.

In the Southern States the more immediate wants of life are always

supplied; the inhabitants of those parts are not busied in the material

cares of life, which are always provided for by others; and their

imagination is diverted to more captivating and less definite objects.

The American of the South is fond of grandeur, luxury, and renown, of

gayety, of pleasure, and above all of idleness; nothing obliges him to

exert himself in order to subsist; and as he has no necessary

occupations, he gives way to indolence, and does not even attempt what

would be useful.

But the equality of fortunes, and the absence of slavery in the North,

plunge the inhabitants in those same cares of daily life which are

disdained by the white population of the South. They are taught from

infancy to combat want, and to place comfort above all the pleasures of

the intellect or the heart. The imagination is extinguished by the

trivial details of life, and the ideas become less numerous and less

general, but far more practical and more precise. As prosperity is the

sole aim of exertion, it is excellently well attained; nature and

mankind are turned to the best pecuniary advantage, and society is

dexterously made to contribute to the welfare of each of its members,

whilst individual egotism is the source of general happiness.

The citizen of the North has not only experience, but knowledge:

nevertheless he sets but little value upon the pleasures of knowledge;

he esteems it as the means of attaining a certain end, and he is only

anxious to seize its more lucrative applications. The citizen of the

South is more given to act upon impulse; he is more clever, more frank,

more generous, more intellectual, and more brilliant. The former, with

a greater degree of activity, of common-sense, of information, and of

general aptitude, has the characteristic good and evil qualities of the

middle classes. The latter has the tastes, the prejudices, the

weaknesses, and the magnanimity of all aristocracies. If two men are

united in society, who have the same interests, and to a certain extent

the same opinions, but different characters, different acquirements,

and a different style of civilization, it is probable that these men

will not agree. The same remark is applicable to a society of nations.

Slavery, then, does not attack the American Union directly in its

interests, but indirectly in its manners.

e

[ Census of 1790, 3,929,328; 1830, 12,856,165; 1860, 31,443,321; 1870,

38,555,983; 1890, 62,831,900.]

The States which gave their assent to the federal contract in 1790 were

thirteen in number; the Union now consists of thirty-four members. The

population, which amounted to nearly 4,000,000 in 1790, had more than

tripled in the space of forty years; and in 1830 it amounted to nearly

13,000,000. \*e Changes of such magnitude cannot take place without some

danger.

A society of nations, as well as a society of individuals, derives its

principal chances of duration from the wisdom of its members, their

individual weakness, and their limited number. The Americans who quit

the coasts of the Atlantic Ocean to plunge into the western wilderness,

are adventurers impatient of restraint, greedy of wealth, and

frequently men expelled from the States in which they were born. When

they arrive in the deserts they are unknown to each other, and they

have neither traditions, family feeling, nor the force of example to

check their excesses. The empire of the laws is feeble amongst them;

that of morality is still more powerless. The settlers who are

constantly peopling the valley of the Mississippi are, then, in every

respect very inferior to the Americans who inhabit the older parts of

the Union. Nevertheless, they already exercise a great influence in its

councils; and they arrive at the government of the commonwealth before

they have learnt to govern themselves. \*f

f

[ This indeed is only a temporary danger. I have no doubt that in time

society will assume as much stability and regularity in the West as it

has already done upon the coast of the Atlantic Ocean.]

The greater the individual weakness of each of the contracting parties,

the greater are the chances of the duration of the contract; for their

safety is then dependent upon their union. When, in 1790, the most

populous of the American republics did not contain 500,000 inhabitants,

\*g each of them felt its own insignificance as an independent people,

and this feeling rendered compliance with the federal authority more

easy. But when one of the confederate States reckons, like the State of

New York, 2,000,000 of inhabitants, and covers an extent of territory

equal in surface to a quarter of France, \*h it feels its own strength;

and although it may continue to support the Union as advantageous to

its prosperity, it no longer regards that body as necessary to its

existence, and as it continues to belong to the federal compact, it

soon aims at preponderance in the federal assemblies. The probable

unanimity of the States is diminished as their number increases. At

present the interests of the different parts of the Union are not at

variance; but who is able to foresee the multifarious changes of the

future, in a country in which towns are founded from day to day, and

States almost from year to year?

g

[ Pennsylvania contained 431,373 inhabitants in 1790 [and 5,258,014 in

1890.]]

h

[ The area of the State of New York is 49,170 square miles. [See U. S.

census report of 1890.]]

Since the first settlement of the British colonies, the number of

inhabitants has about doubled every twenty-two years. I perceive no

causes which are likely to check this progressive increase of the

Anglo-American population for the next hundred years; and before that

space of time has elapsed, I believe that the territories and

dependencies of the United States will be covered by more than

100,000,000 of inhabitants, and divided into forty States. \*i I admit

that these 100,000,000 of men have no hostile interests. I suppose, on

the contrary, that they are all equally interested in the maintenance

of the Union; but I am still of opinion that where there are

100,000,000 of men, and forty distinct nations, unequally strong, the

continuance of the Federal Government can only be a fortunate accident.

i

[ If the population continues to double every twenty-two years, as it

has done for the last two hundred years, the number of inhabitants in

the United States in 1852 will be twenty millions; in 1874, forty-eight

millions; and in 1896, ninety-six millions. This may still be the case

even if the lands on the western slope of the Rocky Mountains should be

found to be unfit for cultivation. The territory which is already

occupied can easily contain this number of inhabitants. One hundred

millions of men disseminated over the surface of the twenty-four

States, and the three dependencies, which constitute the Union, would

only give 762 inhabitants to the square league; this would be far below

the mean population of France, which is 1,063 to the square league; or

of England, which is 1,457; and it would even be below the population

of Switzerland, for that country, notwithstanding its lakes and

mountains, contains 783 inhabitants to the square league. See “Malte

Brun,” vol. vi. p. 92.

[The actual result has fallen somewhat short of these calculations, in

spite of the vast territorial acquisitions of the United States: but in

1899 the population is probably about eighty-seven millions, including

the population of the Philippines, Hawaii, and Porto Rico.]]

Whatever faith I may have in the perfectibility of man, until human

nature is altered, and men wholly transformed, I shall refuse to

believe in the duration of a government which is called upon to hold

together forty different peoples, disseminated over a territory equal

to one-half of Europe in extent; to avoid all rivalry, ambition, and

struggles between them, and to direct their independent activity to the

accomplishment of the same designs.

But the greatest peril to which the Union is exposed by its increase

arises from the continual changes which take place in the position of

its internal strength. The distance from Lake Superior to the Gulf of

Mexico extends from the 47th to the 30th degree of latitude, a distance

of more than 1,200 miles as the bird flies. The frontier of the United

States winds along the whole of this immense line, sometimes falling

within its limits, but more frequently extending far beyond it, into

the waste. It has been calculated that the whites advance every year a

mean distance of seventeen miles along the whole of his vast boundary.

\*j Obstacles, such as an unproductive district, a lake or an Indian

nation unexpectedly encountered, are sometimes met with. The advancing

column then halts for a while; its two extremities fall back upon

themselves, and as soon as they are reunited they proceed onwards. This

gradual and continuous progress of the European race towards the Rocky

Mountains has the solemnity of a providential event; it is like a

deluge of men rising unabatedly, and daily driven onwards by the hand

of God.

j

[ See Legislative Documents, 20th Congress, No. 117, p. 105.]

Within this first line of conquering settlers towns are built, and vast

States founded. In 1790 there were only a few thousand pioneers

sprinkled along the valleys of the Mississippi; and at the present day

these valleys contain as many inhabitants as were to be found in the

whole Union in 1790. Their population amounts to nearly 4,000,000. \*k

The city of Washington was founded in 1800, in the very centre of the

Union; but such are the changes which have taken place, that it now

stands at one of the extremities; and the delegates of the most remote

Western States are already obliged to perform a journey as long as that

from Vienna to Paris. \*l

k

[ 3,672,317—Census of 1830.]

l

[ The distance from Jefferson, the capital of the State of Missouri, to

Washington is 1,019 miles. (“American Almanac,” 1831, p. 48.)]

All the States are borne onwards at the same time in the path of

fortune, but of course they do not all increase and prosper in the same

proportion. To the North of the Union the detached branches of the

Alleghany chain, which extend as far as the Atlantic Ocean, form

spacious roads and ports, which are constantly accessible to vessels of

the greatest burden. But from the Potomac to the mouth of the

Mississippi the coast is sandy and flat. In this part of the Union the

mouths of almost all the rivers are obstructed; and the few harbors

which exist amongst these lagoons afford much shallower water to

vessels, and much fewer commercial advantages than those of the North.

This first natural cause of inferiority is united to another cause

proceeding from the laws. We have already seen that slavery, which is

abolished in the North, still exists in the South; and I have pointed

out its fatal consequences upon the prosperity of the planter himself.

The North is therefore superior to the South both in commerce \*m and

manufacture; the natural consequence of which is the more rapid

increase of population and of wealth within its borders. The States

situate upon the shores of the Atlantic Ocean are already half-peopled.

Most of the land is held by an owner; and these districts cannot

therefore receive so many emigrants as the Western States, where a

boundless field is still open to their exertions. The valley of the

Mississippi is far more fertile than the coast of the Atlantic Ocean.

This reason, added to all the others, contributes to drive the

Europeans westward—a fact which may be rigorously demonstrated by

figures. It is found that the sum total of the population of all the

United States has about tripled in the course of forty years. But in

the recent States adjacent to the Mississippi, the population has

increased thirty-one-fold, within the same space of time. \*n

m

[ The following statements will suffice to show the difference which

exists between the commerce of the South and that of the North:—

In 1829 the tonnage of all the merchant vessels belonging to Virginia,

the two Carolinas, and Georgia (the four great Southern States),

amounted to only 5,243 tons. In the same year the tonnage of the

vessels of the State of Massachusetts alone amounted to 17,322 tons.

(See Legislative Documents, 21st Congress, 2d session, No. 140, p.

244.) Thus the State of Massachusetts had three times as much shipping

as the four above-mentioned States. Nevertheless the area of the State

of Massachusetts is only 7,335 square miles, and its population amounts

to 610,014 inhabitants [2,238,943 in 1890]; whilst the area of the four

other States I have quoted is 210,000 square miles, and their

population 3,047,767. Thus the area of the State of Massachusetts forms

only one-thirtieth part of the area of the four States; and its

population is five times smaller than theirs. (See “Darby’s View of the

United States.”) Slavery is prejudicial to the commercial prosperity of

the South in several different ways; by diminishing the spirit of

enterprise amongst the whites, and by preventing them from meeting with

as numerous a class of sailors as they require. Sailors are usually

taken from the lowest ranks of the population. But in the Southern

States these lowest ranks are composed of slaves, and it is very

difficult to employ them at sea. They are unable to serve as well as a

white crew, and apprehensions would always be entertained of their

mutinying in the middle of the ocean, or of their escaping in the

foreign countries at which they might touch.]

n

[ “Darby’s View of the United States,” p. 444.]

The relative position of the central federal power is continually

displaced. Forty years ago the majority of the citizens of the Union

was established upon the coast of the Atlantic, in the environs of the

spot upon which Washington now stands; but the great body of the people

is now advancing inland and to the north, so that in twenty years the

majority will unquestionably be on the western side of the Alleghanies.

If the Union goes on to subsist, the basin of the Mississippi is

evidently marked out, by its fertility and its extent, as the future

centre of the Federal Government. In thirty or forty years, that tract

of country will have assumed the rank which naturally belongs to it. It

is easy to calculate that its population, compared to that of the coast

of the Atlantic, will be, in round numbers, as 40 to 11. In a few years

the States which founded the Union will lose the direction of its

policy, and the population of the valley of the Mississippi will

preponderate in the federal assemblies.

This constant gravitation of the federal power and influence towards

the northwest is shown every ten years, when a general census of the

population is made, and the number of delegates which each State sends

to Congress is settled afresh. \*o In 1790 Virginia had nineteen

representatives in Congress. This number continued to increase until

the year 1813, when it reached to twenty-three; from that time it began

to decrease, and in 1833 Virginia elected only twenty-one

representatives. \*p During the same period the State of New York

progressed in the contrary direction: in 1790 it had ten

representatives in Congress; in 1813, twenty-seven; in 1823,

thirty-four; and in 1833, forty. The State of Ohio had only one

representative in 1803, and in 1833 it had already nineteen.

o

[ It may be seen that in the course of the last ten years (1820-1830)

the population of one district, as, for instance, the State of

Delaware, has increased in the proportion of five per cent.; whilst

that of another, as the territory of Michigan, has increased 250 per

cent. Thus the population of Virginia had augmented thirteen per cent.,

and that of the border State of Ohio sixty-one per cent., in the same

space of time. The general table of these changes, which is given in

the “National Calendar,” displays a striking picture of the unequal

fortunes of the different States.]

p

[ It has just been said that in the course of the last term the

population of Virginia has increased thirteen per cent.; and it is

necessary to explain how the number of representatives for a State may

decrease, when the population of that State, far from diminishing, is

actually upon the increase. I take the State of Virginia, to which I

have already alluded, as my term of comparison. The number of

representatives of Virginia in 1823 was proportionate to the total

number of the representatives of the Union, and to the relation which

the population bore to that of the whole Union: in 1833 the number of

representatives of Virginia was likewise proportionate to the total

number of the representatives of the Union, and to the relation which

its population, augmented in the course of ten years, bore to the

augmented population of the Union in the same space of time. The new

number of Virginian representatives will then be to the old numver, on

the one hand, as the new numver of all the representatives is to the

old number; and, on the other hand, as the augmentation of the

population of Virginia is to that of the whole population of the

country. Thus, if the increase of the population of the lesser country

be to that of the greater in an exact inverse ratio of the proportion

between the new and the old numbers of all the representatives, the

number of the representatives of Virginia will remain stationary; and

if the increase of the Virginian population be to that of the whole

Union in a feeblerratio than the new number of the representatives of

the Union to the old number, the number of the representatives of

Virginia must decrease. [Thus, to the 56th Congress in 1899, Virginia

and West Virginia send only fourteen representatives.]]

Chapter XVIII: Future Condition Of Three Races—Part VIII

It is difficult to imagine a durable union of a people which is rich

and strong with one which is poor and weak, even if it were proved that

the strength and wealth of the one are not the causes of the weakness

and poverty of the other. But union is still more difficult to maintain

at a time at which one party is losing strength, and the other is

gaining it. This rapid and disproportionate increase of certain States

threatens the independence of the others. New York might perhaps

succeed, with its 2,000,000 of inhabitants and its forty

representatives, in dictating to the other States in Congress. But even

if the more powerful States make no attempt to bear down the lesser

ones, the danger still exists; for there is almost as much in the

possibility of the act as in the act itself. The weak generally

mistrust the justice and the reason of the strong. The States which

increase less rapidly than the others look upon those which are more

favored by fortune with envy and suspicion. Hence arise the deep-seated

uneasiness and ill-defined agitation which are observable in the South,

and which form so striking a contrast to the confidence and prosperity

which are common to other parts of the Union. I am inclined to think

that the hostile measures taken by the Southern provinces upon a recent

occasion are attributable to no other cause. The inhabitants of the

Southern States are, of all the Americans, those who are most

interested in the maintenance of the Union; they would assuredly suffer

most from being left to themselves; and yet they are the only citizens

who threaten to break the tie of confederation. But it is easy to

perceive that the South, which has given four Presidents, Washington,

Jefferson, Madison, and Monroe, to the Union, which perceives that it

is losing its federal influence, and that the number of its

representatives in Congress is diminishing from year to year, whilst

those of the Northern and Western States are increasing; the South,

which is peopled with ardent and irascible beings, is becoming more and

more irritated and alarmed. The citizens reflect upon their present

position and remember their past influence, with the melancholy

uneasiness of men who suspect oppression: if they discover a law of the

Union which is not unequivocally favorable to their interests, they

protest against it as an abuse of force; and if their ardent

remonstrances are not listened to, they threaten to quit an association

which loads them with burdens whilst it deprives them of their due

profits. “The tariff,” said the inhabitants of Carolina in 1832,

“enriches the North, and ruins the South; for if this were not the

case, to what can we attribute the continually increasing power and

wealth of the North, with its inclement skies and arid soil; whilst the

South, which may be styled the garden of America, is rapidly

declining?” \*q

q

[ See the report of its committee to the Convention which proclaimed

the nullification of the tariff in South Carolina.]

If the changes which I have described were gradual, so that each

generation at least might have time to disappear with the order of

things under which it had lived, the danger would be less; but the

progress of society in America is precipitate, and almost

revolutionary. The same citizen may have lived to see his State take

the lead in the Union, and afterwards become powerless in the federal

assemblies; and an Anglo-American republic has been known to grow as

rapidly as a man passing from birth and infancy to maturity in the

course of thirty years. It must not be imagined, however, that the

States which lose their preponderance, also lose their population or

their riches: no stop is put to their prosperity, and they even go on

to increase more rapidly than any kingdom in Europe. \*r But they

believe themselves to be impoverished because their wealth does not

augment as rapidly as that of their neighbors; any they think that

their power is lost, because they suddenly come into collision with a

power greater than their own: \*s thus they are more hurt in their

feelings and their passions than in their interests. But this is amply

sufficient to endanger the maintenance of the Union. If kings and

peoples had only had their true interests in view ever since the

beginning of the world, the name of war would scarcely be known among

mankind.

r

[ The population of a country assuredly constitutes the first element

of its wealth. In the ten years (1820-1830) during which Virginia lost

two of its representatives in Congress, its population increased in the

proportion of 13.7 per cent.; that of Carolina in the proportion of

fifteen per cent.; and that of Georgia, 15.5 per cent. (See the

“American Almanac,” 1832, p. 162) But the population of Russia, which

increases more rapidly than that of any other European country, only

augments in ten years at the rate of 9.5 per cent.; in France, at the

rate of seven per cent.; and in Europe in general, at the rate of 4.7

per cent. (See “Malte Brun,” vol. vi. p. 95)]

s

[ It must be admitted, however, that the depreciation which has taken

place in the value of tobacco, during the last fifty years, has notably

diminished the opulence of the Southern planters: but this circumstance

is as independent of the will of their Northern brethren as it is of

their own.]

Thus the prosperity of the United States is the source of the most

serious dangers that threaten them, since it tends to create in some of

the confederate States that over-excitement which accompanies a rapid

increase of fortune; and to awaken in others those feelings of envy,

mistrust, and regret which usually attend upon the loss of it. The

Americans contemplate this extraordinary and hasty progress with

exultation; but they would be wiser to consider it with sorrow and

alarm. The Americans of the United States must inevitably become one of

the greatest nations in the world; their offset will cover almost the

whole of North America; the continent which they inhabit is their

dominion, and it cannot escape them. What urges them to take possession

of it so soon? Riches, power, and renown cannot fail to be theirs at

some future time, but they rush upon their fortune as if but a moment

remained for them to make it their own.

I think that I have demonstrated that the existence of the present

confederation depends entirely on the continued assent of all the

confederates; and, starting from this principle, I have inquired into

the causes which may induce the several States to separate from the

others. The Union may, however, perish in two different ways: one of

the confederate States may choose to retire from the compact, and so

forcibly to sever the federal tie; and it is to this supposition that

most of the remarks that I have made apply: or the authority of the

Federal Government may be progressively entrenched on by the

simultaneous tendency of the united republics to resume their

independence. The central power, successively stripped of all its

prerogatives, and reduced to impotence by tacit consent, would become

incompetent to fulfil its purpose; and the second Union would perish,

like the first, by a sort of senile inaptitude. The gradual weakening

of the federal tie, which may finally lead to the dissolution of the

Union, is a distinct circumstance, that may produce a variety of minor

consequences before it operates so violent a change. The confederation

might still subsist, although its Government were reduced to such a

degree of inanition as to paralyze the nation, to cause internal

anarchy, and to check the general prosperity of the country.

After having investigated the causes which may induce the

Anglo-Americans to disunite, it is important to inquire whether, if the

Union continues to subsist, their Government will extend or contract

its sphere of action, and whether it will become more energetic or more

weak.

The Americans are evidently disposed to look upon their future

condition with alarm. They perceive that in most of the nations of the

world the exercise of the rights of sovereignty tends to fall under the

control of a few individuals, and they are dismayed by the idea that

such will also be the case in their own country. Even the statesmen

feel, or affect to feel, these fears; for, in America, centralization

is by no means popular, and there is no surer means of courting the

majority than by inveighing against the encroachments of the central

power. The Americans do not perceive that the countries in which this

alarming tendency to centralization exists are inhabited by a single

people; whilst the fact of the Union being composed of different

confederate communities is sufficient to baffle all the inferences

which might be drawn from analogous circumstances. I confess that I am

inclined to consider the fears of a great number of Americans as purely

imaginary; and far from participating in their dread of the

consolidation of power in the hands of the Union, I think that the

Federal Government is visibly losing strength.

To prove this assertion I shall not have recourse to any remote

occurrences, but to circumstances which I have myself witnessed, and

which belong to our own time.

An attentive examination of what is going on in the United States will

easily convince us that two opposite tendencies exist in that country,

like two distinct currents flowing in contrary directions in the same

channel. The Union has now existed for forty-five years, and in the

course of that time a vast number of provincial prejudices, which were

at first hostile to its power, have died away. The patriotic feeling

which attached each of the Americans to his own native State is become

less exclusive; and the different parts of the Union have become more

intimately connected the better they have become acquainted with each

other. The post, \*t that great instrument of intellectual intercourse,

now reaches into the backwoods; and steamboats have established daily

means of communication between the different points of the coast. An

inland navigation of unexampled rapidity conveys commodities up and

down the rivers of the country. \*u And to these facilities of nature

and art may be added those restless cravings, that busy-mindedness, and

love of pelf, which are constantly urging the American into active

life, and bringing him into contact with his fellow-citizens. He

crosses the country in every direction; he visits all the various

populations of the land; and there is not a province in France in which

the natives are so well known to each other as the 13,000,000 of men

who cover the territory of the United States.

t

[ In 1832, the district of Michigan, which only contains 31,639

inhabitants, and is still an almost unexplored wilderness, possessed

940 miles of mail-roads. The territory of Arkansas, which is still more

uncultivated, was already intersected by 1,938 miles of mail-roads.

(See the report of the General Post Office, November 30, 1833.) The

postage of newspapers alone in the whole Union amounted to $254,796.]

u

[ In the course of ten years, from 1821 to 1831, 271 steamboats have

been launched upon the rivers which water the valley of the Mississippi

alone. In 1829 259 steamboats existed in the United States. (See

Legislative Documents, No. 140, p. 274.)]

But whilst the Americans intermingle, they grow in resemblance of each

other; the differences resulting from their climate, their origin, and

their institutions, diminish; and they all draw nearer and nearer to

the common type. Every year, thousands of men leave the North to settle

in different parts of the Union: they bring with them their faith,

their opinions, and their manners; and as they are more enlighthned

than the men amongst whom they are about to dwell, they soon rise to

the head of affairs, and they adapt society to their own advantage.

This continual emigration of the North to the South is peculiarly

favorable to the fusion of all the different provincial characters into

one national character. The civilization of the North appears to be the

common standard, to which the whole nation will one day be assimilated.

The commercial ties which unite the confederate States are strengthened

by the increasing manufactures of the Americans; and the union which

began to exist in their opinions, gradually forms a part of their

habits: the course of time has swept away the bugbear thoughts which

haunted the imaginations of the citizens in 1789. The federal power is

not become oppressive; it has not destroyed the independence of the

States; it has not subjected the confederates to monarchial

institutions; and the Union has not rendered the lesser States

dependent upon the larger ones; but the confederation has continued to

increase in population, in wealth, and in power. I am therefore

convinced that the natural obstacles to the continuance of the American

Union are not so powerful at the present time as they were in 1789; and

that the enemies of the Union are not so numerous.

Nevertheless, a careful examination of the history of the United States

for the last forty-five years will readily convince us that the federal

power is declining; nor is it difficult to explain the causes of this

phenomenon. \*v When the Constitution of 1789 was promulgated, the

nation was a prey to anarchy; the Union, which succeeded this

confusion, excited much dread and much animosity; but it was warmly

supported because it satisfied an imperious want. Thus, although it was

more attacked than it is now, the federal power soon reached the

maximum of its authority, as is usually the case with a government

which triumphs after having braced its strength by the struggle. At

that time the interpretation of the Constitution seemed to extend,

rather than to repress, the federal sovereignty; and the Union offered,

in several respects, the appearance of a single and undivided people,

directed in its foreign and internal policy by a single Government. But

to attain this point the people had risen, to a certain extent, above

itself.

v

[ [Since 1861 the movement is certainly in the opposite direction, and

the federal power has largely increased, and tends to further

increase.]]

The Constitution had not destroyed the distinct sovereignty of the

States; and all communities, of whatever nature they may be, are

impelled by a secret propensity to assert their independence. This

propensity is still more decided in a country like America, in which

every village forms a sort of republic accustomed to conduct its own

affairs. It therefore cost the States an effort to submit to the

federal supremacy; and all efforts, however successful they may be,

necessarily subside with the causes in which they originated.

As the Federal Government consolidated its authority, America resumed

its rank amongst the nations, peace returned to its frontiers, and

public credit was restored; confusion was succeeded by a fixed state of

things, which was favorable to the full and free exercise of

industrious enterprise. It was this very prosperity which made the

Americans forget the cause to which it was attributable; and when once

the danger was passed, the energy and the patriotism which had enabled

them to brave it disappeared from amongst them. No sooner were they

delivered from the cares which oppressed them, than they easily

returned to their ordinary habits, and gave themselves up without

resistance to their natural inclinations. When a powerful Government no

longer appeared to be necessary, they once more began to think it

irksome. The Union encouraged a general prosperity, and the States were

not inclined to abandon the Union; but they desired to render the

action of the power which represented that body as light as possible.

The general principle of Union was adopted, but in every minor detail

there was an actual tendency to independence. The principle of

confederation was every day more easily admitted, and more rarely

applied; so that the Federal Government brought about its own decline,

whilst it was creating order and peace.

As soon as this tendency of public opinion began to be manifested

externally, the leaders of parties, who live by the passions of the

people, began to work it to their own advantage. The position of the

Federal Government then became exceedingly critical. Its enemies were

in possession of the popular favor; and they obtained the right of

conducting its policy by pledging themselves to lessen its influence.

From that time forwards the Government of the Union has invariably been

obliged to recede, as often as it has attempted to enter the lists with

the governments of the States. And whenever an interpretation of the

terms of the Federal Constitution has been called for, that

interpretation has most frequently been opposed to the Union, and

favorable to the States.

The Constitution invested the Federal Government with the right of

providing for the interests of the nation; and it had been held that no

other authority was so fit to superintend the “internal improvements”

which affected the prosperity of the whole Union; such, for instance,

as the cutting of canals. But the States were alarmed at a power,

distinct from their own, which could thus dispose of a portion of their

territory; and they were afraid that the central Government would, by

this means, acquire a formidable extent of patronage within their own

confines, and exercise a degree of influence which they intended to

reserve exclusively to their own agents. The Democratic party, which

has constantly been opposed to the increase of the federal authority,

then accused the Congress of usurpation, and the Chief Magistrate of

ambition. The central Government was intimidated by the opposition; and

it soon acknowledged its error, promising exactly to confine its

influence for the future within the circle which was prescribed to it.

The Constitution confers upon the Union the right of treating with

foreign nations. The Indian tribes, which border upon the frontiers of

the United States, had usually been regarded in this light. As long as

these savages consented to retire before the civilized settlers, the

federal right was not contested: but as soon as an Indian tribe

attempted to fix its dwelling upon a given spot, the adjacent States

claimed possession of the lands and the rights of sovereignty over the

natives. The central Government soon recognized both these claims; and

after it had concluded treaties with the Indians as independent

nations, it gave them up as subjects to the legislative tyranny of the

States. \*w

w

[ See in the Legislative Documents, already quoted in speaking of the

Indians, the letter of the President of the United States to the

Cherokees, his correspondence on this subject with his agents, and his

messages to Congress.]

Some of the States which had been founded upon the coast of the

Atlantic, extended indefinitely to the West, into wild regions where no

European had ever penetrated. The States whose confines were

irrevocably fixed, looked with a jealous eye upon the unbounded regions

which the future would enable their neighbors to explore. The latter

then agreed, with a view to conciliate the others, and to facilitate

the act of union, to lay down their own boundaries, and to abandon all

the territory which lay beyond those limits to the confederation at

large. \*x Thenceforward the Federal Government became the owner of all

the uncultivated lands which lie beyond the borders of the thirteen

States first confederated. It was invested with the right of parcelling

and selling them, and the sums derived from this source were

exclusively reserved to the public treasure of the Union, in order to

furnish supplies for purchasing tracts of country from the Indians, for

opening roads to the remote settlements, and for accelerating the

increase of civilization as much as possible. New States have, however,

been formed in the course of time, in the midst of those wilds which

were formerly ceded by the inhabitants of the shores of the Atlantic.

Congress has gone on to sell, for the profit of the nation at large,

the uncultivated lands which those new States contained. But the latter

at length asserted that, as they were now fully constituted, they ought

to enjoy the exclusive right of converting the produce of these sales

to their own use. As their remonstrances became more and more

threatening, Congress thought fit to deprive the Union of a portion of

the privileges which it had hitherto enjoyed; and at the end of 1832 it

passed a law by which the greatest part of the revenue derived from the

sale of lands was made over to the new western republics, although the

lands themselves were not ceded to them. \*y

x

[ The first act of session was made by the State of New York in 1780;

Virginia, Massachusetts, Connecticut, South and North Carolina,

followed this example at different times, and lastly, the act of

cession of Georgia was made as recently as 1802.]

y

[ It is true that the President refused his assent to this law; but he

completely adopted it in principle. (See Message of December 8, 1833.)]

The slightest observation in the United States enables one to

appreciate the advantages which the country derives from the bank.

These advantages are of several kinds, but one of them is peculiarly

striking to the stranger. The banknotes of the United States are taken

upon the borders of the desert for the same value as at Philadelphia,

where the bank conducts its operations. \*z

z

[ The present Bank of the United States was established in 1816, with a

capital of $35,000,000; its charter expires in 1836. Last year Congress

passed a law to renew it, but the President put his veto upon the bill.

The struggle is still going on with great violence on either side, and

the speedy fall of the bank may easily be foreseen. [It was soon

afterwards extinguished by General Jackson.]]

The Bank of the United States is nevertheless the object of great

animosity. Its directors have proclaimed their hostility to the

President: and they are accused, not without some show of probability,

of having abused their influence to thwart his election. The President

therefore attacks the establishment which they represent with all the

warmth of personal enmity; and he is encouraged in the pursuit of his

revenge by the conviction that he is supported by the secret

propensities of the majority. The bank may be regarded as the great

monetary tie of the Union, just as Congress is the great legislative

tie; and the same passions which tend to render the States independent

of the central power, contribute to the overthrow of the bank.

The Bank of the United States always holds a great number of the notes

issued by the provincial banks, which it can at any time oblige them to

convert into cash. It has itself nothing to fear from a similar demand,

as the extent of its resources enables it to meet all claims. But the

existence of the provincial banks is thus threatened, and their

operations are restricted, since they are only able to issue a quantity

of notes duly proportioned to their capital. They submit with

impatience to this salutary control. The newspapers which they have

bought over, and the President, whose interest renders him their

instrument, attack the bank with the greatest vehemence. They rouse the

local passions and the blind democratic instinct of the country to aid

their cause; and they assert that the bank directors form a permanent

aristocratic body, whose influence must ultimately be felt in the

Government, and must affect those principles of equality upon which

society rests in America.

The contest between the bank and its opponents is only an incident in

the great struggle which is going on in America between the provinces

and the central power; between the spirit of democratic independence

and the spirit of gradation and subordination. I do not mean that the

enemies of the bank are identically the same individuals who, on other

points, attack the Federal Government; but I assert that the attacks

directed against the bank of the United States originate in the same

propensities which militate against the Federal Government; and that

the very numerous opponents of the former afford a deplorable symptom

of the decreasing support of the latter.

The Union has never displayed so much weakness as in the celebrated

question of the tariff. \*a The wars of the French Revolution and of

1812 had created manufacturing establishments in the North of the

Union, by cutting off all free communication between America and

Europe. When peace was concluded, and the channel of intercourse

reopened by which the produce of Europe was transmitted to the New

World, the Americans thought fit to establish a system of import

duties, for the twofold purpose of protecting their incipient

manufactures and of paying off the amount of the debt contracted during

the war. The Southern States, which have no manufactures to encourage,

and which are exclusively agricultural, soon complained of this

measure. Such were the simple facts, and I do not pretend to examine in

this place whether their complaints were well founded or unjust.

a

[ See principally for the details of this affair, the Legislative

Documents, 22d Congress, 2d Session, No. 30.]

As early as the year 1820, South Carolina declared, in a petition to

Congress, that the tariff was “unconstitutional, oppressive, and

unjust.” And the States of Georgia, Virginia, North Carolina, Alabama,

and Mississippi subsequently remonstrated against it with more or less

vigor. But Congress, far from lending an ear to these complaints,

raised the scale of tariff duties in the years 1824 and 1828, and

recognized anew the principle on which it was founded. A doctrine was

then proclaimed, or rather revived, in the South, which took the name

of Nullification.

I have shown in the proper place that the object of the Federal

Constitution was not to form a league, but to create a national

government. The Americans of the United States form a sole and

undivided people, in all the cases which are specified by that

Constitution; and upon these points the will of the nation is

expressed, as it is in all constitutional nations, by the voice of the

majority. When the majority has pronounced its decision, it is the duty

of the minority to submit. Such is the sound legal doctrine, and the

only one which agrees with the text of the Constitution, and the known

intention of those who framed it.

The partisans of Nullification in the South maintain, on the contrary,

that the intention of the Americans in uniting was not to reduce

themselves to the condition of one and the same people; that they meant

to constitute a league of independent States; and that each State,

consequently retains its entire sovereignty, if not de facto, at least

de jure; and has the right of putting its own construction upon the

laws of Congress, and of suspending their execution within the limits

of its own territory, if they are held to be unconstitutional and

unjust.

The entire doctrine of Nullification is comprised in a sentence uttered

by Vice-President Calhoun, the head of that party in the South, before

the Senate of the United States, in the year 1833: “The Constitution is

a compact to which the States were parties in their sovereign capacity;

now, whenever a compact is entered into by parties which acknowledge no

tribunal above their authority to decide in the last resort, each of

them has a right to judge for itself in relation to the nature, extent,

and obligations of the instrument.” It is evident that a similar

doctrine destroys the very basis of the Federal Constitution, and brings

back all the evils of the old confederation, from which the Americans

were supposed to have had a safe deliverance.

When South Carolina perceived that Congress turned a deaf ear to its

remonstrances, it threatened to apply the doctrine of nullification to

the federal tariff bill. Congress persisted in its former system; and

at length the storm broke out. In the course of 1832 the citizens of

South Carolina, \*b named a national Convention, to consult upon the

extraordinary measures which they were called upon to take; and on

November 24th of the same year this Convention promulgated a law, under

the form of a decree, which annulled the federal law of the tariff,

forbade the levy of the imposts which that law commands, and refused to

recognize the appeal which might be made to the federal courts of law.

\*c This decree was only to be put in execution in the ensuing month of

February, and it was intimated, that if Congress modified the tariff

before that period, South Carolina might be induced to proceed no

further with her menaces; and a vague desire was afterwards expressed

of submitting the question to an extraordinary assembly of all the

confederate States.

b

[ That is to say, the majority of the people; for the opposite party,

called the Union party, always formed a very strong and active

minority. Carolina may contain about 47,000 electors; 30,000 were in

favor of nullification, and 17,000 opposed to it.]

c

[ This decree was preceded by a report of the committee by which it was

framed, containing the explanation of the motives and object of the

law. The following passage occurs in it, p. 34:—“When the rights

reserved by the Constitution to the different States are deliberately

violated, it is the duty and the right of those States to interfere, in

order to check the progress of the evil; to resist usurpation, and to

maintain, within their respective limits, those powers and privileges

which belong to them as independent sovereign States. If they were

destitute of this right, they would not be sovereign. South Carolina

declares that she acknowledges no tribunal upon earth above her

authority. She has indeed entered into a solemn compact of union with

the other States; but she demands, and will exercise, the right of

putting her own construction upon it; and when this compact is violated

by her sister States, and by the Government which they have created,

she is determined to avail herself of the unquestionable right of

judging what is the extent of the infraction, and what are the measures

best fitted to obtain justice.”]

Chapter XVIII: Future Condition Of Three Races—Part IX

In the meantime South Carolina armed her militia, and prepared for war.

But Congress, which had slighted its suppliant subjects, listened to

their complaints as soon as they were found to have taken up arms. \*d A

law was passed, by which the tariff duties were to be progressively

reduced for ten years, until they were brought so low as not to exceed

the amount of supplies necessary to the Government. \*e Thus Congress

completely abandoned the principle of the tariff; and substituted a

mere fiscal impost to a system of protective duties. \*f The Government

of the Union, in order to conceal its defeat, had recourse to an

expedient which is very much in vogue with feeble governments. It

yielded the point de facto, but it remained inflexible upon the

principles in question; and whilst Congress was altering the tariff

law, it passed another bill, by which the President was invested with

extraordinary powers, enabling him to overcome by force a resistance

which was then no longer to be apprehended.

d

[ Congress was finally decided to take this step by the conduct of the

powerful State of Virginia, whose legislature offered to serve as

mediator between the Union and South Carolina. Hitherto the latter

State had appeared to be entirely abandoned, even by the States which

had joined in her remonstrances.]

e

[ This law was passed on March 2, 1833.]

f

[ This bill was brought in by Mr. Clay, and it passed in four days

through both Houses of Congress by an immense majority.]

But South Carolina did not consent to leave the Union in the enjoyment

of these scanty trophies of success: the same national Convention which

had annulled the tariff bill, met again, and accepted the proffered

concession; but at the same time it declared its unabated perseverance

in the doctrine of Nullification: and to prove what it said, it

annulled the law investing the President with extraordinary powers,

although it was very certain that the clauses of that law would never

be carried into effect.

Almost all the controversies of which I have been speaking have taken

place under the Presidency of General Jackson; and it cannot be denied

that in the question of the tariff he has supported the claims of the

Union with vigor and with skill. I am, however, of opinion that the

conduct of the individual who now represents the Federal Government may

be reckoned as one of the dangers which threaten its continuance.

Some persons in Europe have formed an opinion of the possible influence

of General Jackson upon the affairs of his country, which appears

highly extravagant to those who have seen more of the subject. We have

been told that General Jackson has won sundry battles, that he is an

energetic man, prone by nature and by habit to the use of force,

covetous of power, and a despot by taste. All this may perhaps be true;

but the inferences which have been drawn from these truths are

exceedingly erroneous. It has been imagined that General Jackson is

bent on establishing a dictatorship in America, on introducing a

military spirit, and on giving a degree of influence to the central

authority which cannot but be dangerous to provincial liberties. But in

America the time for similar undertakings, and the age for men of this

kind, is not yet come: if General Jackson had entertained a hope of

exercising his authority in this manner, he would infallibly have

forfeited his political station, and compromised his life; accordingly

he has not been so imprudent as to make any such attempt.

Far from wishing to extend the federal power, the President belongs to

the party which is desirous of limiting that power to the bare and

precise letter of the Constitution, and which never puts a construction

upon that act favorable to the Government of the Union; far from

standing forth as the champion of centralization, General Jackson is

the agent of all the jealousies of the States; and he was placed in the

lofty station he occupies by the passions of the people which are most

opposed to the central Government. It is by perpetually flattering

these passions that he maintains his station and his popularity.

General Jackson is the slave of the majority: he yields to its wishes,

its propensities, and its demands; say rather, that he anticipates and

forestalls them.

Whenever the governments of the States come into collision with that of

the Union, the President is generally the first to question his own

rights: he almost always outstrips the legislature; and when the extent

of the federal power is controverted, he takes part, as it were,

against himself; he conceals his official interests, and extinguishes

his own natural inclinations. Not indeed that he is naturally weak or

hostile to the Union; for when the majority decided against the claims

of the partisans of nullification, he put himself at its head, asserted

the doctrines which the nation held distinctly and energetically, and

was the first to recommend forcible measures; but General Jackson

appears to me, if I may use the American expressions, to be a

Federalist by taste, and a Republican by calculation.

General Jackson stoops to gain the favor of the majority, but when he

feels that his popularity is secure, he overthrows all obstacles in the

pursuit of the objects which the community approves, or of those which

it does not look upon with a jealous eye. He is supported by a power

with which his predecessors were unacquainted; and he tramples on his

personal enemies whenever they cross his path with a facility which no

former President ever enjoyed; he takes upon himself the responsibility

of measures which no one before him would have ventured to attempt: he

even treats the national representatives with disdain approaching to

insult; he puts his veto upon the laws of Congress, and frequently

neglects to reply to that powerful body. He is a favorite who sometimes

treats his master roughly. The power of General Jackson perpetually

increases; but that of the President declines; in his hands the Federal

Government is strong, but it will pass enfeebled into the hands of his

successor.

I am strangely mistaken if the Federal Government of the United States

be not constantly losing strength, retiring gradually from public

affairs, and narrowing its circle of action more and more. It is

naturally feeble, but it now abandons even its pretensions to strength.

On the other hand, I thought that I remarked a more lively sense of

independence, and a more decided attachment to provincial government in

the States. The Union is to subsist, but to subsist as a shadow; it is

to be strong in certain cases, and weak in all others; in time of

warfare, it is to be able to concentrate all the forces of the nation

and all the resources of the country in its hands; and in time of peace

its existence is to be scarcely perceptible: as if this alternate

debility and vigor were natural or possible.

I do not foresee anything for the present which may be able to check

this general impulse of public opinion; the causes in which it

originated do not cease to operate with the same effect. The change

will therefore go on, and it may be predicted that, unless some

extraordinary event occurs, the Government of the Union will grow

weaker and weaker every day.

I think, however, that the period is still remote at which the federal

power will be entirely extinguished by its inability to protect itself

and to maintain peace in the country. The Union is sanctioned by the

manners and desires of the people; its results are palpable, its

benefits visible. When it is perceived that the weakness of the Federal

Government compromises the existence of the Union, I do not doubt that

a reaction will take place with a view to increase its strength.

The Government of the United States is, of all the federal governments

which have hitherto been established, the one which is most naturally

destined to act. As long as it is only indirectly assailed by the

interpretation of its laws, and as long as its substance is not

seriously altered, a change of opinion, an internal crisis, or a war,

may restore all the vigor which it requires. The point which I have

been most anxious to put in a clear light is simply this: Many people,

especially in France, imagine that a change in opinion is going on in

the United States, which is favorable to a centralization of power in

the hands of the President and the Congress. I hold that a contrary

tendency may distinctly be observed. So far is the Federal Government

from acquiring strength, and from threatening the sovereignty of the

States, as it grows older, that I maintain it to be growing weaker and

weaker, and that the sovereignty of the Union alone is in danger. Such

are the facts which the present time discloses. The future conceals the

final result of this tendency, and the events which may check, retard,

or accelerate the changes I have described; but I do not affect to be

able to remove the veil which hides them from our sight.

Of The Republican Institutions Of The United States, And What Their

Chances Of Duration Are

The Union is accidental—The Republican institutions have more prospect

of permanence—A republic for the present the natural state of the

Anglo-Americans—Reason of this—In order to destroy it, all the laws

must be changed at the same time, and a great alteration take place in

manners—Difficulties experienced by the Americans in creating an

aristocracy.

The dismemberment of the Union, by the introduction of war into the

heart of those States which are now confederate, with standing armies,

a dictatorship, and a heavy taxation, might, eventually, compromise the

fate of the republican institutions. But we ought not to confound the

future prospects of the republic with those of the Union. The Union is

an accident, which will only last as long as circumstances are

favorable to its existence; but a republican form of government seems

to me to be the natural state of the Americans; which nothing but the

continued action of hostile causes, always acting in the same

direction, could change into a monarchy. The Union exists principally

in the law which formed it; one revolution, one change in public

opinion, might destroy it forever; but the republic has a much deeper

foundation to rest upon.

What is understood by a republican government in the United States is

the slow and quiet action of society upon itself. It is a regular state

of things really founded upon the enlightened will of the people. It is

a conciliatory government under which resolutions are allowed time to

ripen; and in which they are deliberately discussed, and executed with

mature judgment. The republicans in the United States set a high value

upon morality, respect religious belief, and acknowledge the existence

of rights. They profess to think that a people ought to be moral,

religious, and temperate, in proportion as it is free. What is called

the republic in the United States, is the tranquil rule of the

majority, which, after having had time to examine itself, and to give

proof of its existence, is the common source of all the powers of the

State. But the power of the majority is not of itself unlimited. In the

moral world humanity, justice, and reason enjoy an undisputed

supremacy; in the political world vested rights are treated with no

less deference. The majority recognizes these two barriers; and if it

now and then overstep them, it is because, like individuals, it has

passions, and, like them, it is prone to do what is wrong, whilst it

discerns what is right.

But the demagogues of Europe have made strange discoveries. A republic

is not, according to them, the rule of the majority, as has hitherto

been thought, but the rule of those who are strenuous partisans of the

majority. It is not the people who preponderates in this kind of

government, but those who are best versed in the good qualities of the

people. A happy distinction, which allows men to act in the name of

nations without consulting them, and to claim their gratitude whilst

their rights are spurned. A republican government, moreover, is the

only one which claims the right of doing whatever it chooses, and

despising what men have hitherto respected, from the highest moral

obligations to the vulgar rules of common-sense. It had been supposed,

until our time, that despotism was odious, under whatever form it

appeared. But it is a discovery of modern days that there are such

things as legitimate tyranny and holy injustice, provided they are

exercised in the name of the people.

The ideas which the Americans have adopted respecting the republican

form of government, render it easy for them to live under it, and

insure its duration. If, in their country, this form be often

practically bad, at least it is theoretically good; and, in the end,

the people always acts in conformity to it.

It was impossible at the foundation of the States, and it would still

be difficult, to establish a central administration in America. The

inhabitants are dispersed over too great a space, and separated by too

many natural obstacles, for one man to undertake to direct the details

of their existence. America is therefore pre-eminently the country of

provincial and municipal government. To this cause, which was plainly

felt by all the Europeans of the New World, the Anglo-Americans added

several others peculiar to themselves.

At the time of the settlement of the North American colonies, municipal

liberty had already penetrated into the laws as well as the manners of

the English; and the emigrants adopted it, not only as a necessary

thing, but as a benefit which they knew how to appreciate. We have

already seen the manner in which the colonies were founded: every

province, and almost every district, was peopled separately by men who

were strangers to each other, or who associated with very different

purposes. The English settlers in the United States, therefore, early

perceived that they were divided into a great number of small and

distinct communities which belonged to no common centre; and that it

was needful for each of these little communities to take care of its

own affairs, since there did not appear to be any central authority

which was naturally bound and easily enabled to provide for them. Thus,

the nature of the country, the manner in which the British colonies

were founded, the habits of the first emigrants, in short everything,

united to promote, in an extraordinary degree, municipal and provincial

liberties.

In the United States, therefore, the mass of the institutions of the

country is essentially republican; and in order permanently to destroy

the laws which form the basis of the republic, it would be necessary to

abolish all the laws at once. At the present day it would be even more

difficult for a party to succeed in founding a monarchy in the United

States than for a set of men to proclaim that France should

henceforward be a republic. Royalty would not find a system of

legislation prepared for it beforehand; and a monarchy would then

exist, really surrounded by republican institutions. The monarchical

principle would likewise have great difficulty in penetrating into the

manners of the Americans.

In the United States, the sovereignty of the people is not an isolated

doctrine bearing no relation to the prevailing manners and ideas of the

people: it may, on the contrary, be regarded as the last link of a

chain of opinions which binds the whole Anglo-American world. That

Providence has given to every human being the degree of reason

necessary to direct himself in the affairs which interest him

exclusively—such is the grand maxim upon which civil and political

society rests in the United States. The father of a family applies it

to his children; the master to his servants; the township to its

officers; the province to its townships; the State to its provinces;

the Union to the States; and when extended to the nation, it becomes

the doctrine of the sovereignty of the people.

Thus, in the United States, the fundamental principle of the republic

is the same which governs the greater part of human actions; republican

notions insinuate themselves into all the ideas, opinions, and habits

of the Americans, whilst they are formerly recognized by the

legislation: and before this legislation can be altered the whole

community must undergo very serious changes. In the United States, even

the religion of most of the citizens is republican, since it submits

the truths of the other world to private judgment: as in politics the

care of its temporal interests is abandoned to the good sense of the

people. Thus every man is allowed freely to take that road which he

thinks will lead him to heaven; just as the law permits every citizen

to have the right of choosing his government.

It is evident that nothing but a long series of events, all having the

same tendency, can substitute for this combination of laws, opinions,

and manners, a mass of opposite opinions, manners, and laws.

If republican principles are to perish in America, they can only yield

after a laborious social process, often interrupted, and as often

resumed; they will have many apparent revivals, and will not become

totally extinct until an entirely new people shall have succeeded to

that which now exists. Now, it must be admitted that there is no

symptom or presage of the approach of such a revolution. There is

nothing more striking to a person newly arrived in the United States,

than the kind of tumultuous agitation in which he finds political

society. The laws are incessantly changing, and at first sight it seems

impossible that a people so variable in its desires should avoid

adopting, within a short space of time, a completely new form of

government. Such apprehensions are, however, premature; the instability

which affects political institutions is of two kinds, which ought not

to be confounded: the first, which modifies secondary laws, is not

incompatible with a very settled state of society; the other shakes the

very foundations of the Constitution, and attacks the fundamental

principles of legislation; this species of instability is always

followed by troubles and revolutions, and the nation which suffers

under it is in a state of violent transition.

Experience shows that these two kinds of legislative instability have

no necessary connection; for they have been found united or separate,

according to times and circumstances. The first is common in the United

States, but not the second: the Americans often change their laws, but

the foundation of the Constitution is respected.

In our days the republican principle rules in America, as the

monarchical principle did in France under Louis XIV. The French of that

period were not only friends of the monarchy, but they thought it

impossible to put anything in its place; they received it as we receive

the rays of the sun and the return of the seasons. Amongst them the

royal power had neither advocates nor opponents. In like manner does

the republican government exist in America, without contention or

opposition; without proofs and arguments, by a tacit agreement, a sort

of consensus universalis. It is, however, my opinion that by changing

their administrative forms as often as they do, the inhabitants of the

United States compromise the future stability of their government.

It may be apprehended that men, perpetually thwarted in their designs

by the mutability of the legislation, will learn to look upon

republican institutions as an inconvenient form of society; the evil

resulting from the instability of the secondary enactments might then

raise a doubt as to the nature of the fundamental principles of the

Constitution, and indirectly bring about a revolution; but this epoch

is still very remote.

It may, however, be foreseen even now, that when the Americans lose

their republican institutions they will speedily arrive at a despotic

government, without a long interval of limited monarchy. Montesquieu

remarked, that nothing is more absolute than the authority of a prince

who immediately succeeds a republic, since the powers which had

fearlessly been intrusted to an elected magistrate are then transferred

to a hereditary sovereign. This is true in general, but it is more

peculiarly applicable to a democratic republic. In the United States,

the magistrates are not elected by a particular class of citizens, but

by the majority of the nation; they are the immediate representatives

of the passions of the multitude; and as they are wholly dependent upon

its pleasure, they excite neither hatred nor fear: hence, as I have

already shown, very little care has been taken to limit their

influence, and they are left in possession of a vast deal of arbitrary

power. This state of things has engendered habits which would outlive

itself; the American magistrate would retain his power, but he would

cease to be responsible for the exercise of it; and it is impossible to

say what bounds could then be set to tyranny.

Some of our European politicians expect to see an aristocracy arise in

America, and they already predict the exact period at which it will be

able to assume the reins of government. I have previously observed, and

I repeat my assertion, that the present tendency of American society

appears to me to become more and more democratic. Nevertheless, I do

not assert that the Americans will not, at some future time, restrict

the circle of political rights in their country, or confiscate those

rights to the advantage of a single individual; but I cannot imagine

that they will ever bestow the exclusive exercise of them upon a

privileged class of citizens, or, in other words, that they will ever

found an aristocracy.

An aristocratic body is composed of a certain number of citizens who,

without being very far removed from the mass of the people, are,

nevertheless, permanently stationed above it: a body which it is easy

to touch and difficult to strike; with which the people are in daily

contact, but with which they can never combine. Nothing can be imagined

more contrary to nature and to the secret propensities of the human

heart than a subjection of this kind; and men who are left to follow

their own bent will always prefer the arbitrary power of a king to the

regular administration of an aristocracy. Aristocratic institutions

cannot subsist without laying down the inequality of men as a

fundamental principle, as a part and parcel of the legislation,

affecting the condition of the human family as much as it affects that

of society; but these are things so repugnant to natural equity that

they can only be extorted from men by constraint.

I do not think a single people can be quoted, since human society began

to exist, which has, by its own free will and by its own exertions,

created an aristocracy within its own bosom. All the aristocracies of

the Middle Ages were founded by military conquest; the conqueror was

the noble, the vanquished became the serf. Inequality was then imposed

by force; and after it had been introduced into the manners of the

country it maintained its own authority, and was sanctioned by the

legislation. Communities have existed which were aristocratic from

their earliest origin, owing to circumstances anterior to that event,

and which became more democratic in each succeeding age. Such was the

destiny of the Romans, and of the barbarians after them. But a people,

having taken its rise in civilization and democracy, which should

gradually establish an inequality of conditions, until it arrived at

inviolable privileges and exclusive castes, would be a novelty in the

world; and nothing intimates that America is likely to furnish so

singular an example.

Reflection On The Causes Of The Commercial Prosperity Of The Of The

United States

The Americans destined by Nature to be a great maritime people—Extent

of their coasts—Depth of their ports—Size of their rivers—The

commercial superiority of the Anglo-Americans less attributable,

however, to physical circumstances than to moral and intellectual

causes—Reason of this opinion—Future destiny of the Anglo-Americans as

a commercial nation—The dissolution of the Union would not check the

maritime vigor of the States—Reason of this—Anglo-Americans will

naturally supply the wants of the inhabitants of South America—They

will become, like the English, the factors of a great portion of the

world.

The coast of the United States, from the Bay of Fundy to the Sabine

River in the Gulf of Mexico, is more than two thousand miles in extent.

These shores form an unbroken line, and they are all subject to the

same government. No nation in the world possesses vaster, deeper, or

more secure ports for shipping than the Americans.

The inhabitants of the United States constitute a great civilized

people, which fortune has placed in the midst of an uncultivated

country at a distance of three thousand miles from the central point of

civilization. America consequently stands in daily need of European

trade. The Americans will, no doubt, ultimately succeed in producing or

manufacturing at home most of the articles which they require; but the

two continents can never be independent of each other, so numerous are

the natural ties which exist between their wants, their ideas, their

habits, and their manners.

The Union produces peculiar commodities which are now become necessary

to us, but which cannot be cultivated, or can only be raised at an

enormous expense, upon the soil of Europe. The Americans only consume a

small portion of this produce, and they are willing to sell us the

rest. Europe is therefore the market of America, as America is the

market of Europe; and maritime commerce is no less necessary to enable

the inhabitants of the United States to transport their raw materials

to the ports of Europe, than it is to enable us to supply them with our

manufactured produce. The United States were therefore necessarily

reduced to the alternative of increasing the business of other maritime

nations to a great extent, if they had themselves declined to enter

into commerce, as the Spaniards of Mexico have hitherto done; or, in

the second place, of becoming one of the first trading powers of the

globe.

The Anglo-Americans have always displayed a very decided taste for the

sea. The Declaration of Independence broke the commercial restrictions

which united them to England, and gave a fresh and powerful stimulus to

their maritime genius. Ever since that time, the shipping of the Union

has increased in almost the same rapid proportion as the number of its

inhabitants. The Americans themselves now transport to their own shores

nine-tenths of the European produce which they consume. \*g And they

also bring three-quarters of the exports of the New World to the

European consumer. \*h The ships of the United States fill the docks of

Havre and of Liverpool; whilst the number of English and French vessels

which are to be seen at New York is comparatively small. \*i

g

[ The total value of goods imported during the year which ended on

September 30, 1832, was $101,129,266. The value of the cargoes of

foreign vessels did not amount to $10,731,039, or about one-tenth of

the entire sum.]

h

[ The value of goods exported during the same year amounted to

$87,176,943; the value of goods exported by foreign vessels amounted to

$21,036,183, or about one quarter of the whole sum. (Williams’s

“Register,” 1833, p. 398.)]

i

[ The tonnage of the vessels which entered all the ports of the Union

in the years 1829, 1830, and 1831, amounted to 3,307,719 tons, of which

544,571 tons were foreign vessels; they stood, therefore, to the

American vessels in a ratio of about 16 to 100. (“National Calendar,”

1833, p. 304.) The tonnage of the English vessels which entered the

ports of London, Liverpool, and Hull, in the years 1820, 1826, and

1831, amounted to 443,800 tons. The foreign vessels which entered the

same ports during the same years amounted to 159,431 tons. The ratio

between them was, therefore, about 36 to 100. (“Companion to the

Almanac,” 1834, p. 169.) In the year 1832 the ratio between the foreign

and British ships which entered the ports of Great Britain was 29 to

100. [These statements relate to a condition of affairs which has

ceased to exist; the Civil War and the heavy taxation of the United

States entirely altered the trade and navigation of the country.]]

Thus, not only does the American merchant face the competition of his

own countrymen, but he even supports that of foreign nations in their

own ports with success. This is readily explained by the fact that the

vessels of the United States can cross the seas at a cheaper rate than

any other vessels in the world. As long as the mercantile shipping of

the United States preserves this superiority, it will not only retain

what it has acquired, but it will constantly increase in prosperity.

Chapter XVIII: Future Condition Of Three Races—Part X

It is difficult to say for what reason the Americans can trade at a

lower rate than other nations; and one is at first led to attribute

this circumstance to the physical or natural advantages which are

within their reach; but this supposition is erroneous. The American

vessels cost almost as much to build as our own; \*j they are not better

built, and they generally last for a shorter time. The pay of the

American sailor is more considerable than the pay on board European

ships; which is proved by the great number of Europeans who are to be

met with in the merchant vessels of the United States. But I am of

opinion that the true cause of their superiority must not be sought for

in physical advantages, but that it is wholly attributable to their

moral and intellectual qualities.

j

[ Materials are, generally speaking, less expensive in America than in

Europe, but the price of labor is much higher.]

The following comparison will illustrate my meaning. During the

campaigns of the Revolution the French introduced a new system of

tactics into the art of war, which perplexed the oldest generals, and

very nearly destroyed the most ancient monarchies in Europe. They

undertook (what had never before been attempted) to make shift without

a number of things which had always been held to be indispensable in

warfare; they required novel exertions on the part of their troops

which no civilized nations had ever thought of; they achieved great

actions in an incredibly short space of time; and they risked human

life without hesitation to obtain the object in view. The French had

less money and fewer men than their enemies; their resources were

infinitely inferior; nevertheless they were constantly victorious,

until their adversaries chose to imitate their example.

The Americans have introduced a similar system into their commercial

speculations; and they do for cheapness what the French did for

conquest. The European sailor navigates with prudence; he only sets

sail when the weather is favorable; if an unforseen accident befalls

him, he puts into port; at night he furls a portion of his canvas; and

when the whitening billows intimate the vicinity of land, he checks his

way, and takes an observation of the sun. But the American neglects

these precautions and braves these dangers. He weighs anchor in the

midst of tempestuous gales; by night and by day he spreads his sheets

to the wind; he repairs as he goes along such damage as his vessel may

have sustained from the storm; and when he at last approaches the term

of his voyage, he darts onward to the shore as if he already descried a

port. The Americans are often shipwrecked, but no trader crosses the

seas so rapidly. And as they perform the same distance in a shorter

time, they can perform it at a cheaper rate.

The European touches several times at different ports in the course of

a long voyage; he loses a good deal of precious time in making the

harbor, or in waiting for a favorable wind to leave it; and he pays

daily dues to be allowed to remain there. The American starts from

Boston to go to purchase tea in China; he arrives at Canton, stays

there a few days, and then returns. In less than two years he has

sailed as far as the entire circumference of the globe, and he has seen

land but once. It is true that during a voyage of eight or ten months

he has drunk brackish water and lived upon salt meat; that he has been

in a continual contest with the sea, with disease, and with a tedious

existence; but upon his return he can sell a pound of his tea for a

half-penny less than the English merchant, and his purpose is

accomplished.

I cannot better explain my meaning than by saying that the Americans

affect a sort of heroism in their manner of trading. But the European

merchant will always find it very difficult to imitate his American

competitor, who, in adopting the system which I have just described,

follows not only a calculation of his gain, but an impulse of his

nature.

The inhabitants of the United States are subject to all the wants and

all the desires which result from an advanced stage of civilization;

but as they are not surrounded by a community admirably adapted, like

that of Europe, to satisfy their wants, they are often obliged to

procure for themselves the various articles which education and habit

have rendered necessaries. In America it sometimes happens that the

same individual tills his field, builds his dwelling, contrives his

tools, makes his shoes, and weaves the coarse stuff of which his dress

is composed. This circumstance is prejudicial to the excellence of the

work; but it powerfully contributes to awaken the intelligence of the

workman. Nothing tends to materialize man, and to deprive his work of

the faintest trace of mind, more than extreme division of labor. In a

country like America, where men devoted to special occupations are

rare, a long apprenticeship cannot be required from anyone who embraces

a profession. The Americans, therefore, change their means of gaining a

livelihood very readily; and they suit their occupations to the

exigencies of the moment, in the manner most profitable to themselves.

Men are to be met with who have successively been barristers, farmers,

merchants, ministers of the gospel, and physicians. If the American be

less perfect in each craft than the European, at least there is

scarcely any trade with which he is utterly unacquainted. His capacity

is more general, and the circle of his intelligence is enlarged.

The inhabitants of the United States are never fettered by the axioms

of their profession; they escape from all the prejudices of their

present station; they are not more attached to one line of operation

than to another; they are not more prone to employ an old method than a

new one; they have no rooted habits, and they easily shake off the

influence which the habits of other nations might exercise upon their

minds from a conviction that their country is unlike any other, and

that its situation is without a precedent in the world. America is a

land of wonders, in which everything is in constant motion, and every

movement seems an improvement. The idea of novelty is there

indissolubly connected with the idea of amelioration. No natural

boundary seems to be set to the efforts of man; and what is not yet

done is only what he has not yet attempted to do.

This perpetual change which goes on in the United States, these

frequent vicissitudes of fortune, accompanied by such unforeseen

fluctuations in private and in public wealth, serve to keep the minds

of the citizens in a perpetual state of feverish agitation, which

admirably invigorates their exertions, and keeps them in a state of

excitement above the ordinary level of mankind. The whole life of an

American is passed like a game of chance, a revolutionary crisis, or a

battle. As the same causes are continually in operation throughout the

country, they ultimately impart an irresistible impulse to the national

character. The American, taken as a chance specimen of his countrymen,

must then be a man of singular warmth in his desires, enterprising,

fond of adventure, and, above all, of innovation. The same bent is

manifest in all that he does; he introduces it into his political laws,

his religious doctrines, his theories of social economy, and his

domestic occupations; he bears it with him in the depths of the

backwoods, as well as in the business of the city. It is this same

passion, applied to maritime commerce, which makes him the cheapest and

the quickest trader in the world.

As long as the sailors of the United States retain these inspiriting

advantages, and the practical superiority which they derive from them,

they will not only continue to supply the wants of the producers and

consumers of their own country, but they will tend more and more to

become, like the English, the factors of all other peoples. \*k This

prediction has already begun to be realized; we perceive that the

American traders are introducing themselves as intermediate agents in

the commerce of several European nations; \*l and America will offer a

still wider field to their enterprise.

k

[ It must not be supposed that English vessels are exclusively employed

in transporting foreign produce into England, or British produce to

foreign countries; at the present day the merchant shipping of England

may be regarded in the light of a vast system of public conveyances,

ready to serve all the producers of the world, and to open

communications between all peoples. The maritime genius of the

Americans prompts them to enter into competition with the English.]

l

[ Part of the commerce of the Mediterranean is already carried on by

American vessels.]

The great colonies which were founded in South America by the Spaniards

and the Portuguese have since become empires. Civil war and oppression

now lay waste those extensive regions. Population does not increase,

and the thinly scattered inhabitants are too much absorbed in the cares

of self-defense even to attempt any amelioration of their condition.

Such, however, will not always be the case. Europe has succeeded by her

own efforts in piercing the gloom of the Middle Ages; South America has

the same Christian laws and Christian manners as we have; she contains

all the germs of civilization which have grown amidst the nations of

Europe or their offsets, added to the advantages to be derived from our

example: why then should she always remain uncivilized? It is clear

that the question is simply one of time; at some future period, which

may be more or less remote, the inhabitants of South America will

constitute flourishing and enlightened nations.

But when the Spaniards and Portuguese of South America begin to feel

the wants common to all civilized nations, they will still be unable to

satisfy those wants for themselves; as the youngest children of

civilization, they must perforce admit the superiority of their elder

brethren. They will be agriculturists long before they succeed in

manufactures or commerce, and they will require the mediation of

strangers to exchange their produce beyond seas for those articles for

which a demand will begin to be felt.

It is unquestionable that the Americans of the North will one day

supply the wants of the Americans of the South. Nature has placed them

in contiguity, and has furnished the former with every means of knowing

and appreciating those demands, of establishing a permanent connection

with those States, and of gradually filling their markets. The

merchants of the United States could only forfeit these natural

advantages if he were very inferior to the merchant of Europe; to whom

he is, on the contrary, superior in several respects. The Americans of

the United States already exercise a very considerable moral influence

upon all the peoples of the New World. They are the source of

intelligence, and all the nations which inhabit the same continent are

already accustomed to consider them as the most enlightened, the most

powerful, and the most wealthy members of the great American family.

All eyes are therefore turned towards the Union; and the States of

which that body is composed are the models which the other communities

try to imitate to the best of their power; it is from the United States

that they borrow their political principles and their laws.

The Americans of the United States stand in precisely the same position

with regard to the peoples of South America as their fathers, the

English, occupy with regard to the Italians, the Spaniards, the

Portuguese, and all those nations of Europe which receive their

articles of daily consumption from England, because they are less

advanced in civilization and trade. England is at this time the natural

emporium of almost all the nations which are within its reach; the

American Union will perform the same part in the other hemisphere; and

every community which is founded, or which prospers in the New World,

is founded and prospers to the advantage of the Anglo-Americans.

If the Union were to be dissolved, the commerce of the States which now

compose it would undoubtedly be checked for a time; but this

consequence would be less perceptible than is generally supposed. It is

evident that, whatever may happen, the commercial States will remain

united. They are all contiguous to each other; they have identically

the same opinions, interests, and manners; and they are alone competent

to form a very great maritime power. Even if the South of the Union

were to become independent of the North, it would still require the

services of those States. I have already observed that the South is not

a commercial country, and nothing intimates that it is likely to become

so. The Americans of the South of the United States will therefore be

obliged, for a long time to come, to have recourse to strangers to

export their produce, and to supply them with the commodities which are

requisite to satisfy their wants. But the Northern States are

undoubtedly able to act as their intermediate agents cheaper than any

other merchants. They will therefore retain that employment, for

cheapness is the sovereign law of commerce. National claims and

national prejudices cannot resist the influence of cheapness. Nothing

can be more virulent than the hatred which exists between the Americans

of the United States and the English. But notwithstanding these

inimical feelings, the Americans derive the greater part of their

manufactured commodities from England, because England supplies them at

a cheaper rate than any other nation. Thus the increasing prosperity of

America turns, notwithstanding the grudges of the Americans, to the

advantage of British manufactures.

Reason shows and experience proves that no commercial prosperity can be

durable if it cannot be united, in case of need, to naval force. This

truth is as well understood in the United States as it can be anywhere

else: the Americans are already able to make their flag respected; in a

few years they will be able to make it feared. I am convinced that the

dismemberment of the Union would not have the effect of diminishing the

naval power of the Americans, but that it would powerfully contribute

to increase it. At the present time the commercial States are connected

with others which have not the same interests, and which frequently

yield an unwilling consent to the increase of a maritime power by which

they are only indirectly benefited. If, on the contrary, the commercial

States of the Union formed one independent nation, commerce would

become the foremost of their national interests; they would

consequently be willing to make very great sacrifices to protect their

shipping, and nothing would prevent them from pursuing their designs

upon this point.

Nations, as well as men, almost always betray the most prominent

features of their future destiny in their earliest years. When I

contemplate the ardor with which the Anglo-Americans prosecute

commercial enterprise, the advantages which befriend them, and the

success of their undertakings, I cannot refrain from believing that

they will one day become the first maritime power of the globe. They

are born to rule the seas, as the Romans were to conquer the world.

Conclusion

I have now nearly reached the close of my inquiry; hitherto, in

speaking of the future destiny of the United States, I have endeavored

to divide my subject into distinct portions, in order to study each of

them with more attention. My present object is to embrace the whole

from one single point; the remarks I shall make will be less detailed,

but they will be more sure. I shall perceive each object less

distinctly, but I shall descry the principal facts with more certainty.

A traveller who has just left the walls of an immense city, climbs the

neighboring hill; as he goes father off he loses sight of the men whom

he has so recently quitted; their dwellings are confused in a dense

mass; he can no longer distinguish the public squares, and he can

scarcely trace out the great thoroughfares; but his eye has less

difficulty in following the boundaries of the city, and for the first

time he sees the shape of the vast whole. Such is the future destiny of

the British race in North America to my eye; the details of the

stupendous picture are overhung with shade, but I conceive a clear idea

of the entire subject.

The territory now occupied or possessed by the United States of America

forms about one-twentieth part of the habitable earth. But extensive as

these confines are, it must not be supposed that the Anglo-American

race will always remain within them; indeed, it has already far

overstepped them.

There was once a time at which we also might have created a great

French nation in the American wilds, to counterbalance the influence of

the English upon the destinies of the New World. France formerly

possessed a territory in North America, scarcely less extensive than

the whole of Europe. The three greatest rivers of that continent then

flowed within her dominions. The Indian tribes which dwelt between the

mouth of the St. Lawrence and the delta of the Mississippi were

unaccustomed to any other tongue but ours; and all the European

settlements scattered over that immense region recalled the traditions

of our country. Louisbourg, Montmorency, Duquesne, St. Louis,

Vincennes, New Orleans (for such were the names they bore) are words

dear to France and familiar to our ears.

But a concourse of circumstances, which it would be tedious to

enumerate, \*m have deprived us of this magnificent inheritance.

Wherever the French settlers were numerically weak and partially

established, they have disappeared: those who remain are collected on a

small extent of country, and are now subject to other laws. The 400,000

French inhabitants of Lower Canada constitute, at the present time, the

remnant of an old nation lost in the midst of a new people. A foreign

population is increasing around them unceasingly and on all sides,

which already penetrates amongst the ancient masters of the country,

predominates in their cities and corrupts their language. This

population is identical with that of the United States; it is therefore

with truth that I asserted that the British race is not confined within

the frontiers of the Union, since it already extends to the northeast.

m

[ The foremost of these circumstances is, that nations which are

accustomed to free institutions and municipal government are better

able than any others to found prosperous colonies. The habit of

thinking and governing for oneself is indispensable in a new country,

where success necessarily depends, in a great measure, upon the

individual exertions of the settlers.]

To the northwest nothing is to be met with but a few insignificant

Russian settlements; but to the southwest, Mexico presents a barrier to

the Anglo-Americans. Thus, the Spaniards and the Anglo-Americans are,

properly speaking, the only two races which divide the possession of

the New World. The limits of separation between them have been settled

by a treaty; but although the conditions of that treaty are exceedingly

favorable to the Anglo-Americans, I do not doubt that they will shortly

infringe this arrangement. Vast provinces, extending beyond the

frontiers of the Union towards Mexico, are still destitute of

inhabitants. The natives of the United States will forestall the

rightful occupants of these solitary regions. They will take possession

of the soil, and establish social institutions, so that when the legal

owner arrives at length, he will find the wilderness under cultivation,

and strangers quietly settled in the midst of his inheritance. \*n

n

[ [This was speedily accomplished, and ere long both Texas and

California formed part of the United States. The Russian settlements

were acquired by purchase.]]

The lands of the New World belong to the first occupant, and they are

the natural reward of the swiftest pioneer. Even the countries which

are already peopled will have some difficulty in securing themselves

from this invasion. I have already alluded to what is taking place in

the province of Texas. The inhabitants of the United States are

perpetually migrating to Texas, where they purchase land; and although

they conform to the laws of the country, they are gradually founding

the empire of their own language and their own manners. The province of

Texas is still part of the Mexican dominions, but it will soon contain

no Mexicans; the same thing has occurred whenever the Anglo-Americans

have come into contact with populations of a different origin.

It cannot be denied that the British race has acquired an amazing

preponderance over all the other European races in the New World; and

that it is very superior to them in civilization, in industry, and in

power. As long as it is only surrounded by desert or thinly peopled

countries, as long as it encounters no dense populations upon its

route, through which it cannot work its way, it will assuredly continue

to spread. The lines marked out by treaties will not stop it; but it

will everywhere transgress these imaginary barriers.

The geographical position of the British race in the New World is

peculiarly favorable to its rapid increase. Above its northern

frontiers the icy regions of the Pole extend; and a few degrees below

its southern confines lies the burning climate of the Equator. The

Anglo-Americans are, therefore, placed in the most temperate and

habitable zone of the continent.

It is generally supposed that the prodigious increase of population in

the United States is posterior to their Declaration of Independence.

But this is an error: the population increased as rapidly under the

colonial system as it does at the present day; that is to say, it

doubled in about twenty-two years. But this proportion which is now

applied to millions, was then applied to thousands of inhabitants; and

the same fact which was scarcely noticeable a century ago, is now

evident to every observer.

The British subjects in Canada, who are dependent on a king, augment

and spread almost as rapidly as the British settlers of the United

States, who live under a republican government. During the war of

independence, which lasted eight years, the population continued to

increase without intermission in the same ratio. Although powerful

Indian nations allied with the English existed at that time upon the

western frontiers, the emigration westward was never checked. Whilst

the enemy laid waste the shores of the Atlantic, Kentucky, the western

parts of Pennsylvania, and the States of Vermont and of Maine were

filling with inhabitants. Nor did the unsettled state of the

Constitution, which succeeded the war, prevent the increase of the

population, or stop its progress across the wilds. Thus, the difference

of laws, the various conditions of peace and war, of order and of

anarchy, have exercised no perceptible influence upon the gradual

development of the Anglo-Americans. This may be readily understood; for

the fact is, that no causes are sufficiently general to exercise a

simultaneous influence over the whole of so extensive a territory. One

portion of the country always offers a sure retreat from the calamities

which afflict another part; and however great may be the evil, the

remedy which is at hand is greater still.

It must not, then, be imagined that the impulse of the British race in

the New World can be arrested. The dismemberment of the Union, and the

hostilities which might ensure, the abolition of republican

institutions, and the tyrannical government which might succeed it, may

retard this impulse, but they cannot prevent it from ultimately

fulfilling the destinies to which that race is reserved. No power upon

earth can close upon the emigrants that fertile wilderness which offers

resources to all industry, and a refuge from all want. Future events,

of whatever nature they may be, will not deprive the Americans of their

climate or of their inland seas, of their great rivers or of their

exuberant soil. Nor will bad laws, revolutions, and anarchy be able to

obliterate that love of prosperity and that spirit of enterprise which

seem to be the distinctive characteristics of their race, or to

extinguish that knowledge which guides them on their way.

Thus, in the midst of the uncertain future, one event at least is sure.

At a period which may be said to be near (for we are speaking of the

life of a nation), the Anglo-Americans will alone cover the immense

space contained between the polar regions and the tropics, extending

from the coasts of the Atlantic to the shores of the Pacific Ocean. The

territory which will probably be occupied by the Anglo-Americans at

some future time, may be computed to equal three-quarters of Europe in

extent. \*o The climate of the Union is upon the whole preferable to

that of Europe, and its natural advantages are not less great; it is

therefore evident that its population will at some future time be

proportionate to our own. Europe, divided as it is between so many

different nations, and torn as it has been by incessant wars and the

barbarous manners of the Middle Ages, has notwithstanding attained a

population of 410 inhabitants to the square league. \*p What cause can

prevent the United States from having as numerous a population in time?

o

[ The United States already extend over a territory equal to one-half

of Europe. The area of Europe is 500,000 square leagues, and its

population 205,000,000 of inhabitants. (“Malte Brun,” liv. 114. vol.

vi. p. 4.)

[This computation is given in French leagues, which were in use when

the author wrote. Twenty years later, in 1850, the superficial area of

the United States had been extended to 3,306,865 square miles of

territory, which is about the area of Europe.]]

p

[ See “Malte Brun,” liv. 116, vol. vi. p. 92.]

Many ages must elapse before the divers offsets of the British race in

America cease to present the same homogeneous characteristics: and the

time cannot be foreseen at which a permanent inequality of conditions

will be established in the New World. Whatever differences may arise,

from peace or from war, from freedom or oppression, from prosperity or

want, between the destinies of the different descendants of the great

Anglo-American family, they will at least preserve an analogous social

condition, and they will hold in common the customs and the opinions to

which that social condition has given birth.

In the Middle Ages, the tie of religion was sufficiently powerful to

imbue all the different populations of Europe with the same

civilization. The British of the New World have a thousand other

reciprocal ties; and they live at a time when the tendency to equality

is general amongst mankind. The Middle Ages were a period when

everything was broken up; when each people, each province, each city,

and each family, had a strong tendency to maintain its distinct

individuality. At the present time an opposite tendency seems to

prevail, and the nations seem to be advancing to unity. Our means of

intellectual intercourse unite the most remote parts of the earth; and

it is impossible for men to remain strangers to each other, or to be

ignorant of the events which are taking place in any corner of the

globe. The consequence is that there is less difference, at the present

day, between the Europeans and their descendants in the New World, than

there was between certain towns in the thirteenth century which were

only separated by a river. If this tendency to assimilation brings

foreign nations closer to each other, it must a fortiori prevent the

descendants of the same people from becoming aliens to each other.

The time will therefore come when one hundred and fifty millions of men

will be living in North America, \*q equal in condition, the progeny of

one race, owing their origin to the same cause, and preserving the same

civilization, the same language, the same religion, the same habits,

the same manners, and imbued with the same opinions, propagated under

the same forms. The rest is uncertain, but this is certain; and it is a

fact new to the world—a fact fraught with such portentous consequences

as to baffle the efforts even of the imagination.

q

[ This would be a population proportionate to that of Europe, taken at

a mean rate of 410 inhabitants to the square league.]

There are, at the present time, two great nations in the world which

seem to tend towards the same end, although they started from different

points: I allude to the Russians and the Americans. Both of them have

grown up unnoticed; and whilst the attention of mankind was directed

elsewhere, they have suddenly assumed a most prominent place amongst

the nations; and the world learned their existence and their greatness

at almost the same time.

All other nations seem to have nearly reached their natural limits, and

only to be charged with the maintenance of their power; but these are

still in the act of growth; \*r all the others are stopped, or continue

to advance with extreme difficulty; these are proceeding with ease and

with celerity along a path to which the human eye can assign no term.

The American struggles against the natural obstacles which oppose him;

the adversaries of the Russian are men; the former combats the

wilderness and savage life; the latter, civilization with all its

weapons and its arts: the conquests of the one are therefore gained by

the ploughshare; those of the other by the sword. The Anglo-American

relies upon personal interest to accomplish his ends, and gives free

scope to the unguided exertions and common-sense of the citizens; the

Russian centres all the authority of society in a single arm: the

principal instrument of the former is freedom; of the latter servitude.

Their starting-point is different, and their courses are not the same;

yet each of them seems to be marked out by the will of Heaven to sway

the destinies of half the globe.

r

[ Russia is the country in the Old World in which population increases

most rapidly in proportion.]

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