ADVANCE SHEET – March 4, 2022

President's Letter

We here reproduce John Stuart Mill's summary and comments upon the first volume of Tocqueville's Democracy in America, an easy path into the full text. It has been pointed out that this essay is more conservative in its emphasis than later works of Mill following his involvement with his future wife Harriet Taylor.

Also included in this issue is a self-indulgent book review by the undersigned of a new book seeking to establish a new orthodoxy concerning Baltimore's role in the Civil War. The excuse for this is that the way Maryland views its history is a matter of concern to all citizens, and there are no recent competitors with this book. As always, readers' comments and essays (of reasonable length) are welcomed.

George W. Liebmann

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Commitment

Recently, I had discovered that the mother of a friend of mine had passed away. She was a woman that I knew and liked and I was saddened not to have had the opportunity to pay my respects. So, I resolved to make an effort to periodically scan the local death notices, to see if anyone else I might know had left this world for the next. It was not long, however, before I had abandoned this rather ghoulish pursuit. As someone who does not have a facebook, twitter or any other social media account, I thought it really rather silly to follow the dead when I had never made an effort to follow the living.

Before stopping though, I came across something that we hear about from time to time that shows us, at least it does for me, the essence of love. Frank Kozan, Sr., age 93, passed away on January 22 of this year. The little blurb that somehow was intended to cover all those years stated that he was married to his "loving wife Betty for 71 years." Well, many of you undoubtedly know where I am going. Right after Frank is set forth the obituary for an 89 year old woman who passed away five days later on January 27 at the age of 89, Clare "Betty" Kozan.

The Bar Library itself has its own version of Frank and Betty, that of Joe and Marcia. On April 16, 2009, long time Library Board of Director Judge Joseph I. Pines passed away four days after his wife of more than sixty years Marcia. I remember at the service for Judge Pines someone saying that they had come to think of "Joe and Marcia" as but a single word. (As a side note, April 16, 2009 stands as one of the darkest days in the history of the Bar Library in that on that day the Library lost another Director, Robert J. Thieblot, who had served with distinction from 1968 until his death.)

Judge Pines and Mr. Thieblot are two examples of individuals that knew what commitment is about in a myriad of ways. Both committed family men, I am proud and very grateful to report that they were also committed to the Library. Over the years there have been many people that have made the causes of the Library, theirs as well. In 1856, the Machen family would begin its association with the Library when Arthur W. Machen joined the Board. Amazingly, he would serve until 1915, in the capacity of President from 1874 to 1915. His son and grandson would also serve on the Bar Library Board.

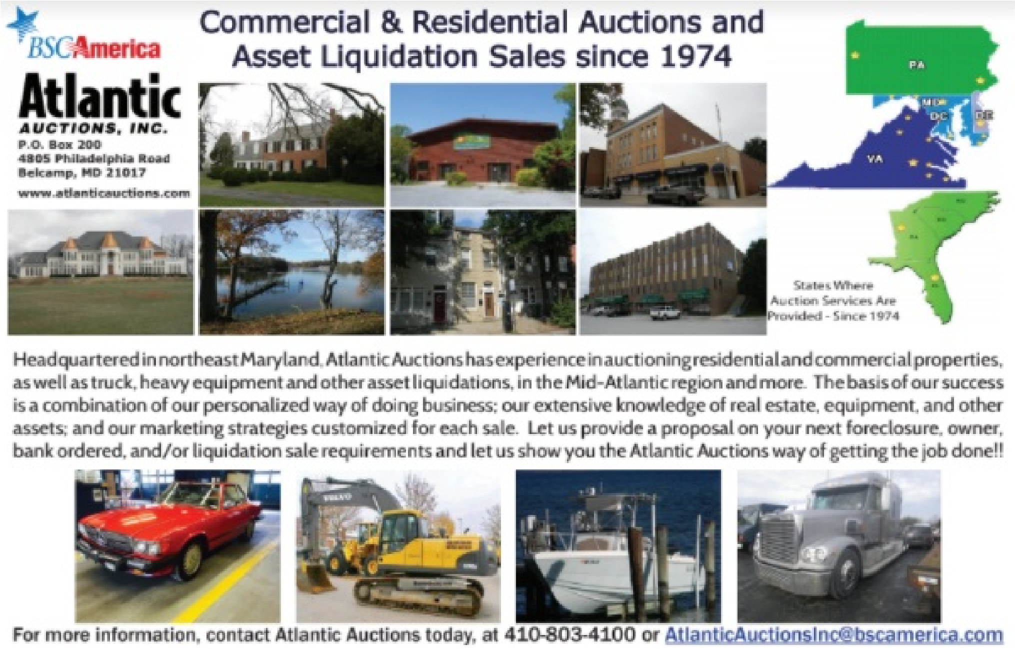
The tradition continues today with those that have made and continue to make substantial commitments to the Library. Last year saw milestone anniversaries for two Library Directors, President of the Board George W. Liebmann celebrated his fiftieth year on the Board, putting him second in years of service only to Mr. Machen, while John J. Connolly marked his twenty-fifth year as a Director. Two other current Directors, Howard J. Schulman (1990) and the Honorable Ellen L. Hollander (1994) have each served for more that twenty-five years.

I am grateful to these individuals for their commitment to the Library. The Library is what it is today in no small measure because of them. Whether it be material that even the largest of firms would find difficult or impossible to find anywhere else; an expansive collection of services and collections that put sole practitioners and members of small and medium firms on an equal footing with all; or as a lifeline to the pro se litigants who utilize the Library's Honorable Harry A. Cole Self-Help Center, the Library is simply the sum of what the men and women who have committed themselves to it, have made it.

Although I do not ask any of you to make the amazing commitments made by the individuals I have mentioned, I do ask for your support in allowing the Library to provide a first rate collection of services and collections to the legal and pro-se communities. So, whether it be a membership or a contribution, the Library needs and appreciates your help, as do those that it serves, on a daily basis. It is nice to make a difference. I ask that you help through your support of an institution that has made a difference to so many for 182 years.

Take care and I look forward to seeing you soon.

Joe Bennett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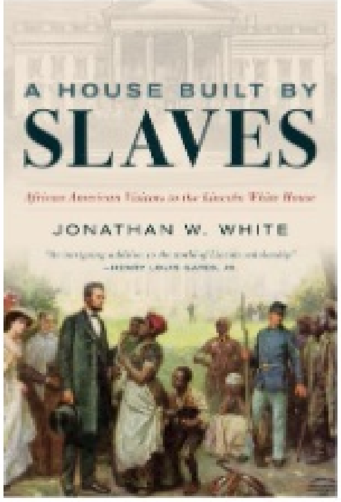

In A House Built By Slaves:
African American Encounters with Abraham Lincoln

On Thursday, March 24, 2022, at 5:00 p.m., Dr. Jonathan White will present a lecture on his book A House Built By Slaves. The lecture will be presented by way of Zoom. We invite those that will be watching to participate by contributing their questions. **Zoom** is an interactive platform.

Jonathan W. White is associate professor of American Studies at Christopher Newport University. He is author or editor of twelve books and more than one hundred articles, essays and reviews about the Civil War. His earlier book, Emancipation, the Union Army, and the Reelection of Abraham Lincoln, was named a best book of 2014 by Civil War Monitor, was a finalist for both the Gilder-Lehrman Lincoln Prize and the Jefferson Davis Prize, and won the Abraham Lincoln Institute's 2015 book prize. Midnight in America: Darkness, Sleep, and Dreams during the Civil War was named a best book of 2017 by Civil War Monitor. His recent book, Our Little Monitor: The Greatest Invention of the Civil War, co-authored with Anna Gibson Holloway, was a finalist for the Indie Book Awards and honorable mention for the John Lyman Book Award. He is a Distinguished Lecturer for the Organization of American Historians, and serves on the Boards of Directors of the Abraham Lincoln Institute, the Abraham Lincoln Association, and The Lincoln Forum. He also serves on the Board of Advisors of the John L. Nau III Center for Civil War History at the University of Virginia, the Ford's Theatre Advisory Council, and the editorial board of the Pennsylvania Magazine of History and Biography. In 2019 he won the Outstanding Faculty Award of the State Council of Higher Education for Virginia, the highest award given to faculty in the Commonwealth.

"In A House Built By Slaves: African American Encounters with Abraham Lincoln"

Prior to the Civil War, African Americans were almost entirely excluded from the White House, other than as servants or slaves. However, during the war, the racial color line was broken down as African Americans claimed the First Amendment right to petition the government. For the first time in the history of the United States, they saw the president as their president and the White House as their people's house. Between 1862 and 1865 Lincoln welcomed hundreds of African Americans into his White House office and at public receptions. This talk will explore the remarkable story of the relationship that developed between Abraham Lincoln and the black community during the crucible of the Civil War.

Previous Bar Library Presentations of Dr. White: "The Emancipation Proclamation" – A Zoom Presentation (July 30, 2020); "Our Little Monitor: The Greatest Invention of the Civil War" (February 6, 2019); "Lincoln on Law, Leadership, and Life" (June 2, 2015); "Lincoln's Dreams" (October 17, 2013) and "The Peculiarly Insignificant Role of the Supreme Court in the Civil War" (May 10, 2012).

Time: 5:00 p.m., Thursday, March 24, 2022.

If you would like to join us for this Zoom presentation please send an e-mail to jwbennett@barlib.org or telephone the Library at 410-727-0280. You will be forwarded the Zoom link the week of the program.

De Tocqueville on Democracy in America [I]

"Amongst the novel objects," says M. de Tocqueville* in the opening of his work, 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: it gives a certain direction to public opinion, and a certain character to the laws; it imparts 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 private 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 was the fundamental fact from which all others seemed to be derived, and the central point at which all my observations constantly terminated. I then turned my thoughts to our own hemisphere, and imagined that I discerned there also something analogous to the spectacle which the New World presented to me. I observed that the equality of conditions, though it has not yet reached, as in the United States, its extreme limits, is daily progressing towards them; and that the democracy which governs the American communities appears to be rapidly rising into power in Europe. From that moment I conceived the idea of the book which is now before the reader.[*]

To depict accurately, and to estimate justly, the institutions of the United States, have been therefore but secondary aims with the original and profound author of these volumes—secondary, we mean, in themselves, but indispensable to his main object. This object was, to inquire, what light is thrown, by the example of America, upon the question of democracy; which he considers as the great and paramount question of our age.

In turning to America for materials with which to discuss that question, M. de Tocqueville, it needs hardly be remarked, is not singular. All who write Edition: current; Page: [50] or speak on either side of the dispute, are prompt enough in pressing America into their service: but it is for purposes, in general, quite different from that of M. de Tocqueville.

America is usually cited by the two great parties which divide Europe, as an argument for or against democracy. Democrats have sought to prove by it that we ought to be democrats; aristocrats, that we should cleave to aristocracy, and withstand the democratic spirit.

It is not towards deciding this question, that M. de Tocqueville has sought to contribute, by laying before the European world the results of his study of America. He considers it as already irrevocably decided.

The crowd of English politicians, whether public men or public writers, who live in a truly insular ignorance of the great movement of European ideas, will be astonished to find, that a conclusion which but few among them, in their most far-reaching speculations, have yet arrived at, is the point from which the foremost continental thinkers *begin* theirs; and that a philosopher, whose impartiality as between aristocracy and democracy is unparalleled in our time, considers it an established truth, on the proof of which it is no longer necessary to insist, that the progress of democracy neither can nor ought to be stopped. Not to determine whether democracy shall come, but how to make the best of it when it does come, is the scope of M. de Tocqueville's speculations.

That comprehensive survey of the series of changes composing the history of our race, which is now familiar to every continental writer with any pretensions to philosophy, has taught to M. de Tocqueville, that the movement towards democracy dates from the dawn of modern civilization, and has continued steadily advancing from that time. Eight centuries ago, society was divided into barons and serfs: the barons being everything, the serfs nothing. At every succeeding epoch this inequality of condition is found to have somewhat abated; every century has done something considerable towards lowering the powerful and raising the low. Every step in civilization—every victory of intellect—every advancement in wealth—has multiplied the resources of the many; while the same causes, by their indirect agency, have frittered away the strength and relaxed the energy of the few. We now find ourselves in a condition of society which, compared with that whence we have emerged, might be termed equality; yet not only are the same levelling influences still at work, but their force is vastly augmented by new elements which the world never before saw. For the first time, the power and the habit of reading begins to permeate the hitherto inert mass. Reading is power: not only because it is knowledge, but still more because it is a means of communication—because, by the aid of it, not only do opinions and feelings spread to the multitude, but every individual who holds them knows that they are held by the multitude; which of itself suffices, if they continue to be Edition: current; Page: [51] held, to ensure their speedy predominance. The many, for the first time, have now learned the lesson, which, once learned, is never forgotten—that their strength, when they choose to exert it, is invincible. And, for the first time, they have learned to unite for their own objects, without waiting for any section of the aristocracy to place itself at their head. The capacity of cooperation for a common purpose, heretofore a monopolized instrument of power in the hands of the higher classes, is now a most formidable one in those of the lowest. Under these influences it is not surprising that society makes greater strides in ten years, towards the levelling of inequalities, than lately in a century, or formerly in three or four.

M. de Tocqueville is unable to imagine that a progress, which has continued with uninterrupted steadiness for so many centuries, can be stayed now. He assumes that it will continue, until all artificial inequalities shall have disappeared from among mankind; those inequalities only remaining which are the natural and inevitable effects of the protection of property. This appears to him a tremendous fact, pregnant with every conceivable possibility of evil, but also with immense possibilities of good: leaving, in fact, only the alternative of democracy or despotism; and unless the one be practicable, the other, he is deliberately convinced, will be our lot.

The contemplation of the entirely new position into which mankind are entering, and of their supine insensibility to the new exigencies of that new position, fills our author with solemn and anxious emotions. We invite the attention of English readers to a long and deeply interesting passage from his introductory chapter, as a specimen of a mode of thinking concerning the great changes now in progress, which will be new to many of them:

The Christian nations of our age seem to me to present a fearful spectacle; the impulse which is bearing them forward 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 own 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 reanimate its faith, if that be possible; to purify its morals; to regulate its energies; to substitute for its inexperience a knowledge of business, and for its blind instincts an acquaintance with its true interests; to adapt its government to time and place, and to modify it in compliance with circumstances and characters.

A new science of politics is indispensable to a world which has become new. 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 descried upon the shore we have left, whilst the current sweeps us along, and drives us toward an unseen abyss.

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 thought of making any preparation for it, and its victories have been obtained in spite of their resistance, or without their knowledge. The most powerful, the most intelligent, and the most Edition: current; Page: [52] moral classes of the nation have never attempted to connect themselves with it in order to guide it. Democracy has consequently been abandoned to its untutored instincts, and it has grown up like those outcasts who receive their education in the public streets, and who are unacquainted with aught of society but its vices and its miseries. The existence of a democracy was seemingly unknown, when on a sudden it took possession of the supreme power. Everything then servilely submitted to its smallest wish; 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 it, instead of instructing it and correcting its bad tendencies. No attempt was made to fit it to govern; the sole thought was of 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, habits, and manners which was necessary to render such a revolution beneficial. We have gotten a democracy, severed from whatever would lessen its vices and render its natural advantages more prominent; and although we already perceive the evils it brings, we are yet ignorant of the benefits it might confer.

(Reeve, Vol. I, pp. xxii-xxiv; Tocqueville, Vol. I, pp. 10-12.)

M. de Tocqueville then rises into the following powerful delineation of the state of society which has passed never to return, and of the happier, though, in his opinion, less brilliant state, to which we ought now to aspire: of the good which democracy takes away, and of that which, if its natural capabilities are improved, it may bring.

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 advantages which cannot easily be appreciated or conceived in our times.

The power of a part of his subjects set insurmountable barriers 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 from the respect which he inspired, a motive for the just use of his power.

Although lifted so high above the people, the nobles, nevertheless, took that calm and kindly interest in its fate which the shepherd feels towards his flock; and without acknowledging the poor man as their equal, they watched over his destiny as a trust which Providence had confided to their care.

The people, never having conceived the idea of a state of society different from their own, and entertaining no expectation of ever becoming the rivals of their chiefs, accepted their benefits without discussing their rights. They felt attached to them when they were clement and just, and submitted without resistance or servility to their oppressions, as to inevitable visitations of the arm of God. Usages and manners had, moreover, created a species of law in the midst of violence, and established certain limits to oppression.

As the noble never suspected that any one would attempt to deprive him of 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 sort of mutual good-will might arise between two classes so differently favoured by fate. Inequality and wretchedness were then to be found in society; but the souls of neither rank of men were degraded.

It is not by the exercise of power or by the habit of obedience that men are Edition: current; Page: [53] debased; it is by the exercise of a power which they believe to be illegitimate, and by obedience to a rule which they consider to be usurped and unjust.

On one side were wealth, strength, and leisure, accompanied by the refinements of luxury, the elegances of taste, the pleasures of intellect, and the culture of art. On the other were labour, rudeness, and 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 wild virtues. Society thus organized might possess stability, power, and, above all, glory.

But the scene is now changed, and gradually the two ranks mingle; the barriers which once severed mankind are lowered; properties are broken down, power is subdivided, the light of intelligence spreads, and the capacities of all classes are more equally cultivated; the state of society becomes democratic, and the empire of democracy is slowly and peaceably introduced into institutions and manners.

I can now conceive a society in which all, regarding the law as emanating from themselves, would give it their attachment and their ready submission; in which the authority of the State would be respected as necessary, though not as divine; and the loyalty of the subject to the chief magistrate would not be a passion, but a quiet and rational persuasion. Every individual being in the possession of rights, and feeling secure of retaining them, a kind of manly reliance and reciprocal courtesy would arise between all classes, alike removed from pride and meanness.

The people, well acquainted with their true interests, would allow, that, in order to profit by the advantages of society, it is necessary to submit to its burthens. In this state of things, the voluntary association of the citizens might supply the place of the individual power 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 duly regulated, and directed towards improvement. If there be less splendour than in the halls of an aristocracy, the contrast of misery will be less frequent also, enjoyments may be less intense, but comfort will be more general; the sciences may be less highly 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 such a commonwealth by an appeal to their understandings and their experience. Each individual, being equally weak will feel an equal necessity for uniting with his fellow-citizens; and as he knows that he can obtain their good offices only by giving his, 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 powerful; but the majority of the citizens will enjoy a greater degree of prosperity, and the people will remain quiet, not because they despair of being better, but because they know that they are well.

If all the consequences of this state of things were not good or useful, society would at least have appropriated all such of them as were so; 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.

(Reeve. Vol. I, pp. xxiv-xxviii; Tocqueville, Vol. I, pp. 12-15.)

In the picture which follows, the author has had chiefly in view the state of France; and much of it would be grossly exaggerated as a description of Edition: current; Page: [54] England: but we may receive it as a warning of what we may in time expect, if our influential classes continue to forego the exercise of the faculty which distinguishes rational creatures from brutes, and either blindly resist the course of events, or allow them to rush on wildly without any aid from human foresight:

But we—what have we 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 have 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 existences which were able to cope with tyranny single-handed: but the government has alone inherited the privileges of which families, corporations, and individuals have been deprived: to the strength, sometimes oppressive, but often conservative, of a few, has succeeded the weakness of all.

The division of property has lessened the distance which separated the rich from the poor; but the nearer they draw to each other, the greater seems 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 a stranger to both classes, and force is, in the eyes of both, the only argument for the present, and the only resource 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 having acquired the knowledge which enlightens it, and his selfishness is no less blind than his devotedness was formerly.

If society is tranquil, it is not because it is conscious of its strength and of its well-being, but, on the contrary, because it believes itself weak and infirm, and fears that 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 regrets, the sorrows, and the joys of the time produce no visible or permanent fruits.

We have, then, abandoned whatever advantages the old state of things afforded, without receiving the compensations naturally belonging to our present condition; we have destroyed an aristocratic society, and we seem inclined to survey its ruins with complacency, and to fix our abode in the midst of them.

(Reeve. Vol. I, pp. xxviii-xxx; Tocqueville, Vol. I, pp. 15-17.)

In quoting so much of this striking passage, we would not be understood as adopting the whole and every part of it, as the expression of our own sentiments. The good which mankind have lost, is coloured, we think, rather too highly, and the evils of the present state of transition too darkly; and we think, also, that more than our author seems to believe, of what was good in the influences of aristocracy, is compatible, if we really wish to find it so, with a well-regulated democracy. But though we would soften the colours of the picture, we would not alter them; M. de Tocqueville’s is, in our eyes, the true view of the position in which mankind now stand: and on the timely recognition of it as such, by the influential classes of our own and other countries, we believe the most important interests of our race to be greatly dependent.

Edition: current; Page: [55]

It is under the influence of such views that M. de Tocqueville has examined the state of society in America.

There is a country, says he, where the great change, progressively taking place throughout the civilized world, is consummated. In the United States, democracy reigns with undisputed empire; and equality of condition among mankind has reached what seems its ultimate limit.[*] The place in which to Edition: current; Page: [56] study democracy, must be that where its natural tendencies have the freest scope; where all its peculiarities are most fully developed and most visible. In America, therefore, if anywhere, we may expect to learn—first, what portion of human well-being is compatible with democracy in any form; and, next, what are the good and what the bad properties of democracy, and by what means the former may be strengthened, the latter controlled. We have it not in our power to choose between democracy and aristocracy; necessity and Providence have decided that for us. But the choice we are still called upon to make is between a well and an ill-regulated democracy; and on that depends the future well-being of the human race.

When M. de Tocqueville says, that he studied America, not in order to disparage or to vindicate democracy, but in order to understand it, he makes no false claim to impartiality. Not a trace of a prejudice, or so much as a previous leaning either to the side of democracy or aristocracy, shows itself in his work. He is indeed anything but indifferent to the ends, to which all forms of government profess to be means. He manifests the deepest and steadiest concern for all the great interests, material and spiritual, of the human race. But between aristocracy and democracy he holds the balance straight, with all the impassibility of a mere scientific observer. He was indeed most favourably placed for looking upon both sides of that great contest with an unbiassed judgment; for the impressions of his early education were royalist, while among the influences of society and the age liberalism is predominant. He has renounced the impressions of his youth, but he looks back to them with no aversion. It is indifferent to him what value we set upon the good or evil of aristocracy, since that in his view is past and gone. The good and evil of democracy, be they what they may, are what we must now look to; and for us the questions are, how to make the best of democracy, and what that best amounts to.

We have stated the purposes of M. de Tocqueville's examination of America. We have now to add its result.

The conclusion at which he has arrived is, that this irresistible current, which cannot be stemmed, may be guided, and guided to a happy termination. Edition: current; Page: [57] The bad tendencies of democracy, in his opinion, admit of being mitigated; its good tendencies of being so strengthened as to be more than a compensation for the bad. It is his belief that a government, substantially a democracy, but constructed with the necessary precautions, may subsist in Europe, may be stable and durable, and may secure to the aggregate of the human beings living under it, a greater sum of happiness than has ever yet been enjoyed by any people. The universal aim, therefore, should be, so to prepare the way for democracy, that when it comes, it may come in this beneficial shape; not only for the sake of the good we have to expect from it, but because it is literally our only refuge from a despotism resembling not the tempered and regulated absolutism of modern times, but the tyranny of the Cæsars. For when the equality of conditions shall have reached the point which in America it has already attained, and there shall be no power intermediate between the monarch and the multitude; when there remains no individual and no class capable of separately offering any serious obstacle to the will of the government; then, unless the people are fit to rule, the monarch will be as perfectly autocratic as amidst the equality of an Asiatic despotism. Where all are equal, all must be alike free, or alike slaves.

The book, of which we have now described the plan and purpose, has been executed in a manner worthy of so noble a scheme. It has at once taken its rank among the most remarkable productions of our time; and is a book with which, both for its facts and its speculations, all who would understand, or who are called upon to exercise influence over their age, are bound to be familiar. It will contribute to give to the political speculations of our time a new character. Hitherto, aristocracy and democracy have been looked at chiefly in the mass, and applauded as good, or censured as bad, on the whole. But the time is now come for a narrower inspection, and a more discriminating judgment. M. de Tocqueville, among the first, has set the example of analysing democracy; of distinguishing one of its features, one of its tendencies, from another; of showing which of these tendencies is good, and which bad, in itself; how far each is necessarily connected with the rest, and to what extent any of them may be counteracted or modified, either by accident or foresight. He does this, with so noble a field as a great nation to demonstrate upon; which field he has commenced by minutely examining; selecting, with a discernment of which we have had no previous example, the material facts, and surveying these by the light of principles, drawn from no ordinary knowledge of human nature. We do not think his conclusions always just, but we think them always entitled to the most respectful attention, and never destitute of at least a large foundation of truth. The author's mind, except that it is of a soberer character, seems to us to resemble Montesquieu most among the great French writers. The book is such as Montesquieu might have written, if to his genius he had superadded good sense, and the lights Edition: current; Page: [58] which mankind have since gained from the experiences of a period in which they may be said to have lived centuries in fifty years.

We feel how impossible it is, in the space of an article, to exemplify all the features of a work, every page of which has nearly as great a claim to citation as any other. For M. de Tocqueville's ideas do not float thinly upon a sea of words; none of his propositions are unmeaning, none of his meanings superfluous; not a paragraph could have been omitted without diminishing the value of the work. We must endeavour to make a selection.

The first volume, the only one of which a translation has yet appeared, describes chiefly the institutions of the United States: the second, the state of society, which he represents to be the fruit of those institutions. We should have been glad to assume that the reader possessed a general acquaintance with the subject of the former volume, and to refer him, for details, to the work itself. But it so happens that in no one point has M. de Tocqueville rendered a greater service to the European public, than by actually giving them their first information of the very existence of some of the most important parts of the American constitution. We allude particularly to the municipal institutions; which, as our author shows, and as might have been expected, are the very fountain-head of American democracy, and one principal cause of all that is valuable in its influences; but of which English travellers, a race who have eyes and see not, ears and hear not,[*] have not so much as perceived the existence.

In the New England States, the part of the Union in which the municipal system which generally prevails through the whole, has been brought to the greatest perfection, the following are its leading principles. The country is parcelled out into districts called townships, containing, on an average, from two to three thousand inhabitants. Each township manages its local concerns within itself; judicial business excepted, which, more wisely than their English brethren, the Americans appear to keep separate from all other functions. The remaining part—that is, the administrative part of the local business—is not only under the complete control of the people—but the people themselves, convened in general assembly, vote all local taxes, and decide on all new and important undertakings. While the deliberative part of the administration is thus conducted directly by the people, the executive part is in the hands of a variety of officers, annually elected by the people, and mostly paid. The following details will be read with interest:

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 Edition: current; Page: [59] government is in more immediate contact with the governed, the system of representation is not adopted. There is no town-council; the body of electors, after having appointed its magistrates, directs them in everything that exceeds the mere execution of the laws.

This state of things is so contrary to our ideas, and so opposed to our habits, that it is necessary for me to adduce some examples to explain it thoroughly.

The public functions in the township are extremely numerous, and minutely divided, as we shall see further on; but the larger portion of the business of administration is vested in the hands of a small number of individuals, called the selectmen.

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, and which if they neglect they are personally responsible. 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 left to be determined by the local authorities, 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 recognised 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 electors on a certain day at an appointed place; they state the exigency 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 favourable. The meeting is consulted on these several points; it adopts the principle, determines the site, votes the rate, and leaves the execution of its resolution to the selectmen.

The selectmen have alone the right of summoning a town-meeting; but they may be called upon to do so if ten landed proprietors 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, and retain only the right of presiding at the meeting.

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 officers, who are intrusted 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 lend his personal aid to the execution of the laws, the town-clerk records the proceedings of the town-meetings, and keeps the register of births, deaths, and marriages, the treasurer keeps the funds; the overseer of the poor performs the difficult task of superintending the administration of the poor-laws; committee-men are appointed for the superintendence of the schools and public instruction; and the inspectors of roads, who take care of the greater and lesser thoroughfares of the township, complete the list of the principal functionaries. There are, however, still further subdivisions: 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 efforts of the citizens in case of fire, tithing-men, listers, haywards, chimney-viewers, fence-viewers to maintain the bounds of property, timber-measurers, and inspectors of weights and measures.

There are nineteen principal offices in a township. Every inhabitant is constrained, under a pecuniary penalty, 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 public functionaries. Every service has its price, and they are remunerated in proportion to what they have done.

(Reeve, Vol. I, pp. 75-8; Tocqueville, Vol. I, pp. 99-103.)

In this system of municipal self-government, coeval with the first settlement of the American colonies—a system which the herd of English travellers either have not observed, or have not thought worth mentioning, classing it doubtless in point of importance with their own parish affairs at home—our author beholds the principal instrument of that political education of the people, which alone enables a popular government to maintain itself, or renders it desirable that it should. It is a fundamental principle in his political philosophy, as it has long been in ours, that only by the habit of superintending their local interests can that diffusion of intelligence and mental activity, as applied to their joint concerns, take place among the mass of a people, which can qualify them to superintend with steadiness or consistency the proceedings of their government, or to exercise any power in national affairs except by fits, and as tools in the hands of others.

“The commune,” says M. de Tocqueville (we borrow the French word, because there is no English word which expresses the unit of the body politic, whether that unit be a town or a village)—

The commune is the only association which has so completely its foundation in nature, that wherever a number of human beings are collected, a commune arises of itself.

The commune, therefore, must necessarily exist in all nations, whatever may be their laws and customs; monarchies and republics are creations of man, the commune seems to issue directly from the hands of God. But although the existence of the commune is coeval with that of man communal freedom is rare, and difficult to be maintained. A nation is always able to establish great political assemblies, because it is sure to contain a certain number of persons whose intellectual cultivation stands them to a certain extent instead of practical experience. But the commune is composed of rude materials, which are often not to be fashioned by the legislator. The difficulty of introducing municipal freedom is apt to increase, instead of diminishing, with the increased enlightenment of the people. A highly civilized community can ill brook the first rude attempts of village independence; is disgusted at the multitude of blunders; and is apt to despair of success before the experiment is completed.

Again, no immunities are so ill protected against the encroachments of the supreme power, as those of municipal bodies. Left to themselves, these local liberties are ill able to maintain themselves against a strong or an enterprising government: to resist successfully, they must have attained their fullest development, and have become identified with the habits and ways of thinking of the Edition: current; Page: [61] people. Thus, until municipal freedom is amalgamated with the manners of a people, it is easily destroyed, and only after a long existence in the laws can it be thus amalgamated.

Municipal freedom, therefore, is not, if I may so express myself, the fruit of human device. Accordingly it is rarely created, but is, as it were, of spontaneous growth, developed almost in secret, in the midst of a semi-barbarous state of society. The long-continued action of laws and of manners, favourable circumstances, and, above all, time, can alone consolidate it. Of all the nations of the continent of Europe, we may affirm that there is not one which has any knowledge of it.

Nevertheless, it is in the commune that the strength of a free people resides. Municipal institutions are to liberty what primary schools are to knowledge; they bring it within the reach of the people, give them a taste for its peaceable exercise, and practice in its use. Without municipal institutions, a nation may give itself a free government, but it has not the spirit of freedom. Transient passions, momentary interests, or the chance of circumstances, may give it the outward forms of independence; but the despotic principle, which has been driven back into the interior of the body politic, will sooner or later re-appear at the surface.[*]

Nor is the salutary influence of this invaluable part of the American constitution seen only in *creating,* but at least equally so in *regulating,* the spirit of interference in public affairs. This effect, together with the influence of the same cause in generating patriotism and public spirit, are instructively delineated in the following passage:

The township of New England possesses two advantages which infallibly secure the attentive interest of mankind, namely, independence and power. 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 would not always insure.

It is to be remembered that the affections of men seldom attach themselves but where there is power. Patriotism is not durable in a conquered nation. The New Englander is attached to his township, not so much because he was born in it, as because it constitutes a free and powerful corporation, of which he is a member, and of which to influence the government is an object worth exerting himself for.

In Europe the absence of local public spirit is a frequent subject of regret even to governments themselves, for every one agrees that there is no surer guarantee of order and tranquillity, but nobody knows how to create it. They fear that if the localities were made powerful and independent, the authorities of the nation might be disunited, and the state exposed to anarchy. Yet, deprive the locality of power and independence, it may contain subjects, but it will have no citizens.

Another important fact is, that the township of New England is so constituted as to excite the warmest of human affections, without arousing strongly the ambitious passions of the heart of man. The officers of the county are not elective, Edition: current; Page: [62] and their authority is very limited. Even the state is only a second-rate community, whose tranquil and obscure administration offers no inducement to most men, sufficient to draw them away from the centre of their private interests into the turmoil of public affairs. The federal government confers power and honour on the men who conduct it; but these 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 offices of a high order are generally attained, as it were accidentally, by persons who have already distinguished themselves in some other career. Their attainment cannot be the permanent aim of an ambitious life. In the township, therefore, in the centre of the ordinary relations of life, become concentrated the desire of public esteem, the thirst for the exercise of influence, and the taste for authority and popularity; 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 to take a direct share in the government, there are innumerable functionaries 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, while it divides the local authority among so many citizens, does not scruple to multiply the obligations imposed by the township upon its members. 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, every person is continually reminded that he belongs to the community; his connexion with 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 the state for the same reason which makes the mountaineer cling to his hills; because he finds in his country more marked features, a more decided physiognomy 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. Besides, 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 the distinction of ranks does not exist even in memory, no portion of the community, therefore, is tempted to oppress the remainder, and acts of injustice which 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,) yet so long as it contrives to go on, the fact that it really emanates from those it governs, casts the protecting spell of a parental pride over its faults. Besides, they have nothing to compare it with. England formerly ruled over the aggregation of the colonies, but the people always managed their own local affairs. The sovereignty of the people is, in the commune, not only an ancient but a primitive state.

The native of New England is attached to his township, because it is independent and powerful, he feels interested in it, because he takes part in its management: Edition: current; Page: [63] the prosperity he enjoys in it makes it an object of his attention: he centres in it his ambition and his hopes. 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, without which liberty can only take the shape of revolution; he imbibes their spirit; he acquires a taste for order, comprehends the mutual play of concurrent authorities, and collects clear practical notions on the nature of his duties and the extent of his rights.

(Reeve, Vol. I, pp. 82-6; Tocqueville, Vol. I, pp. 107-11.)

These considerations are of the highest importance. It is not without reason that M. de Tocqueville considers local democracy to be the school as well as the safety-valve of democracy in the state,—the means of training the people to the good use of that power, which, whether prepared for it or not, they will assuredly in a short time be in the full exercise of. There has been much said of late—and truly not a word too much—on the necessity, now that the people are acquiring power, of giving them education, meaning school instruction, to qualify them for its exercise. The importance of school instruction is doubtless great; but it should also be recollected, that what really constitutes education is the formation of habits; and as we do not learn to read or write, to ride or swim, by being merely told how to do it, but by doing it, so it is only by practising popular government on a limited scale, that the people will ever learn how to exercise it on a larger.

M. de Tocqueville does not pretend, nor do we, that local self-government should be introduced into Europe in the exact shape in which it exists in New England. An assembly of the rateable inhabitants of a district, to discuss and vote a rate, would usually be attended only by those who had some private interest to serve, and would in general, as is proved by the experience of open vestries, only throw the cloak of democratic forms over a jobbing oligarchy. In a country like America, of high wages and high profits, every citizen can afford to attend to public affairs, as if they were his own; but in England it would be useless calling upon the people themselves to bestow habitually any larger share of attention on municipal management than is implied in the periodical election of a representative body. This privilege has recently been conferred, though in an imperfect shape, upon the inhabitants of all our considerable towns; but the rural districts, where the people are so much more backward, and the system of training so forcibly described by M. de Tocqueville is proportionally more needed,—the rural districts are not yet empowered to elect officers for keeping their own jails and highways in repair: that is still left where the feudal system left it, in the hands of the great proprietors; the tenants at will, so dear to aristocracy, being thought qualified to take a share in no elections save those of the great council of the nation. But some of the greatest political benefits ever acquired by mankind have been the accidental result of arrangements devised for Edition: current; Page: [64] quite different ends; and thus, in the unions of parishes formed under the new poor law,[*] and the boards of guardians chosen by popular election to superintend the management of those unions, we see the commencement of an application of the principle of popular representation, for municipal purposes, to extensive rural districts, and the creation of a machinery which, if found to work well, may easily be extended to all other business for which local representative bodies are requisite.

M. de Tocqueville, though he is not sparing in pointing out the faults of the institutions of the United States, regards those institutions on the whole with no inconsiderable admiration. The federal constitution, in particular, (as distinguished from the various state constitutions,) he considers as a remarkable monument of foresight and sagacity. The great men by whom, during two years' deliberation, that constitution was constructed, discerned, according to him, with great wisdom, the vulnerable points both of democracy and of federal government, and did nearly everything which could have been done, in their circumstances, to strengthen the weak side of both.

Our space will not allow us to follow our author through the details of the American institutions; but we cannot pass without particular notice his remarks on one general principle which pervades them.

Two modes, says M. de Tocqueville, present themselves for keeping a government under restraint: one is to diminish its power; the other, to give power liberally, but to subdivide it among many hands.

There are two methods of diminishing the force of the government in any country:—

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 establish political freedom.

The second manner of diminishing the influence of the government does not consist in stripping society of any of its rights, nor in paralysing its efforts, but in distributing the exercise of its privileges among various hands, and in multiplying functionaries, to each of whom all the power is intrusted which is necessary for the performance of the task specially imposed upon him. There may be nations whom this distribution of social powers might lead to anarchy, but in itself it is not anarchical. The power of government, thus divided, is indeed rendered less irresistible and less perilous, but it is not destroyed.

The revolution of the United States was the result of a calm and considerate love of freedom, and not of a vague and indefinite craving for independence. It contracted no alliance with the turbulent passions of anarchy; its course was marked, on the contrary, by an attachment to order and legality.

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 entertained of calling in question or limiting the rights or powers of society; but the Edition: current; Page: [65] exercise of those powers was divided among many hands, to the end that the office might be powerful and the officer insignificant, and that the community should be at once regulated and free.

(Reeve, Vol. I, pp. 89-90; Tocqueville, Vol. I, pp. 115-16.)

The principle of sharing the powers of government among a great variety of functionaries, and keeping these independent of one another, is the mainspring of the American institutions. The various municipal officers are independent of each other, and of the general government of the state. The state governments, within their lawful sphere, are wholly independent of the federal government, and the federal government of them.* Each of the state governments consists of two chambers and a governor; and the federal government consists of the House of Representatives, the Senate, and the President of the United States. Of each of these tripartite bodies the three branches are mutually independent, and may, and frequently do, place themselves in direct opposition to one another.

In what manner is harmony maintained among these jarring elements? How is so minute a division of the governing power rendered compatible with the existence of government? Since the concurrence of so many wills is necessary to the working of the machine, by what means is that concurrence obtained? The town-officers, for instance, are often the sole agency provided for executing the laws made or orders issued by the federal or by the state government; but those authorities can neither dismiss them if they disobey, nor promote them to a higher post in their department, for zealous service. How, then, is their obedience secured?

The securities are of two kinds. First, all those functionaries who are made independent of each other within their respective spheres, depend upon, for they are periodically elected by, a common superior—the People. No one, therefore, likes to venture upon a collision with any co-ordinate authority, unless he believes that, at the expiration of his office, his conduct will be approved by his constituents.

This check, however, cannot suffice for all cases; for, in the first place, the authorities may be accountable to different constituencies. In a dispute, for instance, between the officers of a township and the state government, or between the federal government and a state, the constituents of each party may support their representatives in the quarrel. Moreover, the check often operates too slowly, and is not of a sufficiently energetic character for the graver delinquencies.

The remedy provided for all such cases is the interference of the courts of justice.

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The share of the tribunals in the government of the United States is of a most extensive and important kind. The tribunals are the supreme arbiters between each member of the sovereignty and every other. Not only are all executive officers amenable to them for acts done in their public capacity, but the legislatures themselves are so. They cannot, indeed, punish a legislature for having overstepped its authority, but they can set aside its acts. They are avowedly empowered to refuse to enforce any law, whether enacted by the federal or by the state legislatures, which they consider unconstitutional.

Two questions will naturally be asked: First—does not this remarkable provision render the constitution of the United States, what the French constitution affects to be, unalterable? And, secondly, are not the judges, who thus wield without responsibility the highest power in the state, an impediment to good government, analogous and almost equal to our House of Lords?

We answer both questions in the negative.

The constitution, though it cannot be altered by the ordinary legislature, may be solemnly revised by an assembly summoned for the purpose, in the forms prescribed by the constitution itself. Before such an authority, the tribunals would of course be powerless. Their control, in the mean time, prevents the letter and spirit of the constitution from being infringed upon, indirectly and by stealth, by authorities not lawfully empowered to alter it.

The other danger, that of the irresponsible power conferred upon the judges by making them in some sort the legislators in the last resort, is chimerical. We agree with M. de Tocqueville in thinking that the founders of the American constitution have nowhere manifested, more than in this provision, the practical sagacity which distinguished them. They saw that where both the laws and the habits of the people are thoroughly impregnated with the democratic principle, powers may safely be intrusted to the judges, which it would be most dangerous to confide to them in any other circumstances. A judge is one of the most deadly instruments in the hands of a tyranny of which others are at the head; but, while he can only exercise political influence through the indirect medium of judicial decisions, he acts within too confined a sphere for it to be possible for him to establish a despotism in his own favour. The Americans saw that courts of justice, without a monarchy or an aristocracy to back them, could never oppose any permanent obstacle to the will of the people; and knowing that aversion to change was not likely to be the fault of their government, they did not deem it any serious objection to an institution, that it rendered organic changes rather more difficult. In short, as in every government there must be some supreme arbiter, to keep the peace among the various authorities, and as, consistently with the spirit of the American institutions, that supreme arbiter could not be the federal government, the founders of the constitution deemed Edition: current; Page: [67] that this moderating power, which must exist somewhere, was nowhere so safe as in the hands of the courts of justice.

The Americans have retained, [says our author,] 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, that its function is that of an arbitrator. To warrant the interference of a tribunal, there must be a dispute: before there can be a judgment, somebody must bring an action. As long, therefore, as an enactment gives rise to no lawsuit, 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 upon special cases, and not upon general principles. If a judge in deciding a particular case destroys a general principle, by showing that every other consequence of the principle will be annulled in a similar manner, he remains within the ordinary limits of his functions. But if he directly attacks a general principle, and sets it aside, without having a particular case in view, he quits the circle in which all nations have agreed to confine his authority, he assumes a more important, and perhaps a more useful part 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 until it is appealed to—until a case is brought before it. This characteristic is less universal than the other two: but notwithstanding the exceptions. I think it may be regarded as essential. The judicial power is in its own nature devoid of action, it cannot act without an impulse from without. When a criminal is brought before it to be tried, it will convict and punish him; when called upon to redress a wrong, 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 inquire into facts, of its own accord. A judicial functionary who should take the initiative, and erect himself into a censor of the laws, would in some measure do violence to this 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 can only pronounce upon an individual case, and he cannot act until the cause has been duly brought before the court.

(Reeve, Vol. I, pp. 136-8; Tocqueville, Vol. I, pp. 164-6.)

The political power which the Americans have intrusted to their courts of justice is therefore immense, but the dangers of this power are considerably diminished by debarring them from the use of any except strictly judicial means. If the judge had been empowered to contest the laws in a sweeping and general way; if he had been enabled to take the initiative, and 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, in an Edition: current; Page: [68] obscure proceeding, and in some particular application, the importance of his attack is partly concealed from the public gaze; his decision is aimed directly only at the interest of an individual, and if the law is wounded, it is only as it were by accident. Moreover, although it be 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 the tribunals. It will, moreover, be readily understood that by leaving it to private interests to call the *veto* of the tribunals into action, and by closely uniting the attack upon the law with a suit against an individual, the laws are protected from wanton assailants, and from the daily aggressions of party-spirit. The errors of the legislator are exposed only in obedience to an exigency which is actually felt; 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 the most favourable 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 parties, and he cannot refuse to decide it without being guilty of a denial of justice. 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 acts of the legislature cannot extend to all laws indefinitely, inasmuch as some of them can never give rise to that formal species of contestation which is termed a lawsuit; and even when such a contestation is possible, it may happen that no one is inclined to carry it into 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.

Even 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.

(Reeve, Vol. I, pp. 142-4; Tocqueville, Vol. I, pp. 170-2.)

Having concluded his description of the institutions of the United States, M. de Tocqueville, in the second volume, proceeds to an examination of the practical working of those institutions; the character actually exhibited by democratic government in the American republic, and the inferences to be thence drawn as to the tendencies of democracy in general. The following is his statement of the question between democracy and aristocracy:

We ought carefully to distinguish between the end which the laws have in view, and the manner in which they pursue it; between their absolute goodness, and their goodness considered only as means to an end.

Suppose that the purpose of the legislator is to favour the interest of the few at the expense of the many; and that his measures are so taken as to attain the result he aims at, in the shortest time, and with the least effort possible. The law will be well made, but its purpose will be evil; and it will be dangerous in the direct ratio of its efficiency.

The laws of a democracy tend in general to the good of the greatest number; for they emanate from the majority of the entire people, which may be mistaken, but which cannot have an interest contrary to its own interest.

The laws of an aristocracy tend, on the contrary, to monopolize wealth and power in the hands of the small number; because an aristocracy is, in its very nature, a minority.

We may therefore lay it down as a maxim, that the intentions of a democracy, in its legislation, are more beneficial to mankind than those of an aristocracy.

There, however, its advantages terminate.

Aristocracy is infinitely more skilful in the art of legislation than democracy can be. She is not subject to passing *entrainements;* she forms distant projects, and matures them until the favourable opportunity arrives. Aristocracy proceeds scientifically; she understands the art of making the aggregate force of all her laws converge at the same time to one and the same point.

It is otherwise with democracy, her laws are almost always defective or ill-timed.

The means, therefore, employed by democracy are more imperfect than those of aristocracy; often, without intending it, she labours to defeat herself; but her ends are more useful.

Conceive a society which nature, or its own constitution, has so organized, that it can sustain the temporary agency of bad laws, and is able, without perishing, to await the result of the *general tendency* of the laws, and you will perceive that democratic government, in spite of its defects, is the fittest government to make that society prosperous.

This is precisely the case of the United States. As I have elsewhere observed, it is the great privilege of the Americans that they can commit reparable mistakes.

Something of the same sort may be said as to the appointment of public functionaries.

It is easy to see that the American democracy is often mistaken in choosing the men to whom it confides public trusts; but it is not so easy to say why the state prospers in their hands.

Observe, in the first place, that in a democratic state, if the governors are less honest or less able, the governed are more enlightened and more vigilant.

The people, in a democracy, being incessantly occupied with their affairs, and jealous of their rights, restrain their representatives from wandering out of a certain general direction, which the interest of the people points out.

Observe, moreover, that if the magistrate in a democracy uses his power worse than in another government, he generally possesses it a shorter time.

But there is a more general, and a more satisfactory, reason than this.

It is, no doubt, of importance to a nation that its rulers should have virtues or talents; but what is perhaps of still greater importance to them is, that the rulers shall not have interests contrary to those of the great mass of the governed. For, in that case, their virtues might become almost useless, and their talents fatal. . . .

Those who, in the United States, are appointed to the direction of public affairs, are often inferior in capacity and in morality to those whom aristocracy would Edition: current; Page: [70] raise to power. But their interest is blended and identified with that of the majority of their fellow-citizens. They may therefore commit frequent breaches of trust, and serious errors; but they will never systematically adopt a tendency hostile to the majority; and it can never happen to them to give an exclusive or a dangerous character to their measures of government.

Besides, the bad administration of a magistrate in a democracy is an insulated fact, which has influence only during his brief continuance in office. Corruption and incapacity are not common interests, capable of producing a permanent alliance among men. A corrupt or incapable functionary will not unite his efforts with another functionary, for no reason but because he too is incapable and corrupt, and for the purpose of making corruption and incapacity flourish in future generations. On the contrary, the ambition and the manœuvres of the one will serve to unmask the other. The vices of the magistrate in democracies are in general wholly personal to himself.

But under an aristocratic government, public men have a class interest, which, if sometimes in harmony with that of the multitude, is often distinct from it. That interest forms among them a permanent tie: it prompts them to ally themselves together, and combine their efforts, for a purpose which is not always the happiness of the many; and it not only binds the rulers to one another, it unites them also with a considerable portion of the governed; for many citizens, without holding any employment, form a part of the aristocracy. The aristocratic magistrate, therefore, meets with a constant support in society itself, as well as in the government.

This common object, which in aristocracies allies the magistrates with the interests of a portion of their cotemporaries, also identifies them with that of future generations. They labour for futurity as well as for the present. The aristocratic functionary is, therefore, pushed in one and the same direction by the passions of the governed, by his own, and I might almost say, by the passions of his posterity.

What wonder, if he does not withstand them? Accordingly, in aristocracies, we often see the class spirit governing even those whom it does not corrupt, and making them unconsciously strive to accommodate society to their use, and to leave it as a patrimony to their descendants. . . .

In the United States, where public functionaries have no class interest to give predominance to—the general and permanent working of the government is beneficial, although the governors are often unskilful, and sometimes despicable.

There is, therefore, in democratic institutions, a hidden tendency, which often makes men instrumental to the general prosperity in spite of their vices or their blunders; while in aristocratic institutions there is sometimes discovered a secret leaning, which, in spite of talents and virtues, draws them to contribute to the misery of their fellow-creatures. It is thus that in aristocracies public men sometimes do ill without meaning it; and in democracies they produce good without having any thought of it.

(Tocqueville, Vol. II, pp. 108-11.)

These ideas are considerably expanded, and some others added to them, in other parts of the volume.

In a general way, the following may be given as a summary of M. de Tocqueville's opinion on the good and bad tendencies of democracy.

On the favourable side, he holds, that alone among all governments its Edition: current; Page: [71] systematic and perpetual end is the good of the immense majority.

Were this its only merit, it is one, the absence of which could ill be compensated by all other merits put together. Secondly, no other government can reckon upon so willing an obedience, and so warm an attachment to it, on the part of the people at large. And, lastly, as it works not only *for* the people, but, much more extensively than any other government, *by means* of the people, it has a tendency which no other government has in the same degree, to call forth and sharpen the intelligence of the mass.

The disadvantages which our author ascribes to democracy are chiefly two:—First, that its policy is much more hasty and short-sighted than that of aristocracy. In compensation, however, he adds, that it is more ready to correct its errors, when experience has made them apparent. The second is, that the interest of the majority is not always identical with the interest of all; and hence the sovereignty of the majority creates a tendency on their part to abuse their power over all minorities.

To commence with the unfavourable side: we may remark, that the evils which M. de Tocqueville represents as incident to democracy, can only exist in so far as the people entertain an erroneous idea of what democracy ought to be. If the people entertained the right idea of democracy, the mischief of hasty and unskilful legislation would not exist; and the omnipotence of the majority would not be attended with any evils.

The difference between the true and the false idea of a representative democracy, is a subject to which we have drawn attention in a recent Article.[*] and it cannot be too often recurred to. All the dangers of democracy, and all that gives any advantage to its enemies, turn upon confounding this distinction.

[a]The idea of a rational democracy is, not that the people themselves govern, but that they have [b]*security*[b] for good government. This security they cannot have, by any other means than by retaining in their own hands the ultimate control. If they renounce this, they give themselves up to tyranny. A governing class not accountable to the people are sure, in the main, to sacrifice the people to the pursuit of separate interests and inclinations of their own. Even their feelings of morality, even their ideas of excellence, have reference, not to the good of the people, but to their own good; their very virtues are class virtues—their noblest acts of patriotism and self-devotion are but the sacrifice of their private interests to the interests of their class. The heroic public virtue of a Leonidas was quite compatible with the existence Edition: current; Page: [72] of Helots. In no government will the interests of the people be the object, except where the people are able to dismiss their rulers as soon as the devotion of those rulers to the interests of the people becomes questionable. But this is the only [c]purpose for which it is good to intrust power to the people[c]. Provided good intentions can be secured, the best government, (need it be said?) must be the government of the wisest, and these must always be a few. The people ought to be the masters, but they are masters who must employ servants more skilful than themselves: like a ministry when they employ a military commander, or the military commander when he employs an army-surgeon. When the minister ceases to confide in the commander, he dismisses him, and appoints another; but he does not [d]send him instructions when and where to fight. He holds him responsible only for [e]results. The people must do the same. This does not render the control of the people nugatory. The control of a government over the commander of [f]its[f] army is not nugatory. A man’s control over his physician is not nugatory, [g]although[g] he does not direct his physician what medicine to administer. [h]He either obeys the prescription of his physician, or, if dissatisfied with him, takes another. In that consists his security. In that consists also the people’s security; and with that it is their wisdom to be satisfied.[h]

But in government, as in everything else, the danger is, lest those who can do whatever they will, may will to do more than is for their ultimate interest. The interest of the people is, to choose for their rulers the most instructed and the ablest persons who can be found, and having done so, to allow them to exercise their knowledge and ability for the good of the people [i]freely, or with the least possible control[i]—as long as it *is* the good of the people, and not some private end, that they are aiming at. A democracy thus administered, would unite all the good qualities ever possessed by any government. Not only would its ends be good, but its means would be as well chosen as the wisdom of the age would allow; and the omnipotence of the majority would be exercised through the agency and [j]at the discretion[j] of an enlightened minority, accountable to the majority in the last resort.

But it is not possible that the constitution of the democracy itself should provide adequate security for its being understood and administered in this spirit[k], and not according to the erroneous notion of democracy[k]. This rests Edition: current; Page: [73] with the good sense of the people themselves. If the people can remove their rulers for one thing, they can for another. That ultimate control, without which they cannot have security for good government, may, if they please, be made the means of themselves interfering in the government, and making their legislators mere delegates for carrying into execution the preconceived judgment of the majority. If the people do this, they mistake their interest; and such a government, though better than most aristocracies, is not the kind of democracy which wise men desire.[*]

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The substitution of delegation for representation is therefore the one and only danger of democracy. What is the amount of this danger?

In America, according to M. de Tocqueville, it is not only a great but a growing danger. “A custom,” says he, “is spreading more and more in the United States, which tends ultimately to nullify the securities of representative government. It happens very frequently that the electors, in naming a representative, lay down a plan of conduct for him, and impose on him a certain number of positive injunctions, from which he is by no means to deviate. Tumult excepted, it is exactly as if the majority itself were to deliberate in general meeting.”[*]

The experience of America is, in our author’s opinion, equally unfavourable to the expectation that the people in a democracy are likely to select as their rulers the ablest men:

Many people in Europe believe without asserting, or assert without believing, that one of the great advantages of universal suffrage consists in calling to the direction of public affairs men worthy of public confidence. The people, it is affirmed, cannot themselves govern, but they always sincerely desire the public good; and they have an instinct which seldom fails to point out to them those who are actuated by a similar desire, and who are the best qualified for the possession of power.

For myself, I am obliged to say, what I have seen in America does not warrant me in believing this to be the case. On my arrival in America I was struck with surprise in discovering to what a degree merit is common among the governed, and how rare it is among the governors. It is an unquestionable fact that in our day, in the United States, the most distinguished men are seldom called to public functions, and one is forced to acknowledge that this has been more and more the case as democracy has more and more overstepped her ancient limits. It is manifest that the race of American statesmen has decidedly *dwarted* within the last half-century.

Several causes may be indicated for this phenomenon. It is impossible, do what we will, to raise the instruction of the people beyond a certain level. In vain Edition: current; Page: [75] do you facilitate the access to knowledge, improve the methods of teaching, and render science cheap, you will never enable persons to instruct themselves, and to develope their intelligence, without devoting time to it.

The greater or less facility which the people enjoy of living without labour, constitutes therefore the necessary limit of their intellectual advancement. That limit is placed higher in some countries, lower in others, but, for it not to exist, the people must no longer be under the necessity of occupying themselves with physical labour—that is, they must cease to be the people. It would be as difficult, therefore, to imagine a society in which all mankind were highly enlightened, as one in which they were all rich. I will readily admit that the mass of the people very sincerely desire the good of the country: I will go farther, and say that the interior classes appear to me generally to mix with that desire fewer schemes of personal interest than the higher ranks; but what is always more or less wanting to them, is the art of judging of the means, even while sincerely aiming at the end. How long a study, what a variety of ideas are necessary for forming an accurate conception of the character of a single person! The greatest geniuses commit mistakes in the attempt: can it be expected that the multitude should succeed? The people never have the time or the means to go through this labour. They are obliged always to judge in haste, and to fasten on the most salient points. Hence it is that charlatans of all sorts know so well the secret of pleasing them, while their real friends most frequently fail.

Besides, what prevents the democracy from choosing persons of merit is not always want of the capacity, but want of the desire and the inclination.

It cannot be dissembled that democratic institutions develope, to a very high degree, the feeling of envy in the human breast. This is not so much because those institutions offer to every one the means of rising to the level of others, but because those means are perpetually tried and found wanting Democratic institutions call forth and flatter the passion for equality, without ever being able to give it complete satisfaction.

Many persons imagine that the secret instinct which, with us, leads the interior classes to exclude the superior as much as they can from the direction of their affairs, is seen only in France. This is an error. The instinct is not a French, but a democratic instinct. Our political circumstances may have given it a peculiar character of bitterness, but they are not the cause of it.

In the United States the people have no hatred for the higher classes of society, but they feel little good-will towards those classes, and exclude them carefully from the government. They are not afraid of great talents, but they have little relish for them. In general it may be remarked, that whatever raises itself without the people’s assistance, finds little favour in their eyes.

I am satisfied that those who consider universal suffrage as a security for a good choice, are under a complete illusion. Universal suffrage has other advantages, but it has not that.

(Tocqueville, Vol. II, pp. 43-7.)

Considered as matter of evidence—as the testimony of a highly-qualified observer—these statements deserve the utmost attention. It is for that reason that we quote them. For ourselves, we see much to be said in qualification of them; and this, too, our author’s own pages in part supply. A little farther on, after remarking that in America, from the frequent changes in the persons raised to office by the elective principle, a public function cannot, as in Edition: current; Page: [76] Europe, be considered a provision for life, he adds, as a consequence of this fact—

Hence it follows that in quiet times public functions offer little allurement to ambition. In the United States it is those who are moderate in their desires that engage in public business. The men of great talents and great passions usually abandon the pursuit of power, and engage in that of riches; and it often happens that the person who undertakes to direct the concerns of the public, is he who feels himself little capable of successfully conducting his own.

It is to these causes, as much as to the bad choice of the people, that we must ascribe the great number of inferior men who occupy public situations. I know not whether the people of the United States would choose superior men if they sought to be chosen, but it is certain that they do not seek it.

(Tocqueville, Vol. II, pp. 58-9.)

The fact that the ablest men seldom offer themselves to the people’s suffrages, is still more strongly stated by our author in another place, and is a point on which there is a striking concurrence of testimony. It may be said that they do not present themselves because they know that they would not be chosen; but a reason less discreditable to the American people was given to our author’s fellow-traveller, M. de Beaumont,* by an

American: “Comment voulez-vous qu’un médecin se montre habile, si vous mettez entre ses mains un homme bien portant?” The truth is that great talents are not needed for carrying on, in ordinary times, the government of an already well-ordered society. In a country like America little government is required: the people are prosperous, and the machinery of the state works so smoothly, by the agency of the people themselves, that there is next to nothing for the government to do. When no great public end is to be compassed; when no great abuse calls for remedy, no national danger for resistance, the mere everyday business of politics is an occupation little worthy of any mind of first-rate powers, and very little alluring to it. In a settled state of things, the commanding intellects will always prefer to govern mankind from their closets, by means of literature and science, leaving the mechanical details of government to mechanical minds.

In national emergencies, which call out the men of first-rate talents, such men always step into their proper place, M. de Tocqueville admits, that during the struggle for independence, and the scarcely less difficult struggle which succeeded it, to keep the confederacy together, the choice of the people fell almost invariably upon the first men in the country. Such a body of men as composed the assembly which framed the federal constitution, never were Edition: current; Page: [77] brought together at any period of history. No wonder that, when compared with them, the present generation of public men appear like dwarfs. But are they such when compared with the present race of English statesmen? Which of these could have drawn such a state paper as President Jackson’s address to the people of South Carolina, or framed Mr. Livingston’s Draught of a Penal Code?[*]

M. de Tocqueville also states that the tendency, which he deems inherent in democracy, to be satisfied with a bad choice, manifests itself in a very mitigated degree in the older and more civilized states:

In New England, where education and liberty are the outgrowth of morality and religion—where society, already old and long-established, has been able to form habits and maxims—the people, while quite independent of all the superiorities which were ever created among mankind by riches or birth, have accustomed themselves to respect intellectual and moral superiorities, and to submit to them without reluctance. Accordingly we see that in New England the democracy makes a far better choice of public functionaries than any where else.

In proportion as we descend towards the south, and reach the states in which the bonds of society are less ancient and less strong—where instruction is less diffused—and where the principles of morality of religion and of liberty, are less happily combined, we may perceive that talents and virtues become more and more rare among public men.

When we penetrate at length to the new states in the south-west, where the social union is but of yesterday, and presents as yet only an agglomeration of adventurers or speculators, one is confounded at the sight of the hands in which the powers of government are placed: and one asks oneself by what force, independent of legislation and of the ruling power, the state is able to advance and the people to prosper.

(Tocqueville, Vol. II. pp. 49-50.)

In these important statements, our author bears testimony to the effects not merely of national education, but of mere lapse of time, and the growth of population and wealth, in correcting more and more the liability of the people to make a mistaken choice of representatives.

But put these evils at their worst: let them be as great as it is possible they should be in a tolerably educated nation: suppose that the people do not choose the fittest men, and that whenever they have an opinion of their own, they compel their representatives, without the exercise of any discretion, merely to give execution to that opinion—thus adopting the false idea of democracy propagated by its enemies, and by some of its injudicious friends—the consequence would no doubt be abundance of unskilful legislation. But would the abundance, after all, be so much greater than in most aristocracies? In the English aristocracy there has surely been, at all periods, Edition: current; Page: [78] *vw*crude and ill-considered legislation enough. This*w* is the character of all governments whose laws are made, and acts of administration performed, *impromptu,* not in pursuance of a general design, but from the pressure of some present occasion: of all governments, in which the ruling power is to any great extent exercised by persons not trained to government as a business.*v*

In attributing, as general characteristics, prudence and steadiness to aristocratic governments, our author has, we think, generalized on an insufficient examination of the facts on which his conclusion is founded. The only steadiness which aristocracy *never* fails to manifest, is tenacity in clinging to its own privileges. Democracy is equally tenacious of the fundamental maxims of its own government. In all other matters, *xy*the*y* opinion of a *z*ruling class is as fluctuating, as liable to be wholly given up to immediate impulses, as the opinion of the people. Witness the whole course of English history. All our laws have been made upon temporary impulses. In *a*what country has the course of legislation been less directed to any steady and consistent purpose?*ax*—except, indeed, that of perpetually adding to the power and privileges of the rich; and that, not because of the deep-laid schemes, but because of the passions, of the ruling class. And as for the talents and virtues of those whom aristocracy chooses for its leaders, read Horace Walpole or Bubb Doddington, that you may know what to think of them.

M. de Tocqueville has, we think, affirmed of aristocracy in general, what should have been predicated only of some particular aristocracies. *b*It is true that the governments which have been celebrated for their profound policy have generally been aristocracies. But they have been very narrow aristocracies: consisting of so few members, that every member could personally participate in the business of administration. These are the governments which have a natural tendency to be administered steadily—that is, according to fixed principles. Every member of the governing body being trained to government as a profession, like other professions, they respect precedent, transmit their experience from generation to generation, acquire and preserve a set of traditions, and, all being competent judges of each other's Edition: current; Page: [79] merits, the ablest easily rises to his proper level. The governments *c*(so unlike in other respects)*c* of ancient Rome, and modern Venice, were of this character; and, as all know, for ages conducted the affairs of those states with admirable constancy and skill, upon fixed principles, often unworthy enough, but always eminently adapted to the ends of *d*these*d* governments.*b*

These aristocracies, however, which manifest the most skill in adapting their means to their ends, are distinguished even beyond other aristocracies in the badness of their ends. So narrow an aristocracy is cut off, even more completely than a more numerous one, from fellow-feeling with the people; and any other aristocracy, we conceive, has not the advantages ascribed to that government by M. de Tocqueville.

*e*When the governing body, whether it *f*consist*f* of the many or of a privileged class, is so numerous, that the large majority of it do not and cannot make the practice of government the main occupation of their lives, it is *g*utterly*g* impossible that there should be wisdom, foresight, and caution in the governing body itself. These qualities must be found, if found at all, not in the body, but in those whom the body trust.*e* If the people in America, or the higher classes in England or France, make a practice of themselves dictating and prescribing the measures of government, it is impossible that those countries should be otherwise than ill administered. There has been ample proof of this in the government of England, where we have had, at all times, the clumsiness of an ill-regulated democracy, with a very small portion indeed of her good intentions.

In a numerous aristocracy, as well as in a democracy, the sole chance for considerate and wise government lies not in the wisdom of the democracy or of the aristocracy themselves, but in their willingness to place themselves under the guidance of the wisest among them. And it would be difficult for democracy to exhibit less of this willingness than has been shown by the English aristocracy in all periods of their history, or less than is shown by them at this moment.

But, while we do not share all the apprehensions of M. de Tocqueville from the unwillingness of the people to be guided by superior wisdom, and while this source of evil tells for very little with us in the comparison between democracy and aristocracy, we consider our author entitled to applause and gratitude for having probed this subject so unsparingly, and given us so striking a picture of his own impressions; and we are clearly of opinion that his fears, whether excessive or not, are in the right place. If democracy should Edition: current; Page: [80] disappoint any of the expectations of its more enlightened partisans, it will be from the substitution of delegation for representation; of the crude and necessarily superficial judgment of the people themselves, for the judgment of those whom the people, having confidence in their honesty, have selected as the wisest guardians whose services they could command. All the chances unfavourable to democracy lie here; and whether the danger be much or little, all who see it ought to unite their efforts to reduce it to the *minimum.*

We have no space to follow M. de Tocqueville into the consideration of any of the palliatives which may be found for this evil tendency. We pass to that which he regards as the most serious of the inconveniences of democracy, and that to which, if the American republic should perish, it will owe its fall. This is, the omnipotence of the majority.

M. de Tocqueville’s fears from this source are not of the kind which haunt the imaginations of English alarmists. He finds, under the American democracy, no tendency on the part of the poor to oppress the rich—to molest them in their persons or in their property. That the security of person and property are the first social interests not only of the rich but of the poor, is obvious to common sense. And the degree of education which a well-constituted democracy ensures to all its citizens, renders common sense the general characteristic. Truths which are obvious, it may always be expected that the American democracy will see. It is true, no one need expect that, in a democracy, to keep up a class of rich people living in splendour and affluence will be treated as a national object, which legislation should be directed to promote, and which the rest of the community should be taxed for. But there has never been any complaint that property in general is not protected in America, or that large properties do not meet with every protection which is given to small ones. Not even in the mode of laying on taxes have we seen any complaint that favour is shown to the poor at the expense of the rich.

But when we put inequalities of property out of the question, it is not easy to see what sort of minority it can be, over which the majority can have any interest in tyrannizing. The only standing and organized minority which exists in any community, constituted as communities usually are, is the rich. All other minorities are fluctuating, and he who is in the majority to-day is in the minority to-morrow: each in his turn is liable to this kind of oppression; all, therefore, are interested in preventing it from having existence.

The only cases which we can think of, as forming possible exceptions to this rule, are cases of antipathy on the part of one portion of the people towards another: the antipathies of religion, for example, or of race. Where these exist, iniquity will be committed, under any form of government, aristocratic or democratic, unless in a higher state of moral and intellectual improvement than any community has hitherto attained.

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M. de Tocqueville’s fears, however, are not so much for the security and the ordinary worldly interests of individuals, as for the moral dignity and progressiveness of the race. It is a tyranny exercised over opinions, more than over persons, which he is apprehensive of. He dreads lest all individuality of character, and independence of thought and sentiment, should be prostrated under the despotic yoke of public opinion.

When we come to examine in what condition, in the United States, is the exercise of thought, it is then that we see clearly how far the power of the majority surpasses any power which we know in Europe.

Thought is an invisible and almost unconfinable force, which laughs at all tyrannies. In our time, the most absolute princes of Europe cannot prevent certain ideas, hostile to their authority, from circulating underhand in their dominions, and even in the midst of their courts. It is otherwise in America: as long as the majority is in doubt, there is discussion; but as soon as it has irrevocably decided, all hold their peace; and friends and enemies seem equally to yoke themselves to its car. The reason is simple. No monarch, however absolute, can concentrate in his own hands all the influences of society, and vanquish all resistance, as a majority, invested with the power of making and executing the laws, can do.

A king, besides, wields only a physical power, which controls the actions but cannot influence the inclinations, but the majority is possessed of a power at once physical and moral, which acts upon the will as much as upon the conduct, and restrains at once the act and the desire to perform it.

I am acquainted with no country in which there reigns, in general, less independence of mind, and real freedom of discussion, than in America.

There is no theory, religious or political, which cannot be freely promulgated in the constitutional states of Europe, or which does not penetrate into the others; for there is no country in Europe so completely subjected to one power, that he who wishes to speak the truth may not find a support sufficient to protect him against the consequences of his independence. If he has the misfortune to live under an absolute monarchy, he often has the people with him; if he inhabits a free country, he can, in case of need, shelter himself under the royal authority. The aristocratic fraction of society sustains him in the democratic countries, and the democracy in the others. But in a democracy organized like that of the United States, there exists only one power, one single source of influence and success, and nothing beyond its limits.

In America, the majority traces a formidable circle around the province of thought. Within that boundary the writer is free, but woe to him if he dare to overstep it. He needs not indeed fear an *auto-da-fe;* but he is a mark for every-day persecutions, and subject to an infinity of chagrins. To him the career of politics is closed; he has offended the sole power which could admit him into it. All is refused to him, even glory. Before he published his opinions, he fancied that he had partisans; now, when he has discovered himself to all, he seems to have them no longer; for those who disapprove blame him openly, and those who think with him, without having his courage, are silent and keep aloof. He yields, he bends at last under the burden of daily efforts, and is again silent, as if he felt remorse for having spoken the truth. . . .

In the proudest nations of the old world, books have been published destined to depict faithfully the vices and the *ridicules* of the age. La Bruyère lived in the Edition: current; Page: [82] palace of Louis XIV when he composed his chapter *sur les grands;*[*] and Molière satirized the court in pieces written to be represented before the courtiers. But the power which is predominant in the United States will not be thus trifled with. The slightest reproach offends it; the smallest trait of *piquant* truth excites its anger; everything must be lauded, from the turn of its phraseology to its most solid virtues. No writer, whatever his renown, is exempted from this obligation of offering incense to his countrymen. The majority, therefore, lives in a perpetual adoration of itself. Foreigners only, or experience, can make certain truths reach the ears of the Americans.

If America has not yet had great writers, we need not look farther for the reason. There is no literary genius but where there is freedom of thought, and there is no freedom of thought in America.

(Tocqueville, Vol. II, pp. 149-53.)

M. de Tocqueville complains that the courtier-spirit, which in other governments is confined to those who immediately surround the persons of the powerful, is universal in America, because there every one has access to the sovereign's ear.

In free countries, where every one is called upon, more or less, to give his opinion on affairs of state; in democratic republics, where public and private life are intimately blended, where the sovereign is everywhere accessible, and to reach his ear one has only to raise one's voice, many more persons are tempted to speculate upon the sovereign's weaknesses, and live at the expense of his passions, than in absolute monarchies. It is not that men are naturally worse there than elsewhere; but the temptation is stronger, and offers itself to more persons at once. There results a much more general degradation of soul.

Democratic republics bring the courtier-spirit within the reach of almost everybody, and make it penetrate into all classes at once. This is one of their greatest inconveniences.

This is more particularly true in democratic states constituted like the American republics, where the majority possesses an empire so absolute and so irresistible, that whoever quits the path it has traced out must in a manner renounce the rights of citizenship, and almost those of humanity.

Among the immense multitude who, in the United States, crowd into the career of politics. I have seen very few who evinced that manly candour, that vigorous independence of thought, which has often distinguished the Americans of former times, and which, wherever it is found, is as it were the salient feature of a great character. At first sight one would say that in America all intellects have been cast in the same mould, so exactly do they all follow the same paths. A foreigner, indeed, occasionally encounters Americans who emancipate themselves from the yoke of the prescribed opinions, these sometimes deplore the defects of the laws, the versatility of the democracy, and its want of enlightened wisdom; they even go so far as to remark the faults of the national character, and point out the means which might be taken to correct them, but nobody, except yourself, is within hearing, and you, to whom they confide these secret thoughts, are but a foreigner, and about to depart. They willingly make you a present of truths which are to you of no use, and when they address the public they hold quite a different language.

If these lines ever reach America, I feel assured of two things: the one, that all my readers will raise their voices in condemnation of me; the other, that many of them will acquit me in the secrecy of their conscience.

I have heard Americans talk of the love of their country, I have met with real patriotism in the mass of the people; I have often looked for it in vain in those by whom the people are led. This is intelligible by analogy. Despotism is much more depraving to those who submit to it than to those who impose it. In an absolute monarchy, the king often has great virtues, but the courtiers are always vile.

It is true that the courtiers in America do not say, *Sire,* and *Your Majesty*—a grand and capital distinction! But they talk incessantly of the natural judgment of their master: they do not propose, as a prize-question, to determine which of the prince's virtues merits the greatest admiration: for they declare that he possesses all virtues, without having learned them, and almost independently of his own will: they do not offer to him their wives and daughters, that he may deign to raise them to the rank of his mistresses: but in sacrificing their opinions to him, they prostitute *themselves.*

Moralists and philosophers are not obliged, in America, to wrap up their opinions in the cloak of an allegory: but, before risking a disagreeable truth, they say, "We know that we are addressing a people too superior to human weaknesses not to remain always master of itself. We should not hold such a language were we not speaking to men whom their virtues and their instruction render alone, among all nations, worthy to remain free."

What could the flatterers of Louis XIV do more?

(Tocqueville, Vol. II, pp. 155-8.)

This picture, whether overcharged or not, exhibits evils, the liability to which is inherent in human nature itself. Whatever be the ruling power, whether the One, the Few, or the Many, to that power all who have private interests to serve, or who seek to rise by mean arts, will habitually address themselves. In a democracy, the natural resource of all such persons will be to flatter the inclination towards substituting delegation for representation. All who have a bad cause will be anxious to carry it before the least discerning tribunal which can be found. All individuals and all classes who are aiming at anything, which, in a government where the most instructed had the ascendancy, they would not be allowed to have, will of course in a democracy, as they do in the English aristocracy, endeavour to bring superior instruction into disrepute; and to persuade the many, that their own common sense is quite sufficient, and that the pretenders to superior wisdom are either dreamers or charlatans.

From this tendency it cannot be expected that, in any government, great evils should not arise. Mankind must be much improved before we obtain a democracy not characterised by the absence of enlarged and commanding views. But, without pretending ourselves competent to judge whether our author overstates the evils as they exist in America, we can see reasons for thinking that they would exist in a far inferior degree in Europe.

America is not only destitute of the very equivocal advantage so strongly dwelt upon by our author, the existence of classes having a private interest in protecting opinions contrary to those of the majority; she labours, also, under a much more serious deficiency. In America there is no highly instructed class; no numerous body raised sufficiently above the common level, in education, knowledge, or refinement, to inspire the rest with any reverence for distinguished mental superiority, or any salutary sense of the insufficiency of their own wisdom. Our author himself was struck with the general equality of intelligence and mental cultivation in America. He has, moreover, fully accounted for the fact.

The equality which exists in America is not confined to fortune; it extends, in a certain degree, to intellects themselves.

I do not believe, that in any country in the world there are found, in proportion to the population, so few uninstructed persons, or fewer persons who are highly instructed.

Elementary instruction is within the reach of everybody: superior instruction is hardly attainable by any.

This is easily intelligible; it is the almost necessary result of the facts already stated.

Almost all Americans are in easy circumstances, they can therefore easily procure the first elements of human knowledge.

In America, few persons are rich; almost all the Americans are therefore obliged to engage in a profession. But all professions require an apprenticeship. The Americans, therefore, can only give their earliest years to the general cultivation of their intellects. At fifteen they enter into the business of life; and their education usually ends where ours may be said to begin. If it continues farther, it is directed only to some special and money-getting end. They study a science as they learn a trade, and attend to none of its applications but those which tend to an immediate practical object.

In America, most rich people were originally poor; nearly all the people of leisure were in their youth people of business. The consequence is, that when they might have a taste for study they have not time for it; and when they have acquired the leisure, they have ceased to have the inclination.

There exists, therefore, in America, no class, in which the relish for intellectual pleasures is transmitted along with hereditary affluence and leisure, and which holds in honour the labours of the intellect.

Accordingly, both the will and the power to undertake those labours are wanting in America.

There has established itself in America, in respect to knowledge, a certain level of mediocrity. All intellects have approximated themselves to this level; some have risen up to it; others have come down to it.

There are therefore found an immense multitude of individuals possessing very nearly the same number of ideas in religion, in history, in the sciences, in political economy, in legislation, and in government.*

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When all are in nearly the same pecuniary circumstances, all educated nearly alike, and all employed nearly alike, it is no wonder if all think nearly alike; and where this is the case, it is but natural, that when here and there a solitary individual thinks differently, nobody minds him. These are exactly the circumstances in which public opinion is generally so unanimous, that it has most chance to be in reality, and is sure to be in appearance, intolerant of the few who happen to dissent from it.

M. de Tocqueville has himself told us, that there is no indisposition in the Many of the United States to pay deference to the opinions of an instructed class, where such a class exists, and where there are obvious signs by which it may be recognized. He tells us this, by what he says of the extraordinary influence of the lawyers—in his opinion one of the great causes which tend to restrain the abuse of the power of the majority. We recommend especial attention to the section devoted to this topic. (Tocqueville, Vol. II, p. 165.)

The faults incident to the character of a lawyer, in our author's opinion, happily counterbalance those to which democracy is liable. The lawyer is naturally a lover of precedent; his respect for established rules and established formalities is apt to be unreasonable; the spirit of his profession is everywhere a stationary spirit. He usually has in excess the qualities in which democracy is apt to be deficient. His influence, therefore, is naturally exerted to correct that deficiency.

If the minds of lawyers were not, both in England and America, almost universally perverted by the barbarous system of technicalities—the opprobrium of human reason—which their youth is passed in committing to memory, and their manhood in administering,—we think with our author that they are the class in whom superiority of instruction, produced by superior study, would most easily obtain the stamp of general recognition; and that they would be the natural leaders of a people destitute of a leisured class.

But in countries which, if in some respects worse, are in the other respects far more happily situated than America; in countries where there exist endowed institutions for education, and a numerous class possessed of hereditary leisure, there is a security, far greater than has ever existed in America, against the tyranny of public opinion over the individual mind. Even if the profession of opinions different from those of the mass were an exclusion from public employment—to a leisured class offices moderately paid, and without a particle of irresponsible authority, hold out little allurement, and the diminution of their chance of obtaining them would not be severely felt. A leisured class would always possess a power sufficient not only to protect in themselves, but to encourage in others, the enjoyment of Edition: current; Page: [86] individuality of thought; and would keep before the eyes of the many, what is of so much importance to them, the spectacle of a standard of mental cultivation superior to their own. Such a class, too, would be able, by means of combination, to force upon the rest of the public attention to their opinions. In America, all large minorities exercise this power; even, as in the case of the tariff, to the extent of electing a convention, composed of representatives from all parts of the country, which deliberates in public, and issues manifestoes in the name of its party. A class composed of all the most cultivated intellects in the country; of those who, from their powers and their virtues, would command the respect of the people, even in combating their prejudices—such a class would be almost irresistible in its action on public opinion. In the existence of a leisured class, we see the great and salutary corrective of all the inconveniences to which democracy is liable. We cannot, under any modification of the laws of England, look forward to a period when this grand security for the progressiveness of the human species will not exist.

While, therefore, we see in democracy, as in every other state of society or form of government, possibilities of evil, which it would ill serve the cause of democracy itself to dissemble or overlook; while we think that the world owes a deep debt to M. de Tocqueville for having warned it of these, for having studied the failings and weaknesses of democracy with the anxious attention with which a parent watches the faults of a child, or a careful seaman those of the vessel in which he embarks his property and his life; we see nothing in any of these tendencies, from which any serious evil need be apprehended, if the superior spirits would but join with each other in considering the instruction of the democracy, and not the patching of the old worn-out machinery of aristocracy, the proper object henceforth of all rational exertion. No doubt, the government which will be achieved will long be extremely imperfect, for mankind are as yet in a very early stage of improvement. But if half the exertions were made to prepare the minds of the majority for the place they are about to take in their own government, which are made for the chimerical purpose of preventing them from assuming that place, mankind would purchase at a cheap price safety from incalculable evils, and the benefit of a government indefinitely improveable; the only possible government which, to ensure the greatest good of the community subject to it, has only to take an enlightened view of its own.

We shall conclude this article with some striking passages from M. de Tocqueville, illustrative of the collateral benefits of democracy, even in the imperfect form in which he states it to exist in America; where the people, not content with security for good government, are to a great degree the government itself.

After mankind have outgrown the child-like, unreflecting, and almost Edition: current; Page: [87] instinctive love of country, which distinguishes a rude age, patriotism and public spirit, as a sentiment diffused through the community, can only exist under a democracy:

There is a love of country which takes its rise principally in the unreflecting, disinterested, and undefinable sentiment which attaches the heart of man to the place of his birth. This instinctive affection is blended with the taste for old customs, with the respect for ancestors, and with historical recollections; those who experience it cherish their country with a feeling resembling the love of our paternal home. They love the tranquillity which they enjoy in it, they relish the peaceful habits which they have contracted in it, they are attached to the recollections it affords them, and even find some pleasure in passing in it a life of obedience. This love of country often acquires a still more energetic character from religious zeal, and then it performs wonders. It is itself a kind of religion, it does not reason, it believes, feels, and acts. Nations have been known to personify their country (if we may so speak) in the person of their prince. They have then transferred to him a part of the sentiments of which patriotism is composed, they have been proud of his power, and elated by his triumph. There was a time, under the old monarchy, when Frenchmen felt a kind of joy in feeling themselves irredeemably subject to the arbitrary power of the monarch, they said with pride. “We live under the most powerful monarch in the world.”

Like all unreflecting passions, this love of country excites to great temporary efforts rather than to continuous exertion. After saving the country in a time of emergency, it often allows it to perish by inches in the midst of peace.

While mankind are as yet simple in their manners, and firm in their belief—while society rests quietly upon old-established social arrangements, of which the legitimacy is not contested—this instinctive love of country is in its vigour.

There is another kind of patriotism, more reasoning than the former, less generous, less ardent, perhaps, but more fruitful and more durable. This feeling is the result of instruction; it unfolds itself by aid of the laws, it grows with the exercise of political rights, and ends by becoming in a manner, identified with personal interest. The individual comprehends the influence which the good of the country has over his own good, he knows that the law permits him to bear his part in producing that good, and he takes interest in the prosperity of his country, first, as a thing useful to himself, and next, as in part the result of his own efforts.

But there sometimes comes a time in the history of nations, when old customs are changed, old habits destroyed old convictions shaken; when the *prestige* of the past disappears, and when, nevertheless, instruction is still incomplete, and political rights ill secured or restricted. Mankind then see their country through a dim and uncertain medium they no longer place it in the mere soil, which to them has become inanimate earth, nor in the usages of their ancestors, which they have been taught to consider as a yoke, nor in their religion of which they have begun to doubt: nor in the laws, which are not of their own making, nor in the legislator, whom they dread and despise. They see it, therefore, nowhere: neither where it is, nor where it is not and they retire within a narrow and unenlightened self-interest. Men in this state of things throw off prejudices, without recognizing the empire of reason, they have neither the instinctive patriotism of monarchy, nor the reflecting patriotism of a republic, they have stopped short betwixt the two, in confusion and wretchedness.

What is then to be done? To go back? But a people can no more return to the feelings of their youth, than a man to the innocent pleasures of his infantine years, they may regret, but cannot revive them. There is nothing for us but to go forward, and hasten to identify in the minds of the people individual interest with the public interest: the disinterested love of country is gone, not to return.

I am assuredly far from pretending, that to arrive at this result political rights should be suddenly extended to all mankind. But I say that the most potent, and perhaps the only means which remain, of interesting the whole people in the fate of their country, is to make them participate in its government. In our times, the feelings of a citizen seem to me to be inseparable from the exercise of political rights; and I think that henceforth we shall see in Europe the number of good citizens increase or diminish, in proportion to the extension of those rights.

Whence comes it, that in the United States, where the inhabitants have arrived but yesterday on the soil which they occupy; where they have brought with them neither usages nor recollections; where they meet each other for the first time without knowing each other; where, to say all in one word, the instinct of country can hardly exist; whence comes it that every one is as interested in the affairs of his township, of his district, and of the state itself, as he is in his private concerns? It is because every one, in his sphere, takes an active part in the government of society.

The man of the lowest class, in the United States, has taken into his mind the influence which the general prosperity has on his own happiness, a notion so simple, and yet so little known to the people. More than this,—he is accustomed to regard that prosperity as partly his own work. He sees, therefore, in the fortunes of the public his own fortunes, and he co-operates for the good of the state, not merely from pride, or from a sense of duty, but I might almost say from cupidity.

(Tocqueville, Vol. II, pp. 114-17.)

In a democracy only can there ever again be, on the part of the community generally, a willing and conscientious obedience to the laws:

It is not always expedient to call the entire people, either directly or indirectly, to contribute to the framing of the law, but it cannot be denied, that, when this is practicable, the law acquires thereby a great authority. That popular origin, which is often injurious to the goodness and wisdom of legislation, augments in a remarkable degree its power.

There is in the expression of the will of a whole people a prodigious force; and when this force displays itself in open day, the imaginations even of those who would willingly resist it are, as it were, overwhelmed by it.

The truth of this is well known to political parties. Accordingly, we find them contesting the majority, wherever it is contestable. When they have it not among those who have voted, they insist that they would have had it among those who have abstained from voting; and when it escapes them even there, they claim it again among those who had not the right of voting.

In the United States, excepting slaves, menial servants, and the paupers maintained by the townships, there is no man who is not an elector, and who in that capacity has not an indirect influence in making the law. Those, therefore, who wish to attack the laws are reduced to do ostensibly one of two things—they must either change the opinion of the nation, or be able to trample upon its will.

To this first reason is to be added another, more direct and more powerful. In Edition: current; Page: [89] the United States every one has a kind of personal interest in a universal obedience to the law; for he who to-day is not in the majority, will perhaps form part of it to-morrow; and the respect he now professes for the will of the legislator, he may soon have occasion to exact for his own. The inhabitant of the United States submits, therefore, to the law, (however disagreeable to him,) not only as the work of the majority, but also as his own; he looks at it in the light of a contract, to which he is a party.

We do not, therefore, see in the United States a numerous and always turbulent crowd, who, regarding the law as their natural enemy, view it with no eyes but those of fear and suspicion. It is impossible, on the contrary, not to see that the mass of the people evince a great confidence in the legislation which governs the country, and feel for it a sort of paternal affection.

(Vol. II, pp. 123-5.)

Of the general activity, and the diffusion of intelligence, which are the fruits of democracy,

It is incontestable, that the people often direct public affairs very ill: but the people cannot meddle in public affairs without the circle of their ideas being extended, and their minds emancipated from their ordinary routine. The man of the lower class, who exercises a part in the government of society, conceives a certain esteem for himself. As he is then a power in the state, intellects of a high order of instruction devote themselves to the service of his intellect. He sees on all sides of him people address themselves to him, courting his support: and in seeking to deceive him in a thousand different ways, they enlighten him. In politics he takes part in undertakings which have not originated with himself, but which give him a general taste for enterprises. Every day there are suggested to him new improvements to be made in the common property and he feels his desire sharpened to ameliorate that which is his own. He is neither more virtuous nor happier, perhaps, but he is more enlightened and more active than his predecessors. I am satisfied that democratic institutions, combined with the physical character of the country, are the cause—not, as so many people say, the direct, but the indirect cause—of the prodigious industrial prosperity observable in the United States. The laws do not generate it, but the people learn to produce it in making the laws.

When the enemies of democracy affirm that a single person does better what he undertakes, than the government of All, they seem to me to be in the right. The government of One, if we suppose on both sides equality of instruction, has more *suite* in its undertakings than the multitude, it shows more perseverance, a more comprehensive plan, more perfection in the details, a juster discernment in the selection of individuals. Those who deny these things have never seen a democratic republic, or have judged of it from a small number of examples. Democracy, even where local circumstances and the state of the people's minds permit it to subsist, does not present a spectacle of administrative regularity and methodical order in the government—that is true. Democratic freedom does not execute each of its enterprises

with the same perfection as an intelligent despotism. It often abandons them without having reaped their fruit, or undertakes such as are perilous. But in the long run it produces greater results, it does less well each particular thing, but it does a greater number of things. Under its empire, what is truly great is, not what the public administration does, but what is done without it, and independently of its aid. Democracy does not give to the people the most Edition: current; Page: [90] skilful government, but it does what the most skilful government is often unable to do,—it diffuses through all society a restless activity, a superabundance of force, an energy, which never exist where democracy is not, and which, wherever circumstances are at all favourable, may give birth to prodigies. Therein consist its true advantages.
(Tocqueville, Vol. II, pp. 130-2.)
We must here pause. We have left many interesting parts of the book altogether unnoticed; and among the rest two most instructive chapters—"On the Causes which maintain Democracy in America," (among the foremost of these he places the religious spirit, and among the chief causes which maintain that spirit, the removal of religion from the field of politics by the entire separation of church and state,) and "On the Condition and Prospects of the three Races," black, white, and red. We have preferred giving the reader a full idea of part of M. de Tocqueville's work, rather than a mere abstract of the whole. But we earnestly recommend the study of the entire work, both to the philosophical statesman and to the general reader; and to facilitate its reaching the latter, we greatly rejoice at its appearance in an English dress.

C. Mitchell and J. Baker, The Civil War in Maryland Reconsidered (Baton Rouge: L.S.U. Press, 2021, 344 pp.)

This is a candidly revisionist work. The foreward by Prof. Adam Goodhart of Washington College advertises "a corrective to myth-encrusted narratives." It lauds Speaker Nancy Pelosi for "order[ing] paintings of Confederates removed from the U.S. Capitol." All four of the portraits referred to were of former Speakers of the House. Three had been active supporters of the Confederate government. The fourth, Charles Crisp, a Democrat and Speaker from 1891 to 1895, enlisted in the Confederate army at the age of 16 and was taken prisoner at the age of 19. His epuration was not Northern Democracy's finest hour.

The introduction by the editors asserts that Maryland's Confederate soldiers "numbered about one-third of the State's Union soldiers," an assertion nowhere documented in the work. James Mc Pherson in his *Battle Cry of Freedom* has commented on the unreliability of both sides' mustering statistics. The book also undertakes to refute the assertion that only arbitrary federal action kept Maryland from seceding and becoming the "twelfth star" of the Confederacy. But pre-existing Maryland scholarship makes no such assertion, but only that federal arbitrariness was essential to coercion of the South and the waging of an un-declared civil war, whose legality was upheld only in a 5-4 decision in the Prize Cases.

Neither Maryland's pre-Civil War political leadership nor its post-Civil War historians sought secession or portrayed the state as secessionist. Maryland's sin , like those of its leading statesmen , was that by methods both intelligent and unintelligent it sought to forestall a civil war that it correctly foresaw would be damaging both to the nation and to Maryland's economic interests.

This was true of Chief Justice Taney who unlike Justice Campbell did not go South during the Civil War and whose disastrous Dred Scott decision was founded not only on his consistently maintained views about limited federal authority but on the mistaken belief that a clear decision by the Supreme Court about slavery in the territories would extinguish the conflagration in Bleeding Kansas. It was also true of the Bar Library's founder George William Brown who temporarily severed railroad connections from the North to forestall further bloodshed in Baltimore and the coercion of the South and who very nearly succeeded, Secretary of War Winfield Scott urging mediation by the British Ambassador in the wake of the blowing of the railroad bridges. It was even true of Severn Teackle Wallis, who was not sorry to see arms shipped to the Confederacy but who opposed Maryland joining it.

All thought that the probable costs of civil war would exceed its benefits, to Maryland and to the nation. None were slaveholders. Six hundred thousand deaths, a change from two centuries of slavery to a century of peonage, the impoverishment by confiscation, destruction, and the protective tariff of the region where most American blacks lived and a continuing heritage of political bitterness were the cost; the fact of war proved to be more important than its objects, which as the historian C. Vann Woodward has shown in all other countries in the Americas were achieved without war and uncompensated confiscation.

The introduction concedes "occasional overreaching of federal power" and makes out that most of the victims of executive suspension of habeas corpus were "a motley band of smugglers, Southern refugees and blockade runners." Lincoln never tendered his promised justification for the detention of the Mayor of the nation's third largest city (counting Manhattan and Brooklyn as one) nor for the detention of state legislators when the danger of secession was long past. The introduction disparagingly alludes to the "tepid" sentiment "let them go in peace," the attitude of warmongers in every nation at every time.

The first essay by Richard Bell of the University of Maryland contends that by the start of the Civil War "rising negrophobia had long since driven Maryland's white antislavery activists to the point of extinction." Unacknowledged here or anywhere in this book is the role of Mayor Brown and others in successfully defeating the Jacobs bills that would have curtailed the rights of free blacks, Bell saying only that "Maryland was about to be caught up in an "anti free-Negro" wind that was sweeping much of the South." The defeat of the Jacobs bills was said to be "thanks in part to [a] vigorous 'vote no' campaign waged by Black Baltimoreans", a highly misleading statement as it relates to an era in which blacks neither voted nor were present in the legislature. It does becomingly acknowledge that Baltimore's neutrals feared a war resulting in "a blockade of Baltimore's port and recently extended railroad, strangling trade and endangering fortunes and jobs."

An essay by Martha Jones who recently became an historian-celebrity with her disputed contention that Johns Hopkins was a slave-owner, says of Chief Justice Taney that he was "raised in a slave-holding household" without anywhere revealing that he manumitted his slaves when he inherited them, defended an abolitionist while in private practice, financially befriended his former slaves, and died a poor man. Her chapter is largely devoted to showing that the state courts, in Maryland and elsewhere, accorded rights to blacks. This exercise is tantamount to demolishing a straw man, since the Dred Scott case' denial of black rights related only to rights under the federal Constitution, not under the laws and constitutions of the states.

An essay by Charles Mitchell, an independent scholar, heaps gentle derision on those who found "no contradiction in the simultaneous embrace of unionism and slavery. It concludes that "a clear majority" of votes–54%–were cast in 1860 for "the three unionist candidates." This counts the 45% of the vote cast for Bell and Everett as "unionist" even though most of this vote was that of nativist former Know-Nothings marching, as they thought, with the big battalions. He concedes that he "cannot disprove that Reformers such as Brown wanted to preserve the peace and opposed secession."

The following essay by Frank Towers of the University of Calgary again says of Taney, quite misleadingly, that "he grew up in a slave-holding family but did not own slaves himself" omitting any reference to his manumissions. It excuses the executive suspension of habeas corpus by noting that Congress was in recess and it would have taken time to obtain legislative authorization. Against this may be set President Taft's later observation that a war that cannot stand the test of delay is a war best not embarked upon. He taxes Taney in Merryman with "no realization that a civil war had begun", not noting that he denied its legitimacy, not determined until the 5-4 decision of the Supreme Court in the Prize Cases a year later.

Timothy Orr of Old Dominion University writing of troop recruitment in Baltimore in 1861 says that Mayor Brown "encouraged citizens to commence recruiting troops for the Confederacy–or at least troops who might resist the federal armies." Some might regard this as a not unimportant distinction.

The essay by Jonathan White of Christopher Newport University is an even-handed account of the machinations with the franchise leading to the 1864 Constitutional Convention and the ensuing referendum. There are unexceptionable essays dealing with women and blacks in the civil war, with principal battles, and with post-war developments.

The concluding essay by Robert J. Cook of the University of Sussex (UK) on civil war memory contains a notable error, contending that "The Daughters [of the Confederacy] achieved a major coup in early 1899 when, fifteen months after the unveiling of a statue to Roger Taney in Baltimore's elite Mount Vernon Square district the city council backed the construction of a Confederate Soldiers' and Sailors' monument." In fact, the Taney statue had been dedicated more than ten years earlier, and had nothing to do with the Daughters of the Confederacy.

Despite the good intentions of some of its participants, this symposium is about as credible as the 'waving of the bloody shirt' of the James Blaine era. The writers of the much-maligned Dunning school, including George Fort Milton, Claude Bowers, and Lloyd Paul Stryker at least wrote in robust, non-academic prose, partial as they were.

Those who erected Confederate monuments bore little resemblance to those who opposed coercion of the South and momentarily resisted the passage of Northern troops. The first group were celebrants of the 'lost cause.' The second group regarded both causes as lost, by reason of death, destruction, confiscations, disqualifications, protectionism, and the perpetuation of sectional bitterness. They foresaw the impoverishment of the South and the loss to Baltimore, once the nation's third largest city, of its markets and national influence, from which it momentarily recovered only with the Second World War. A symposium celebrating Brown, Wallis (later the founder of the State Bar Association), George Peabody (whose postwar trust educated southern blacks), Enoch Pratt, and Johns Hopkins, creators and defenders and not destroyers of institutions, would be of value and has yet to be written, inconsistent though it would be with the current zeitgeist.

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